

Federal Property Management Regulations

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§ 101-47.103-1 Act.

The Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended.

§ 101-47.103-2 GSA.

The General Services Administration, acting by or through the Administrator of General Services, or a designated official to whom functions under this part 101-47 have been delegated by the Administrator of General Services.

§ 101-47.103-3 Airport.

Any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

§ 101-47.103-4 [Reserved]

§ 101-47.103-5 Decontamination.

The complete removal or destruction by flashing of explosive powders; the neutralizing and cleaning-out of acid and corrosive materials; the removal, destruction, or neutralizing of toxic, hazardous or infectious substances; and the complete removal and destruction by burning or detonation of live ammunition from contaminated areas and buildings.

[53 FR 29893, Aug. 9, 1988]

§ 101-47.103-6 Disposal agency.

The executive agency designated by the Administrator of General Services to dispose of surplus real property.

§ 101-47.103-7 Holding agency.

The Federal agency which has accountability for the property involved.

§ 101-47.103-8 Industrial property.

Any real property and related personal property which has been used or which is suitable to be used for manufacturing, fabricating, or processing of products; mining operations; construction or repair of ships and other waterborne carriers; power transmission facilities; railroad facilities; and pipeline

facilities for transporting petroleum or gas.

§ 101-47.103-9 Landing area.

Any land or combination of water and land, together with improvements thereon and necessary operational equipment used in connection therewith, which is used for landing, takeoff, and parking of aircraft. The term includes, but is not limited to, runways, strips, taxiways, and parking aprons.

§ 101-47.103-10 Management.

The safeguarding of the Government's interest in property, in an efficient and economical manner consistent with the best business practices.

§ 101-47.103-11 Protection.

The provisions of adequate measures for prevention and extinguishment of fires, special inspections to determine and eliminate fire and other hazards, and necessary guards to protect property against thievery, vandalism, and unauthorized entry.

§ 101-47.103-12 Real property.

(a) Any interest in land, together with the improvements, structures, and fixtures located thereon (including prefabricated movable structures, such as Butler-type storage warehouses and quonset huts, and housetrailer with or without undercarriages), and appurtenances thereto, under the control of any Federal agency, except:

(1) The public domain;

(2) Lands reserved or dedicated for national forest or national park purposes;

(3) Minerals in lands or portions of lands withdrawn or reserved from the public domain which the Secretary of the Interior determines are suitable for disposition under the public land mining and mineral leasing laws;

(4) Lands withdrawn or reserved from the public domain but not including lands or portions of lands so withdrawn or reserved which the Secretary of the Interior, with the concurrence of the Administrator of General Services, determines are not suitable for return to the public domain for disposition under the general public land laws because

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such lands are substantially changed in character by improvements or otherwise; and

(5) Crops when designated by such agency for disposition by severance and removal from the land.

(b) Improvements of any kind, structures, and fixtures under the control of any Federal agency when designated by such agency for disposition without the underlying land (including such as may be located on the public domain, or lands withdrawn or reserved from the public domain, or lands reserved or dedicated for national forest or national park purposes, or on lands that are not owned by the United States) excluding, however, prefabricated movable structures, such as Butler-type storage warehouses and quonset huts, and housetrailers (with or without undercarriages).

(c) Standing timber and embedded gravel, sand, or stone under the control of any Federal agency whether designated by such agency for disposition with the land or by severance and removal from the land, excluding timber felled, and gravel, sand, or stone excavated by or for the Government prior to disposition.

[29 FR 16126, Dec. 3, 1964, as amended at 30 FR 11281, Aug. 2, 1965; 33 FR 8737, June 14, 1968]

§ 101-47.103-13 Related personal property.

Related personal property means any personal property:

(a) Which is an integral part of real property or is related to, designed for, or specially adapted to the functional or productive capacity of the real property and removal of this personal property would significantly diminish the economic value of the real property. Normally, common use items, including but not limited to general-purpose furniture, utensils, office machines, office supplies, or general-purpose vehicles, are not considered to be related personal property; or

(b) Which is determined by the Administrator of General Services to be related to the real property.

[46 FR 45951, Sept. 16, 1981]

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§ 101-47.103-14 Other terms defined in the Act.

Other terms which are defined in the Act shall have the meanings given them by such Act.

§ 101-47.103-15 Other terms.

Other terms not applicable throughout this part are defined in the sections or subparts to which they apply.

Subpart 101-47.2—Utilization of Excess Real Property

§ 101-47.200 Scope of subpart.

(a) This subpart prescribes the policies and methods governing the reporting by executive agencies and utilization by Federal agencies of excess real property, including related personal property within the State of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands. This subpart does not apply to the abandonment, destruction, or donation to public bodies, under section 202(h) of the Act (covered by subpart 101-47.5).

(b) The provisions of this subpart 101-47.2 shall not apply to asbestos on Federal property which is subject to section 120(h) of the Superfund Amendments and Reauthorization Act of 1986, Public Law 99-499.

[53 FR 29893, Aug. 9, 1988]

§ 101-47.201 General provisions of subpart.

§ 101-47.201-1 Policy.

It is the policy of the Administrator of General Services:

(a) To stimulate the identification and reporting by executive agencies of excess real property.

(b) To achieve the maximum utilization by executive agencies, in terms of economy and efficiency, of excess real property in order to minimize expenditures for the purchase of real property.

(c) To provide for the transfer of excess real property among Federal agencies, to mixed-ownership Government

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corporations, and to the municipal government of the District of Columbia.

[29 FR 16126, Dec. 3, 1964, as amended at 42 FR 40698, Aug. 11, 1977]

§ 101-47.201-2 Guidelines.

(a) Each executive agency shall:

(1) Survey real property under its control (including property assigned on a permit basis to other Federal agencies, or outleased to States, local governments, other public bodies, or private interests) at least annually to identify property which is not needed, underutilized, or not being put to optimum use. When other needs for the property are identified or recognized, the agency shall determine whether continuation of the current use or another Federal or other use would better serve the public interest, considering both the agency's needs and the property's location. In conducting each review, agencies shall be guided by §101-47.801(b), other applicable General Services Administration regulations, and such criteria as may be established by the Federal Property Council;

(2) Maintain its inventory of real property at the absolute minimum consistent with economical and efficient conduct of the affairs of the agency; and

(3) Promptly report to GSA real property which it has determined to be excess.

(b) Each executive agency shall, so far as practicable, pursuant to the provisions of this subpart, fulfill its needs for real property by utilization of excess real property.

(c) To preclude the acquisition by purchase of real property when excess or surplus property of another Federal agency may be available which would meet the need, each executive agency shall notify GSA of its needs and ascertain whether any such property is available. However, in specific instances where the agency's proposed acquisition of real property is dictated by such factors as exact geographical location, topography, engineering, or similar characteristics which limit the possible use of other available property, the notification shall not be required. For example, for a dam site or reservoir area or the construction of a generating plant or a substation spe-

cific lands are needed and, ordinarily, no purpose would be served by such notification.

(d) In every case of a proposed transfer of excess real property, the paramount consideration shall be the validity and appropriateness of the requirement upon which the proposal is based.

(1) A proposed transfer should not establish a new program of an executive agency which has never been reflected in any previous budget submission or congressional action; nor should it substantially increase the level of an agency's existing programs beyond that which has been contemplated in the President's budget or by the Congress.

(2) Before requesting a transfer of excess real property, an executive agency should:

(i) Screen the holdings of the bureaus or other organizations within the agency to determine whether the new requirement can be met through improved utilization. Any utilization, however, must be for purposes that are consistent with the highest and best use of the property under consideration; and

(ii) Review all real property under its accountability which it has assigned on a permit basis to other Federal agencies, or outleased to States, local governments, other public bodies, or private interests and terminate the permit or lease for any property, or portion thereof, that is suitable for the proposed need whenever such termination is not prohibited by the terms of the permit or lease.

(3) Property found to be available under §101-47.201-2(d)(2) (i) or (ii), should be utilized for the proposed need in lieu of requesting a transfer of excess real property. Reassignments of such property within the agency should be made in appropriate cases.

(4) The appraised fair market value of the excess real property proposed for transfer should not substantially exceed the probable purchase price of other real property which would be suitable for the intended purpose.

(5) The size and quantity of excess real property to be transferred should be limited to the actual requirements. Other portions of an excess installation

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which can be separated should be withheld from transfer and made available for disposal to other agencies or to the public.

(6) Consideration should be given to the design, layout, geographic location, age, state of repair, and expected maintenance costs of excess real property proposed for transfer. It should be clearly demonstrated that the transfer will prove more economical over a sustained period of time than acquisition of a new facility specifically planned for the purpose.

(7) Excess real property should not be permanently transferred to agencies for programs which appear to be scheduled for substantial curtailment or termination. In such cases, the property may be temporarily transferred on a conditional basis, with an understanding that the property will be released for further Federal utilization or disposal as surplus property, at a time agreed upon when the transfer is arranged (see §101-47.203-8).

(e) Excess real property of a type which may be used for office, storage, and related purposes normally will be assigned by, or at the direction of, GSA for use to the requesting agency in lieu of being transferred to the agency.

(f) Federal agencies which normally do not require real property, other than for office, storage, and related purposes, or which may not have statutory authority to acquire such property, may obtain the use of excess real property for an approved program when authorized by GSA.

[29 FR 16126, Dec. 3, 1964, as amended at 39 FR 11281, Sept. 2, 1965; 37 FR 5029, Mar. 9, 1972; 40 FR 12078, Mar. 17, 1975]

§ 101-47.201-3 Lands withdrawn or reserved from the public domain.

(a) Agencies holding lands withdrawn or reserved from the public domain, which they no longer need, shall send to the GSA regional office for the region in which the lands are located an information copy of each notice of intention to relinquish filed with the Department of the Interior (43 CFR part 2372, *et seq.*).

(b) Section 101-47.202-6 prescribes the procedure for reporting to GSA as excess property, certain lands or portions of lands withdrawn or reserved from

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the public domain for which such notices have been filed with the Department of the Interior.

[29 FR 16126, Dec. 3, 1964, as amended at 42 FR 40698, Aug. 11, 1977]

§ 101-47.201-4 Transfers under other laws.

Pursuant to section 602(c) of the Act, transfers of real property shall not be made under other laws, but shall be made only in strict accordance with the provisions of this subpart unless the Administrator of General Services, upon written application by the disposal agency, shall determine in each case that the provisions of any such other law, pursuant to which a transfer is proposed to be made, are not inconsistent with the authority conferred by this Act. The provisions of this section shall not apply to transfers of real property authorized to be made by section 602(d) of the Act or by any special statute which directs or requires an executive agency named therein to transfer or convey specifically described real property in accordance with the provisions of such statute.

§ 101-47.202 Reporting of excess real property.

§ 101-47.202-1 Reporting requirements.

Each executive agency shall report to GSA, pursuant to the provisions of this section, all excess real property except as provided in §101-47.202-4. Reports of excess real property shall be based on the agency's official real property records and accounts.

(a) All excess related personal property shall be reported as a part of the same report covering the excess real property.

(b) Upon request of the Administrator of General Services, executive agencies shall institute specific surveys to determine that portion of real property, including unimproved property, under their control which might be excess and suitable for office, storage, and related facilities, and shall report promptly to the Administrator of General Services as soon as each survey is completed.

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§ 101-47.202-2 Report forms.

Reports of excess real property and related personal property shall be prepared on Standard Form 118, Report of Excess Real Property (see § 101-47.4902), and accompanying Standard Form 118a, Buildings Structures, Utilities, and Miscellaneous Facilities, Schedule A (§ 101-47.4902-1); Standard Form 118b, Land, Schedule B (see § 101-47.402-2); and Standard Form 118c, Related Personal Property, Schedule C (see § 101-47.4902-3). Instructions for the preparation of Standard Forms 118, 118a, 118b, and 118c are set forth in § 101-47.4902-4.

(a) Property for which the holding agency is designated as the disposal agency under the provisions of § 101-47.302-2 and which is required to be reported to GSA under the provisions of this section shall be reported on Standard Form 118, without the accompanying Schedules A, B, and C, unless the holding agency requests GSA to act as disposal agency and a statement to that effect is inserted in Block 18, Remarks, of Standard Form 118.

(b) In all cases where Government-owned land is reported, there shall be attached to and made a part of Standard Form 118 (original and copies thereof) a report prepared by a qualified employee of the holding agency on the Government's title to the property based upon his review of the records of the agency. The report shall recite:

(1) The description of the property.

(2) The date title vested in the United States.

(3) All exceptions, reservations, conditions, and restrictions, relating to the title acquired.

(4) Detailed information concerning any action, thing, or circumstance that occurred from the date of the acquisition of the property by the United States to the date of the report which in any way affected or may have affected the right, title, and interest of the United States in and to the real property (together with copies of such legal comments or opinions as may be contained in the file concerning the manner in which and the extent to which such right, title, or interest may have been affected). In the absence of any such action, thing, or circumstance, a statement to that effect shall be made a part of the report.

(5) The status of civil and criminal jurisdiction over the land that is peculiar to the property by reason of it being Government-owned land. In the absence of any special circumstances, a statement to that effect shall be made a part of the report.

(6) Detailed information regarding any known flood hazards or flooding of the property and, if located in a floodplain or wetlands, a listing of and citations to those uses that are restricted under identified Federal, State, or local regulations as required by Executive Orders 11988 and 11990 of May 24, 1977.

(7) The specific identification and description of fixtures and related personal property that have possible historic or artistic value.

(8) The historical significance of the property, if any, and whether the property is listed, is eligible for, or has been nominated for listing in the National Register of Historic Places or is in proximity to a property on the National Register. If the holding agency is aware of any effort by the public to have the property listed on the National Register, this information should be included.

(9) To the extent such information is reasonably available or ascertainable from agency files, personnel, and other inquiry, a description of the type, location and condition of asbestos incorporated in the construction, repair, or alteration of any building or improvement on the property (e.g., fireproofing, pipe insulation, etc.) and a description of any asbestos control measures taken for the property. To assist GSA in considering the disposal options for the property, agencies shall also provide to GSA any available indication of costs and/or time necessary to remove all or any portion of the asbestos-containing materials. Agencies are not required to conduct any specific studies and/or tests to obtain this information. (See also § 101-47.200(b).)

(10) With respect to hazardous substance activity on the property:

(i) A statement indicating whether or not, during the time the property was owned by the United States, any hazardous substance activity, as defined by regulations issued by the Environmental Protection Agency at 40 CFR

part 373, took place on the property. Hazardous substance activity includes situations where any hazardous substance was stored for one year or more, known to have been released, or disposed of on the property. Agencies reporting such property shall review the regulations issued by the Environmental Protection Agency at 40 CFR part 373 for details on the information required.

(ii) If such activity took place, the reporting agency must include information on the type and quantity of such hazardous substance and the time at which such storage, release, or disposal took place. In addition to the specific information on the type and quantity of the hazardous substance, the reporting agency shall also advise the disposal agency if all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken before the date of the property was reported excess. If such action has not been taken, the reporting agency shall advise the disposal agency when such action will be completed.

(iii) If no such activity took place, the reporting agency must include a statement:

The (reporting agency) has determined, accordance with regulations issued by the Environmental Protection Agency at 40 CFR part 373, that there is no evidence to indicate that hazardous substance activity took place on the property during the time the property was owned by the United States.

(c) There shall be transmitted with Standard Form 118:

(1) A legible, reproducible copy of all instruments in possession of the agency which affect the right, title, or interest of the United States in the property reported or the use and operation of such property (including agreements covering and licenses to use, any patents, processes, techniques, or inventions). In cases where the agency considers it to be impracticable to transmit the abstracts of title and related title evidence, such documents need not be transmitted; however, the name and address of the custodian of such documents shall be stated in the title report referred to in §101-47.202-2(b)

and they shall be furnished if requested by GSA;

(2) Any appraisal reports in the possession of the holding agency of the fair market value or the fair annual rental of the property reported; and

(3) A certification by a responsible person that the property does or does not contain polychlorinated biphenyl (PCB) transformers or other equipment regulated by the Environmental Protection Agency under 40 CFR part 761. If the property does contain any equipment subject to 40 CFR part 761, the certification must include an assurance on behalf of the holding agency that each item of such equipment is now and will be maintained in a state of compliance with such regulations until disposal of the property.

[29 FR 16126, Dec. 3, 1964, as amended at 34 FR 8166, May 24, 1969; 40 FR 22256, May 22, 1975; 44 FR 19406, Apr. 3, 1979; 52 FR 46467, Dec. 8, 1987; 53 FR 29893, Aug. 9, 1988; 56 FR 15048, Apr. 15, 1991]

§ 101-47.202-3 Submission of reports.

Reports of excess shall be filed with the regional office of GSA for the region in which the excess property is located, as follows:

(a) Government-owned real property and related personal property shall be reported by the holding agencies 90-calendar days in advance of the date such excess property shall become available for transfer to another Federal agency or for disposal. Where the circumstances will not permit excess real property and related personal property to be reported a full 90-calendar days in advance of the date it will be available, the report shall be made as far in advance of such date as possible.

(b) Leasehold interests in real property determined to be excess shall be reported at least 60-calendar days prior to the date on which notice of termination or cancellation is required by the terms of the instrument under which the property is occupied.

(c) All reports submitted by the Department of Defense shall bear the certification "This property has been screened against the known needs of the Department of Defense." All reports submitted by civilian agencies

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shall bear the certification “This property has been screened against the known needs of the holding agency.”

§ 101-47.202-4 Exceptions to reporting.

(a) A holding agency shall not report to GSA leased space assigned to the agency by GSA and determined by the agency to be excess.

(b) Also, except for those instances set forth in §101-47.202-4(c) a holding agency shall not report to GSA property used, occupied, or controlled by the Government under a lease, permit, license, easement, or similar instrument when:

(1) The lease or other instrument is subject to termination by the grantor or owner of the premises within nine months;

(2) The remaining term of the lease or other instrument, including renewal rights, will provide for less than nine months of use and occupancy;

(3) The term of the lease or other instrument would preclude transfer to, or use by, another Federal agency or disposal to a third party; or

(4) The lease or other instrument provides for use and occupancy of space for office, storage, and related facilities, which does not exceed a total of 2,500 sq. feet.

(c) Property, which otherwise would not be reported because it falls within the exceptions set forth in §101-47.202-4(b) shall be reported:

(1) If there are Government owned improvements located on the premises; or

(2) If the continued use, occupancy, or control of the property by the Government is needful for the operation, production, or maintenance of other property owned or controlled by the Government that has been reported excess or is required to be reported to GSA under the provisions of this section.

§ 101-47.202-5 Reporting after submissions to the Congress.

Reports of excess covering property of the military departments and of the Office of Emergency Planning prepared after the expiration of 30 days from the date upon which a report of the facts concerning the reporting of such property was submitted to the Committees

on Armed Services of the Senate and House of Representatives, 10 U.S.C. 2662 and the Act of August 10, 1956, 70A Stat. 636, as amended (50 U.S.C. App. 2285), shall contain a statement that the requirements of the statute have been met.

§ 101-47.202-6 Reports involving the public domain.

(a) Agencies holding land withdrawn or reserved from the public domain which they no longer need, shall report on Standard Form 118, with appropriate Schedules A, B, and C, land or portions of land so withdrawn or reserved and the improvements thereon, if any, to the regional office of GSA for the region in which the lands are located when the agency has:

(1) Filed a notice of intention to relinquish with the Department of the Interior and sent a copy of the notice to the regional office of GSA (§101-47.201-3);

(2) Been notified by the Department of the Interior that the Secretary of the Interior, with the concurrence of the Administrator of General Services, has determined the lands are not suitable for return to the public domain for disposition under the general public land laws because the lands are substantially changed in character by improvements or otherwise; and

(3) Obtained from the Department of the Interior a report as to whether any agency (other than the holding agency) claims primary, joint, or secondary jurisdiction over the lands and whether the Department's records show the lands to be encumbered with any existing valid rights or privileges under the public land laws.

(b) Should the Department of the Interior determine that minerals in the lands are not suitable for disposition under the public land mining and mineral leasing laws, the Department will notify the appropriate regional office of GSA of such determination and will authorize the holding agency to include the minerals in its report to GSA.

(c) When reporting the property to GSA, a true copy of the notification (§101-47.202-6(a)(2)) and report (§101-47.202-6(a)(3)) shall be submitted as a part of the holding agency's report on

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the Government's legal title which shall accompany Standard Form 118.

§ 101-47.202-7 Reports involving contaminated property.

Any report of excess covering property which in its present condition is dangerous or hazardous to health and safety, shall state the extent of such contamination, the plans for decontamination, and the extent to which the property may be used without further decontamination. In the case of properties containing asbestos-containing materials and in lieu of the requirements of the foregoing provisions of § 101-47.202-7, see subsection 101-47.202-2(b)(9).

[53 FR 28984, Aug. 9, 1988]

§ 101-47.202-8 Notice of receipt.

GSA shall promptly notify the holding agency of the date of receipt of each Report of Excess Real Property (Standard Form 118).

§ 101-47.202-9 Expense of protection and maintenance.

When there are expenses connected with the protection and maintenance of the property reported to GSA, the notice to the holding agency of the date of receipt (see § 101-47.202-8) will indicate, if determinable, the date that the provisions of § 101-47.402-2 will become effective. Normally this will be the date of the receipt of the report. If because of actions of the holding agency the property is not available for immediate disposition at the time of receipt of the report, the holding agency will be reminded in the notice that the period of its responsibility for the expense of protection and maintenance will be extended by the period of the delay.

[49 FR 1348, Jan. 11, 1984]

§ 101-47.202-10 Examination for acceptability.

Each report of excess shall be reviewed by GSA to ascertain whether the report was prepared in accordance with the provisions of this section. Within fifteen calendar days after receipt of a report, the holding agency shall be informed by letter of the findings of GSA.

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(a) Where it is found that a report is adequate to the extent that GSA can proceed with utilization and disposal actions for the property, the report shall be accepted and the holding agency shall be informed of the date of such acceptance. However, the holding agency shall, upon request, promptly furnish such additional information or documents relating to the property as may be required by GSA to accomplish a transfer or a disposal.

(b) Where it is found that a report is insufficient to the extent that GSA would be unable to proceed with any utilization or disposal actions for the property, the report shall be returned and the holding agency shall be informed of the facts and circumstances that required the return of the report. The holding agency promptly shall take such action as may be appropriate to submit an acceptable report to GSA. Should the holding agency be unable to submit an acceptable report, the property shall be removed from under the provisions of § 101-47.402-2.

§ 101-47.203 Utilization.

§ 101-47.203-1 Reassignment of real property by the agencies.

Each executive agency shall, as far as practicable and within the policies expressed in this subpart 101-47.2, make reassignments of real property and related personal property under its control and jurisdiction among activities within the agency in lieu of acquiring such property from other sources.

[42 FR 40698, Aug. 11, 1977]

§ 101-47.203-2 Transfer and utilization.

Each executive agency shall, as far as practicable and within the policies expressed in this subpart 101-47.2, transfer excess real property under its control to other Federal agencies and to the organizations specified in § 101-47.203-7, and shall fulfill its requirements for real property by obtaining excess real property from other Federal agencies. Transfers of property shall be made in accordance with the provisions of this subpart.

[42 FR 40698, Aug. 11, 1977]

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§ 101-47.203-3 Notification of agency requirements.

Each executive agency shall notify the proper GSA regional office whenever real property is needed for an authorized program of the agency. The notice shall state the land area of the property needed, the preferred location or suitable alternate locations, and describe the type of property needed in sufficient detail to enable GSA to review its records of property that it knows will be reported excess by holding agencies, its inventory of excess property, and its inventory of surplus property, to ascertain whether any such property may be suitable for the needs of the agency. The agency shall be informed promptly by the GSA regional office as to whether or not any such property is available.

[33 FR 571, Jan. 17, 1968]

§ 101-47.203-4 Real property excepted from reporting.

Agencies having transferable excess real property and related personal property in the categories excepted from reporting by § 101-47.202-4 shall, before disposal, satisfy themselves in a manner consistent with the provisions of this section that such property is not needed by other Government agencies.

§ 101-47.203-5 Screening of excess real property.

Excess real property and related personal property reported by executive agencies shall, unless such screening is waived, be screened by GSA for utilization by Federal real property holding agencies (listed in § 101-47.4907), which may reasonably be expected to have use for the property as follows:

(a) Notices of availability will be submitted to each such agency which shall, within 30 calendar days from the date of notice, advise GSA if there is a firm requirement or a tentative requirement for the property. Agencies having tentative or firm requirements for surplus Federal real property for replacement housing for displaced persons, as authorized by section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1902), shall review these

notices for the additional purpose of identifying properties for which they may have such a requirement. When such a requirement exists, the agency shall so advise the appropriate GSA regional office.

(1) In the event a tentative requirement exists, the agency shall, within an additional 30 calendar days, advise GSA if there is a firm requirement.

(2) Within 60 calendar days after advice to GSA that a firm requirement exists, the agency shall furnish GSA a request for transfer of the property pursuant to § 101-47.203-7.

(b) Notices of availability for information of the Secretary of Health and Human Services and the Secretary of Education in connection with the exercise of the authority vested under the provisions of section 203(k)(1) of the Act; the Secretary of the Interior in connection with provisions in 16 U.S.C. 667b through d, the exercise of the authority vested under the provisions of section 203(k)(2) of the Act, or a determination under the provisions of section 203(k)(3) of the Act; and the Secretary of Housing and Urban Development in connection with the exercise of the authority vested under the provisions of section 203(k)(6) of the Act will be sent to the offices designated by those officials to serve the areas in which the properties are located. Similar notices of availability for information of the Attorney General and the Director of the Federal Emergency Management Agency in connection with a possible determination under the provisions of section 203(p)(1) of the Act, and for information of the Secretary of Transportation in connection with the exercise of the authority vested under the provisions of section 203(q) of the Act, will be respectively sent to the Office of Justice Programs, Department of Justice; the Federal Emergency Management Agency; and the Maritime Administration, Department of Transportation.

(c) The Departments of Health and Human Services, Education, Interior, Housing and Urban Development, Justice, and Transportation, and the Federal Emergency Management Agency shall not attempt to interest a local applicant in a property until it is determined surplus, except with the prior

consent of GSA on a case-by-case basis or as otherwise agreed upon. When such consent is obtained, the local applicant shall be informed that consideration of the application is conditional upon the property being determined surplus to Federal requirements and made available for the purposes of the application. However, these Federal agencies are encouraged to advise the appropriate GSA regional office of those excess properties which are suitable for their programs.

(d) Concurrently with the 30-day Federal agency use screening period, those Federal agencies that sponsor public benefit disposals at less than fair market value as permitted by the statutory authorities in §101-47.4905 may provide the disposal agency with a recommendation, together with a brief supporting rationale, as illustrated in §101-47.4909, that the highest and best use of the property is for a specific public benefit purpose. The recommendation may be made by the agency head, or designee, and will be considered by the disposal agency in its final highest and best use analysis and determination. After a determination of surplus has been made, if the disposal agency agrees with a sponsoring Federal agency that the highest and best use of a particular property is for a specific public benefit purpose, local public bodies will be notified that the property is available for that use.

[29 FR 16126, Dec. 3, 1964, as amended at 36 FR 11438, June 12, 1971; 47 FR 37175, Aug. 25, 1982; 49 FR 37091, Sept. 21, 1984; 60 FR 35706, July 11, 1995; 64 FR 5615, Feb. 4, 1999]

§ 101-47.203-6 Designation as personal property.

(a) Prefabricated movable structures such as Butler-type storage warehouses, quonset huts, and house trailers (with or without undercarriages) reported to GSA with the land on which they are located may, in the discretion of GSA, be designated for disposition as personal property for off-site use.

(b) Related personal property may, in the discretion of the disposal agency, be designated for disposition as personal property. Consideration of such designation shall be given particularly to items having possible historic or artistic value to ensure that Federal

agencies, including the Smithsonian Institution (see §101-43.302), are afforded the opportunity of obtaining them through personal property channels for off-site use for preservation and display. Fixtures such as murals and fixed sculpture which have exceptional historical or artistic value may be designated for disposition by severance for off-site use. In making such designations, consideration shall be given to such factors as whether the severance can be accomplished without seriously affecting the value of the realty and whether a ready disposition can be made of the severed fixtures.

(c) When a structure is to be demolished, any fixtures or related personal property therein may, at the discretion of the disposal agency, be designated for disposition as personal property where a ready disposition can be made of these items through such action. As indicated in paragraph (b) of this section, particular consideration should be given to designating items of possible historical or artistic value as personal property in such instances.

[34 FR 8166, May 24, 1969]

§ 101-47.203-7 Transfers.

(a) The agency requesting transfer of excess real property and related personal property reported to GSA shall prepare and submit to the proper GSA regional office GSA Form 1334, Request for Transfer of Excess Real and Related Personal Property (§101-47.4904). Instructions for the preparation of GSA Form 1334 are set forth in §101-47.4904-1.

(b) Upon determination by GSA that a transfer of the property requested is in the best interest of the Government and that the requesting agency is the appropriate agency to hold the property, the transfer may be made among Federal agencies, to mixed-ownership Government corporations, and to the municipal government of the District of Columbia.

(c) [Reserved]

(d) Transfers of property to executive agencies shall be made when the proposed land use is consistent with the policy of the Administrator of General Services as prescribed in §101-47.201-1 and the policy guidelines prescribed in §101-47.201-2. In determining whether a

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proposed transfer should be approved under the policy guidelines, GSA and OMB may consult informally to obtain all available data concerning actual program needs for the property.

(e) GSA will execute or authorize all approved transfers to the requesting agency of property reported to GSA. Agencies may transfer without reference to GSA excess real property which is not reported to GSA under the provisions of §101-47.202-4(b) (1), (2), and (4). However, such transfers shall be made in accordance with the principles set forth in this section.

(f) Pursuant to an agreement between the Director, Office of Management and Budget, and the Administrator of General Services, reimbursement for transfers of excess real property is prescribed as follows:

(1) Where the transferor agency has requested the net proceeds of the transfer pursuant to section 204 (c) of the Act, or where either the transferor or transferee agency (or organizational unit affected) is subject to the Government Corporation Control Act (31 U.S.C. 841) or is a mixed-ownership Government corporation, or the municipal government of the District of Columbia, reimbursement for the transfer shall be in an amount equal to the estimated fair market value of the property requested as determined by the Administrator: *Provided*, That where the transferor agency is a wholly owned Government corporation, the reimbursement shall be either in an amount equal to the estimated fair market value of the property requested, or the corporation's book value thereof, as may be agreed upon by GSA and the corporation.

(2) Reimbursement for all other transfers of excess real property shall be:

(i) In an amount equal to 100 percent of the estimated fair market value of the property requested, as determined by the Administrator, or if the transfer is for the purpose of upgrading facilities (i.e., for the purpose of replacing other property of the transferee agency which because of the location, nature, or condition thereof, is less efficient for use), the reimbursement shall be in an amount equal to the difference between the estimated fair market value

of the property to be replaced and the estimated fair market value of the property requested, as determined by the Administrator.

(ii) Without reimbursement when the transfer is to be made under either of the following conditions:

(A) Congress has specifically authorized the transfer without reimbursement, or

(B) The Administrator with the approval of the Director, Office of Management and Budget, has approved a request for an exception from the 100 percent reimbursement requirement.

(1) A request for exception from the 100 percent reimbursement requirement shall be endorsed by the head of the executive department or agency requesting the exception.

(2) A request for exception from the 100 percent reimbursement requirement will be submitted to GSA for referral to the Director, Office of Management and Budget, and shall include an explanation of how granting the exception would further essential agency program objectives and at the same time be consistent with Executive Order 12348, dated February 25, 1982. The unavailability of funds alone is not sufficient to justify an exception. The above required data and documentation shall be attached to GSA Form 1334 by the transferee agency on submission of that form to GSA.

(3) If the Administrator with the approval of the Director, Office of Management and Budget, approves the request for an exception, the Administrator may then complete the transfer. A copy of the Office of Management and Budget approval will be sent to the Property Review Board.

(4) The agency requesting the exception will assume responsibility for protection and maintenance costs where the disposal of the property is deferred for more than 30 days because of the consideration of the request for an exception to the 100 percent reimbursement requirement.

(g) Excess property may be transferred to the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction, pursuant to the provisions of section 602(e) of the Act. The amount of reimbursement for such transfer

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shall be the same as would be required for a transfer of excess property to an executive agency under similar circumstances.

(h) The transferor agency shall provide to the transferee agency all information held by the transferor concerning hazardous substance activity as outlined in § 101-47.202-2.

[29 FR 16126, Dec. 3, 1964, as amended at 37 FR 5029, Mar. 9, 1972; 40 FR 12078, Mar. 17, 1975; 42 FR 40698, Aug. 11, 1977; 47 FR 56499, Dec. 17, 1982; 49 FR 29222, July 19, 1984; 56 FR 15048, Apr. 15, 1991]

§ 101-47.203-8 Temporary utilization.

(a) Whenever GSA determines that the temporary assignment or reassignment to a Federal agency of any space in excess real property for office, storage, or related facilities would be more advantageous than the permanent transfer of the property to a Federal agency, it will execute or authorize such assignment or reassignment for such period of time as it shall determine. The agency to which the space is made available shall make appropriate reimbursement for the expense of maintaining such space in the absence of appropriation available to GSA therefor.

(b) GSA may approve the temporary assignment or reassignment to a Federal agency of excess real property other than space for office, storage, or related facilities whenever such action would be in the best interest of the Government. In such cases, the agency to which the property is made available may be required to pay a rental or users charge based upon the fair value of such property, as determined by GSA. Where such property will be required by the agency for a period of more than 1 year, it may be transferred on a conditional basis, with an understanding that the property will be reported excess at a time agreed upon when the transfer is arranged (see § 101-47.201-2(d)(7)).

§ 101-47.203-9 Non-Federal interim use of property.

The holding agency may, with the approval of GSA, grant rights for non-Federal interim use of excess property reported to GSA, or portions thereof, when it is determined that such in-

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terim use is not required for the needs of any Federal agency.

§ 101-47.203-10 Withdrawals.

Subject to the approval of GSA, and to such conditions as GSA considers appropriate, reports of excess real property may be withdrawn in whole or in part by the reporting agency at any time prior to transfer to another Federal agency or prior to the execution of a legally binding agreement for disposal as surplus property. Requests for withdrawals shall be addressed to the GSA regional office where the report of excess real property was filed.

[35 FR 17256, Nov. 6, 1970]

§ 101-47.204 Determination of surplus.

§ 101-47.204-1 Reported property.

Any real property and related personal property reported excess under this subpart 101-47.2 which has been screened for needs of Federal agencies or waived from such screening by GSA, and not been designated by GSA for utilization by a Federal agency, shall be subject to determination as surplus property by GSA.

(a) The holding agency, the Secretary of Health and Human Services, the Secretary of Education, the Secretary of the Interior, the Secretary of Housing and Urban Development, the Attorney General, the Director of the Federal Emergency Management Agency, and the Secretary of Transportation will be notified of the date upon which determination as surplus becomes effective. Any Federal agency that has identified a property as being required for replacement housing for displaced persons under section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 will also be notified of the date upon which determination as surplus becomes effective. The Secretary of the Department of Energy will be notified when real property is determined surplus and advised of any known interest in the property for its use or development for energy facilities. Appropriate steps will be taken to ensure that energy site needs are considered along with other competing needs in the disposal of surplus real property, since such property may become available

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for use under sections 203(e)(3) (G) and (H) of the Act.

(b) The notices to the Secretary of Health and Human Services, the Secretary of Education, the Secretary of the Interior, the Secretary of Housing and Urban Development, and the Secretary of Energy will be sent to the offices designated by them to serve the area in which the property is located. The notices to the Attorney General will be sent to the Office of Justice Programs, Department of Justice. The notices to the Director of the Federal Emergency Management Agency will be sent to the Federal Emergency Management Agency. The notices to the Secretary of Transportation will be sent to the Federal Aviation Administration, the Federal Highway Administration, and the Maritime Administration. The notices to the Federal agencies having a requirement pursuant to section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 will be sent to the office making the request unless another office is designated.

(c) With regard to surplus property which GSA predetermines will not be available for disposal under any of the statutes cited in §101-47.4905, or whenever the holding agency has requested reimbursement of the net proceeds of disposition pursuant to section 204(c) of the Act, the notice to the affected Federal agencies will contain advice of such determination or request for reimbursement. The affected Federal agencies shall not screen for potential applicants for such property.

[29 FR 16126, Dec. 3, 1964, as amended at 36 FR 8041, Apr. 29, 1971; 47 FR 37175, Aug. 25, 1982; 60 FR 35706, July 11, 1995; 64 FR 5616, Feb. 4, 1999]

§ 101-47.204-2 Property excepted from reporting.

Any property not reported to GSA due to §101-47.202-4, and not designated by the holding agency for utilization by other agencies pursuant to the provisions of this subpart 101-47.2, shall be subject to determination as surplus by the holding agency.

Subpart 101-47.3—Surplus Real Property Disposal

§ 101-47.300 Scope of subpart.

This subpart prescribes the policies and methods governing the disposal of surplus real property and related personal property within the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands. This subpart does not apply to the abandonment, destruction, or donation to public bodies, under section 202(h) of the Act (covered by subpart 101-47.5).

[47 FR 4522, Feb. 1, 1982]

§ 101-47.301 General provisions of subpart.

§ 101-47.301-1 Policy.

It is the policy of the Administrator of General Services:

(a) That surplus real property shall be disposed of in the most economical manner consistent with the best interests of the Government.

(b) That surplus real property shall ordinarily be disposed of for cash consistent with the best interests of the Government.

(c) That surplus real property shall be disposed of by exchange for privately owned property only for property management considerations such as boundary realignment or provision of access or in those situations in which the acquisition is authorized by law, the requesting Federal agency has received approval from the Office of Management and Budget and clearance from its congressional oversight committees to acquire by exchange, and the transaction offers substantial economic or unique program advantages not otherwise obtainable by any other method of acquisition.

[29 FR 16126, Dec. 3, 1964, as amended at 42 FR 47205, Sept. 20, 1977; 42 FR 56123, Oct. 21, 1977]

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§ 101-47.301-2 Applicability of anti-trust laws.

(a) In any case in which there is contemplated a disposal to any private interest of real and related personal property which has an estimated fair market value of \$3,000,000 or more, or of patents, processes, techniques, or inventions, irrespective of cost, the disposal agency shall transmit promptly to the Attorney General notice of any such proposed disposal and the probable terms or conditions thereof, as required by section 207 of the Act, for his advice as to whether the proposed disposal would tend to create or maintain a situation inconsistent with antitrust laws, and no such real property shall be disposed of until such advice has been received. If such notice is given by any executive agency other than GSA, a copy of the notice shall be transmitted simultaneously to the office of GSA for the region in which the property is located.

(b) Upon request of the Attorney General, GSA or any other executive agency shall furnish or cause to be furnished such information as it may possess which the Attorney General determines to be appropriate or necessary to enable him to give the requested advice or to determine whether any other disposition or proposed disposition of surplus real property violates or would violate any of the antitrust laws.

[29 FR 16126, Dec. 3, 1964, as amended at 54 FR 12198, Mar. 24, 1989]

§ 101-47.301-3 Disposals under other laws.

Pursuant to section 602(c) of the act, disposals of real property shall not be made under other laws but shall be made only in strict accordance with the provisions of this subpart 101-47.3 unless the Administrator of General Services, upon written application by the disposal agency, shall determine in each case that the provisions of any such other law, pursuant to which disposal is proposed to be made, are not inconsistent with the authority conferred by this Act. The provisions of this section shall not apply to disposals of real property authorized to be made by section 602(d) of the act or by any special statute which directs or re-

quires an executive agency named therein to transfer or convey specifically described real property in accordance with the provisions of such statute.

§ 101-47.301-4 Credit disposals and leases.

Where credit is extended in connection with any disposal of surplus property, the disposal agency shall offer credit pursuant to the provisions of § 101-47.304-4. The disposal agency shall administer and manage the credit lease, or permit and any security therefor and may enforce, adjust, or settle any right of the Government with respect thereto in such manner and upon such terms as that agency considers to be in the best interests of the Government.

[42 FR 47205, Sept. 20, 1977]

§ 101-47.302 Designation of disposal agencies.

§ 101-47.302-1 General.

In accordance with applicable provisions of this subpart 101-47.3, surplus real property shall be disposed of or assigned to the appropriate Federal department for disposal for public use purposes by the disposal agency.

[36 FR 8042, Apr. 29, 1971]

§ 101-47.302-2 Holding agency.

(a) The holding agency is hereby designated as disposal agency for:

(1) Leases, permits, licenses, easements, and similar real estate interests held by the Government in non-Government-owned property (including Government-owned improvements located on the premises), except when it is determined by either the holding agency or GSA that the Government's interest will be best served by the disposal of such real estate interests together with other property owned or controlled by the Government, that has been or is being reported to GSA as excess; and

(2) Fixtures, structures, and improvements of any kind to be disposed of without the underlying land with the

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exception of Government-owned machinery and equipment, which are fixtures being used by a contractor-operator, where such machinery and equipment will be sold to the contractor-operator.

(3) Standing timber and embedded gravel, sand, stone and underground water to be disposed of without the underlying land.

(b) GSA may act as the disposal agency for the type of property described in paragraphs (a) (1) and (2) of this section, whenever requested by the holding agency to perform the disposal functions. Where GSA acts as the disposal agency for the disposal of leases and similar real estate interests as described in paragraph (a)(1) of this section, the holding agency nevertheless shall continue to be responsible for the payment of the rental until the lease is terminated and for the payment of any restoration or other direct costs incurred by the Government as an incident to the termination. Likewise, where GSA acts as disposal agency for the disposal of fixtures, structures, and improvements as described in paragraph (a)(2) of this section, the holding agency nevertheless shall continue to be responsible for payment of any demolition and removal costs not offset by the sale of the property.

[29 FR 16126, Dec. 3, 1964, as amended at 31 FR 2658, Feb. 11, 1966; 31 FR 16780, Dec. 31, 1966; 33 FR 8737, June 14, 1968; 48 FR 12526, Mar. 25, 1983; 50 FR 28403, July 12, 1985]

§ 101-47.302-3 General Services Administration.

GSA is the disposal agency for all real property and related personal property not covered by the above designations or by disposal authority delegated by the Administrator of General Services in specific instances.

§ 101-47.303 Responsibility of disposal agency.

§ 101-47.303-1 Classification.

Each surplus property, or, if the property is subdivided, each unit of property shall be classified by the disposal agency to determine the methods and conditions applicable to the disposal of the property. Classification shall be according to the estimated

highest and best use for the property. The property may be reclassified from time to time by the disposal agency or by GSA whenever such action is deemed appropriate.

§ 101-47.303-2 Disposals to public agencies.

The disposal agency shall comply with the provisions of Executive Order 12372 and 41 CFR subpart 101-6.21, which enables a State to establish the single point of contact process or other appropriate procedures to review and comment on the compatibility of a proposed disposal with State, regional and local development plans and programs. When a single point of contact transmits a State review process recommendation, the Federal agency receiving the recommendation must either accept the recommendation; reach a mutually agreeable solution with the party(s) preparing the recommendation; or provide the single point of contact with a written explanation for not accepting the recommendation or reaching a mutually agreeable solution. If there is nonaccommodation, the agency is generally required to wait 10 calendar days after receipt, by the single point of contact, of an explanation before taking final action. The single point of contact is presumed to have received written notification 5 calendar days after the date of mailing of such notification. The 10-day waiting period may be waived if the agency determines that because of unusual circumstances this delay is not feasible.

(a) Whenever property is determined to be surplus, the disposal agency shall, on the basis of the information given in §101-47.4905, list the public agencies eligible under the provisions of the statutes referred to above to procure the property or portions thereof, except that such listing need not be made with respect to:

(1) Any such property when the determination of the property as surplus is conditioned upon disposal limitations which would be inconsistent with disposal under the statutes authorizing disposal to eligible public agencies; or

(2) Any such property having an estimated fair market value of less than \$1,000 except where the disposal agency

has any reason to believe that an eligible public agency may be interested in the property.

(b) Before public advertising, negotiation, or other disposal action, the disposal agency shall give notice to eligible public agencies that the property has been determined surplus. Surplus real property may be procured by public agencies under the statutes cited in §101-47.4905. A notice to public agencies of surplus determination shall be prepared following the sample shown in §101-47.4906. This notice shall be transmitted by a letter prepared following the sample shown in §101-47.4906-1. A copy of this notice shall also be sent simultaneously to the State single point of contact, under a covering letter prepared following the sample shown in §101-47.4906-2. The point of contact shall be advised that no final disposal action will be taken for 60 calendar days from the date of notification to allow time for the point of contact to provide any desired comments. The disposal agency will wait the full 60 calendar days, even if the comments are received early, to allow time for the point of contact to send additional or revised comments.

(1) Notice for property located in a State shall be given to the Governor of the State, to the county clerk or other appropriate officials of the county in which the property is located, to the mayor or other appropriate officials of the city or town in which the property is located, to the head of any other local governmental body known to be interested in and eligible to acquire the property, and to the point of contact established by the State or under other appropriate procedures established by the State.

(2) Notice for property located in the District of Columbia shall be given to the Mayor of the District of Columbia and to the point of contact established by the District of Columbia or under other appropriate procedures established by the District of Columbia.

(3) Notice for property located in the Virgin Islands shall be given to the Governor of the Virgin Islands and to the point of contact established by the Virgin Islands or under other appropriate procedures established by the Virgin Islands.

(4) Notice for property located in the Commonwealth of Puerto Rico shall be given to the Governor of the Commonwealth of Puerto Rico and to the point of contact established by the Commonwealth of Puerto Rico or under other appropriate procedures established by the Commonwealth of Puerto Rico.

(c) The notice prepared pursuant to §101-47.303-2(b) shall also be posted in the post office which serves the area in which the property is located and in other prominent places such as the State capitol building, county building, courthouse, town hall, or city hall. The notice to be posted in the post office shall be mailed to the postmaster with a request that it be posted. Arrangements for the posting of the notice in other prominent places shall be as provided for in the transmittal letters (see §101-47.4906-1) to eligible public agencies.

(d) A copy of the notice described in paragraph (b) of this section shall be furnished to the appropriate regional or field offices of (1) the National Park Service (NPS) and the Fish and Wildlife Service of the Department of the Interior and (2) the Federal Aviation Administration, the Federal Highway Administration, and the Maritime Administration of the Department of Transportation concerned with the disposal of property to public agencies under the statutes named in the notice.

(e) In the case of property which may be made available for assignment to the Secretary of Health and Human Services (HHS), the Secretary of Education (ED), the Secretary of the Interior (DOI), or the Secretary of Housing and Urban Development (HUD) for disposal under sections 203(k)(1), (2), or (6) of the Act:

(1) The disposal agency shall inform the appropriate offices of HHS, ED, NPS, or HUD 3 workdays in advance of the date the notice will be given to public agencies, to permit similar notice to be given simultaneously by HHS, ED, NPS, or HUD to additional interested public bodies and/or non-profit institutions.

(2) The disposal agency shall furnish the Federal agencies with a copy of the postdated transmittal letter addressed to each public agency, copies (not to exceed 25) of the postdated notice, and