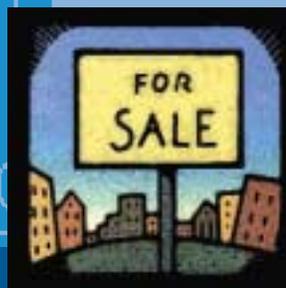


# Property Disposal



## Customer Guide to Real Property Disposal

A stylized graphic of a city skyline in various shades of blue. The buildings are represented by white and light blue outlines against a darker blue background. The skyline includes several prominent skyscrapers with pointed tops and a variety of architectural styles, including classical domes and modern towers. The overall composition is layered, with some buildings appearing in front of others, creating a sense of depth.

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# Welcome

Welcome to the Office of Property Disposal's Customer Service Guide. We want to be recognized throughout the Federal Government as the leader in real property utilization and disposal services.

This guide is written in plain language style, which uses a question and answer format. It also includes pronouns that represent the following people or agencies, unless we state otherwise:

"We", "Us", and "Our" refer to the General Services Administration's Office of Property Disposal.

"You" and "Your" refers to a Federal landholding or sponsoring agency for which we provide a service. The definition includes an agency's senior executive and financial officers, managers and employees. In questions, "I", "Me" or "My" also references you because we assume you are asking the questions.

GSA employees have the experience, knowledge, and creative expertise to meet customers' needs in ways that are responsive to all, yet appropriate to each. Whether disposing of property, providing office space, knowing how to obtain the best available products and services, or creating policy, GSA is a trusted resource customers can count on for making smart choices. GSA identifies, adapts, and champions best business practices and is a leader in shaping the work environment of the future. Responding every day to the demands of a dynamic democracy, GSA never forgets its role in serving the needs of all Americans.

## Introduction

The Office of Property Disposal primarily uses the Federal Property and Administrative Services Act of 1949 (Property Act) to dispose of most real property that the Federal Government no longer needs. Federal agencies must report excess real property to the General Services Administration for disposal under the Property Act.

When disposing of Federal real property, first we offer "excess" property to other Federal agencies. Most Federal agencies must pay fair market value for the property, although certain bureaus within the Department of the Interior, Department of Justice, and the Department of Transportation have programs that don't require reimbursement. The needs of Federal agencies are considered a priority over all other uses.

If no Federal agency wants a property, we determine it "surplus" and offer it to local governments – the state, county and city or town where the property is located. The local governments have a chance to acquire property through negotiated sale at fair market value or through a public-benefit conveyance for specific uses including homeless, health or correctional facilities, education, parks, law enforcement, emergency management, self-help housing, port facilities, airports, historic monuments, and wildlife conservation.

It is important to note that although a Federal use of property has priority over all other uses, homeless needs/uses has priority over all other public uses. Title V of Public Law 100-77, as amended by Public Law 100-628, as well as court orders issued by the U.S. District Court for the District of Columbia require landholding agencies to review their real property holdings to identify those that are unutilized or underutilized. They submit this information to the Department of Housing and Urban Development (HUD). HUD then determines if the properties are suitable for homeless use. Homeless use of Federal real property is covered in greater detail beginning on page 27.

For each of these public uses mentioned above, a designated Federal "sponsoring agency" screens applications of the local governments and eligible non-profit organizations (where authorized) and oversees a program's compliance with the law, in most cases. Sometimes GSA is responsible for overseeing compliance. These public-benefit conveyances may be discounted up to 100% of the fair market value because the government considers the benefits and positive impact of the program on the local community, worth waiving some or all of the fair market value reimbursement requirement. However, the exact percentage of the discount is determined by the sponsoring agency. The terms of public-benefit conveyances may restrict or limit the use of the property anywhere from 20 years to perpetuity, depending on the program.

If no agency, state or local government, or eligible non-profit organization wants to acquire Federal real property, we then offer it for competitive sale to the general public. We do this via sealed bid, public auction, or written auction, and by online auctions via the Internet. We offer properties without restrictions at fair market value by advertising in local newspapers, regional or national publications, the U.S. Real Estate Sales List (an Office of Property Disposal publication), and on our Internet homepage at <http://propertydisposal.gsa.gov/property/>.

# Use of Federal Real Property

On April 29, 1985, President Ronald Reagan signed Executive Order 12512 (E.O. 12512). It requires all landholding agencies to periodically review their real property holdings. It also requires GSA to “provide government-wide policy oversight and guidance for Federal real property management.”

We establish, oversee, and guide others on the procedures they must apply to ensure they’re using the Federal government’s property only for mission purposes. The Federal Management Regulations codify our policy; below, we’ll cover the procedures.

## **Does GSA survey my use of Federal property? once it’s assigned?**

Yes. Utilization surveys determine how well you’re using Federal real property to support your mission. These surveys help us determine whether the property is fully used, underused, not put to the best use, or not used for mission support.

*Fully used* means you’re using the property entirely for activities related to your mission.

*Underused* means you’re using all or part of the property intermittently for your programs or that you need only part of the property to support them.

*Not put to best use* means you’re using all or part of the property for your programs, but the property’s nature or location lends itself to a much higher or better purpose. It may also mean that occupying other suitable property would be much less expensive than using your current property.

Under our Reengineered Utilization Program, our goal is to apply asset management principles, strategies, and techniques to help landholding agencies subject to the requirements of E.O. 12512 meet their responsibilities. See the section on Reengineered Utilization Program on page 10.

## **Who must complete the utilization surveys?**

We both must do surveys on your agency’s real property holdings. Under the Reengineered Utilization Program, we prefer to do them jointly. But if that’s not possible, you’re still responsible for doing one.

## **What kinds of property must GSA and I survey?**

We’re mainly interested in the land and all government-owned improvements on the land. To meet E.O. 12512, you needn’t survey leased property or property you’re using or occupying under a license, permit, or other type of use agreement.

## Who decides what properties to survey?

You do if you represent the landholding agency, although we have authority to survey government-owned property under E.O. 12512.

To establish a survey schedule, utilization coordinators in our Regional or National Office meet with your agency's representative. They discuss your agency's real property holdings, needs, asset management concerns, and plans for using and disposing of your real property. Your representative uses this time to plan for the following fiscal year's surveys, whose schedule depends mainly on your goals. The schedule also considers current and projected workload.

Some agencies prefer to concentrate on a particular region each fiscal year; others focus on types of properties or facilities.

## What does a utilization survey typically include?

Our utilization coordinator (from the Regional or National Office, or sometimes both) meets with your representative, usually at the survey site. Together, they:

- Usually meet with the property manager (or similar official) and others who know about the land, facility, or operations (if either we or you consider a meeting necessary or appropriate).
- Confirm property information, such as:
  - size or acreage and property boundaries, as well as exact location or street address.
  - occupancy and uses of the land or facility.
  - the property's acquisition date and cost, plus its history or background.
  - number and types of buildings and their specific use.
  - maintenance issues and costs.
  - future plans for the property.
  - information on the surrounding community and the local government.
- May review plats and maps.
- Tour the land and buildings.
- May take photographs of the property.

## What things should I consider before, during, and after a utilization survey?

Generally, you should consider whether you are using the property in the best manner, how changes have affected—or may affect—your use, and whether alternatives sites would be more efficient.

### Concerning your effective use of the property:

1. Are you putting your property to its highest and best use? Consider—
  - Changes in the surrounding neighborhood, zoning, and environmental factors.
  - Compatibility with State, regional, or local development plans or programs.
  - Whether you could justify your use if you had to pay rent at commercial rates.
2. Is all of the property essential to your mission?
3. Are operating and maintenance costs excessive compared with those of similar facilities?
4. Are buffer zones around your property as small as possible? If you were to release part of the property, will local zoning still give you enough protection for buffer zones?
5. Are you keeping part of the property mainly because fences, hedges, roads, or utility systems mark the present boundaries?
6. Are you keeping property that is considered undisposable because of topography or encumbrances to rights-of-way?
7. Are you retaining land merely because it is landlocked?

### Concerning how changes affect your use:

1. Is the property adequate for approved future programs? How about for contemplated program changes?
2. How have developments on adjoining land not owned by the government, public access roads, or rights-of-way granted across government-owned land affected your property? Have they made any part of it unsuitable or unnecessary for your continued operations or program requirements?
3. If we dispose of your government-owned property, will reserving the government's rights and interests in the property allow you to continue operations?

### Concerning whether other uses would be more efficient:

1. Can you save your agency money by relocating to an area better suited for your agency's mission? We can help you determine whether our relocation program could fund your move to a more efficient site, taking into consideration property prices, rental rates, and other factors. (See the section on GSA's Relocation Program.)
2. Is there land or space in government-owned buildings that others within or outside Government can use temporarily?
3. If Federal government employees live in government-owned residential property, can the local market acquire this housing or provide comparable housing and related services that will allow us to release the government housing? (To answer this question, gather data on the cost and availability of housing and related services in the local market. GSA can help you do this.)

### Does a utilization survey result in a report? If so, who prepares it?

Yes. For details, see the section (below) on our Reengineered Utilization Program. A survey report contains at least one of the following:

- A recommendation to declare all or part of the property excess.
- Suggestions to improve management of the property.
- A determination that you're fully using the property and that we will baseline it.

The responsibility for preparing the report depends on who does the survey, as shown in the following table:

<b>If the surveying organization is...</b>	<b>Then...</b>	<b>And...</b>
your agency (“holding agency” survey)	you complete the survey report	you send copies to our Regional and National Office
GSA (usually at your request)	we complete the survey report	we send copies to you and to our National Office
your agency and GSA (joint survey)	we both contribute to the report	we share responsibility for getting copies to the right offices

### **Who must sign the survey report?**

Whether your agency or GSA does the survey, your agency head designates who must sign the report. Usually, it’s the Director (or equivalent) of the office that handles your agency’s real-estate operations and the representative who coordinates with us on the survey.

### **What happens if GSA doesn’t agree with my agency’s use of the property?**

We hold a separate meeting between GSA and your agency and involve your agency’s senior managers whenever necessary to resolve issues. Meanwhile, your property keeps an “active” designation (as described in the section below on our Reengineered Utilization Program).

## GSA's Reengineered Utilization Program

### Why did GSA reengineer the utilization program?

Our customer agencies let us know that they saw us as “policing” their use of property. Roundtable discussions with our customers and the agencies’ participation in studies on reengineering our business processes revealed this perception that GSA was “policing” the agencies’ use of their property. In keeping with our philosophy of working with agencies to develop sound asset management strategies that will create winning outcomes for agencies, the Federal Government, and taxpayers, we now see ourselves as facilitators for asset managers. Thus, we work with you to create partnerships that will help you meet your responsibilities under E.O. 12512. In particular, we use “baselining” as one asset management technique to help you meet your utilization goals.

### What is baselining? How does it work?

Baselining is a process whereby you, GSA, or both of us review your real property holdings. The purpose of the review is to try to gather accurate and complete information on each property to determine how well it’s being used to support your agency’s mission. To create the first baseline, for full use, we relied on properties previously surveyed (during FY 91-96), without recommendations for excess or management improvements. After consulting with agencies about properties and future plans for them, we baselined them. Now, we survey properties with you to determine whether we should baseline them.

A baselined property doesn’t need to be resurveyed unless you change your use of it. But we consider a property “active” if you’re holding it without identifying a use for it or if we disagree that the use you identified fully utilizes the property. We prefer to do utilization surveys jointly, but you or Property Disposal may do one independently.

You can certify the property’s status by checking the appropriate box on the revised GSA Form 1166 when you submit properties for the Worldwide Inventory.

### How does baselining relate to survey requirements in E.O. 12512?

Baselining is one of the ways we carry out mandates in E.O. 12512. The Executive Order requires us to set standards for periodically surveying properties, establishing government policy, overseeing utilization programs, and guiding agencies in managing and using real property.

Our regulations require you, as a landholding agency, to survey 100% of your properties every five years, or 20% annually. Although baselining allows you to remove certain properties from periodic surveys, all “active” properties still require them.

## How does baselining help me manage my real property?

Baselining gives you the chance to carefully review your use of a property and to take advantage of our expert advice on real property management. Also, once we agree to baseline a property, you—

- Don't need to spend money on surveys as long as your mission or use for that property doesn't change.
- Can use baselining documentation to support your stated need for the property if the General Accounting Office, Inspector General, or others question that need.
- Can cite our agreement to baseline your property as further support for your position.

## If I have questions about the status of my agency's property, whom should I contact?

Contact the utilization coordinator for your agency or the regional coordinator for your property's location. Our Survey 2 homepage at: <http://web2.xservices.com/survey2/> lists our utilization coordinators for the National Office and the regions.

# GSA's Relocation Program

## What is GSA's Relocation Program?

We adopted this program from the private sector in the late 1980's to manage government assets. It offers agencies incentives and funding to relocate from antiquated, functionally obsolete, or underutilized properties to modern and efficient ones. Agencies acquire the new facilities with funding approved by the Office of Management and Budget (OMB), with our coordination. Then, we sell the vacated property, returning cash to the U.S. government and economic benefits to the community where the property is located. Benefits include—

- savings in tax dollars by reducing costs
- full productive use of the property
- job creation and tax revenues

## What expenses does GSA pay under the Relocation Program?

We pay for—

- costs to buy, build, or lease
- moving costs
- new equipment, tools, furniture
- administrative expenses
- travel
- site investigation
- appraisals
- engineering

Note: Relocation funds cannot be used for payroll expenses.

## How do I get approval and funding for a move under this program?

The program has four main steps:

- You, or we, can identify properties suitable for relocation and choose an alternate site
- We analyze costs versus benefits and recommend the best option: build, buy, or lease
- We recommend the relocation project to OMB
- If approved, your agency receives funding and starts moving.

## What is the time frame for approval of funding?

The total time from budget request to approval is approximately 19 months.

## How can I get more information or help with relocation decisions?

You can contact the Property Disposal office that serves your location:

**Boston, MA Office: 617-565-5700—**

Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Puerto Rico, Rhode Island, Vermont, U.S. Virgin Islands

**Chicago, Illinois Field Office: 312-353-6045—**

Indiana, Illinois, Michigan, Minnesota, Ohio, Wisconsin

**Atlanta, GA Office: 404-331-5133—**

Alabama, Delaware, District of Columbia, Florida, Georgia, Kentucky, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia

**Ft. Worth, TX Office: 817-978-2331—**

Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wyoming

**San Francisco, CA Office: 415-522-3434—**

Arizona, California, Guam, Hawaii, Nevada

**Auburn, WA Field Office: 253-931-7550—**

Alaska, Idaho, Oregon, Washington

**For national issues or policy issues—**

Call the Property Disposal headquarters in Washington, DC at 202-501-0084.

You may also visit our Resource Center at <http://rc.gsa.gov/resourcecenter> to find out who the “subject matter expert” (SME) is for the relocation program and contact that person directly.

# Excess Real Property

## How do I identify properties as excess?

Survey your real property holdings annually to identify property that you

- don't need
- use too little
- don't use for the best purpose (Executive Order 12512)

We coordinate with you under our Reengineered Utilization program to

- baseline properties after an initial survey
- schedule periodic surveys for remaining properties

You can see the Survey2 Home Page at <http://prod1web2.xservices.com/survey2/logon.asp>.

## How do I tell GSA that I need to dispose of excess real property?

You authorize and ask us to dispose of your excess property by sending a Report of Excess Real and Related Personal Property (SF 118) to our regional office for that location. See our Resource Center at <http://rc.gsa.gov/resourcecenter> for locations of our offices, the reporting format, and guidelines for preparing this report. Our format will help you give us the information we need. You don't have to use the form, but make sure you include in your report:

- title records
- a property description.
- environmental clearance.
- whether your property is historic and/or in the public domain.

A realty specialist from Property Disposal can help you select information to include. If some information we need isn't available, we may still conditionally accept your report and work with you to get that information.

## Once I know I have excess property, how long do I have to report it to GSA?

Typically, for government-owned real and related personal property, you should report property at least 90 calendar days in advance of the date you anticipate the property to be vacated and ready for disposal. If 90 calendar days is not feasible, then as far in advance as possible.

If you have a leasehold interest in the property that you have determined excess, we would like to receive the report of excess at least 60 calendar days prior to the date that the lease expires or is cancelled.

For properties reported excess by the Department of Defense, the report must have the following statement: "This property has been screened against the known needs of the Department of Defense."

Civilian agencies must make the following statement in their reports of excess: "This property has been screened against the known needs of the holding agency."

Property need not be reported excess to GSA if—

- It's leased space assigned to your agency by GSA;
- The lease or similar instrument (of conveyance) terminates by the owner of the property within nine months;
- The remaining term of the lease, including renewal rights will allow for less than nine months of use and/or occupancy;
- The terms of the lease will not allow for transfer to or use by another Federal agency, or disposal to a third party; or
- The lease is for the use and occupancy of storage or office space or related facilities less than 2,500 sq. ft.

However, even with these exceptions, the property should be reported to GSA if—

- There are government-owned improvements on the property; and/or
- If the Government needs to continue to use or occupy the property in order to continue operations, production, or maintenance of other government-owned or controlled property that has been reported excess.

### **What if I have excess property that is covered by one of the exceptions listed above?**

Then you can declare the property "surplus". (See information under question "May I ever directly dispose of excess property?" page 19).

### **Can I report property excess if it's contaminated?**

Yes, but your report of excess must tell us the extent of the contamination, your plans for remediation, and the extent the property can still be used in its current contaminated condition.

If there has been hazardous substance activity\* (as defined by the Environmental Protection Agency regulations found in 40 CFR part 373) on the property, you must provide—

- A statement indicating whether or not, during the time the United States owned the property, any hazardous substance activity took place on the property.
- Information on the type and quantity of hazardous substance, the time of storage, or release, or disposal.
- A statement indicating whether or not your agency took all remedial action necessary to protect human health and the environment concerning any remaining hazardous substance before you reported the property excess to GSA.

If remedial action has not been taken, you must tell us when you will complete any remedial actions.

If no hazardous substance activity occurred on the property you must include the following statement:

*“The (your agency) has determined, in 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.”*

\*Note: Hazardous substance activity could mean that hazardous substances were stored for a year or more, or were released, or disposed of on the property.

If the property has asbestos-containing material (ACM), you must provide—

- A description of the type, location, and condition of the asbestos used in the construction, repair, or alteration of any buildings or improvements for example, fire-proofing, pipe insulation, etc.).
- A description of any asbestos control measures taken.
- Any cost and time estimates for the removal of the ACM.\*\*

\*\*Note: Agencies are not required to conduct any specific studies or tests to get this information.

### **What happens after I submit a Report of Excess to GSA?**

A realty specialist will promptly acknowledge receipt of the report of excess in writing. Your report of excess is reviewed to ensure that it contains all relevant and necessary information, as required. Within 15 calendar days, we will notify you whether or not your report is acceptable and we are able to proceed with disposal actions. However, if we identify additional information is needed, you must be prepared to furnish that information as soon as possible.

If your report is lacking sufficient information, such that we are unable to begin disposal action, we will return it to you along with an explanation as to why we cannot proceed.

Generally, GSA will review your Report of Excess (or its equivalent) and physically inspect your property, based on the kind of format and guidelines you'll see at our online Resource Center. Viewing the property helps us identify appropriate uses, understand the site's nature and location, and spot any potential barriers to disposal.

To meet the requirements of the Stewart B. McKinney (homeless) Act, we give Housing and Urban Development (HUD) a checklist so they can determine a property's suitability for homeless use (see the Resource Center for an example). HUD tells us what they decide and asks if the property is available. If a Federal agency needs the property wants it, we tell HUD it's unavailable because a Federal agency has priority.

We contract licensed appraisers to evaluate the property's fair market value based on its highest and best use. Most transfers of excess property to Federal agencies require reimbursement of fair market value.

### **If I represent a Federal agency, how do I acquire excess property?**

We screen excess property for 30 days with Federal agencies. You'll receive a written notice describing the property, but you also can view notices at our online Resource Center. If you want to acquire the property, notify our Regional Office by sending a Request for Transfer of Real Property (GSA Form 1334). This request describes how you propose to use the property for your mission and verifies that you have the money to buy it. You must reimburse the fair market value, except for programs described below. GSA evaluates your request for the property and we advise you in writing of our decision.

### **What if I want to acquire excess property but don't have enough money to reimburse the fair market value?**

Complete and send your Request for Transfer of Excess Real and Related Personal Property (GSA Form 1334) with a justification of your program need and the exceptional circumstances warranting a waiver of this requirement. We forward your request to the Office of Management and Budget (OMB) for a decision. (They've told us a lack of money alone won't justify an exception.)

### **What excess properties may GSA transfer without requiring reimbursement?**

We may transfer property without reimbursement for any of these four purposes:

- *Migratory bird management* – Whenever the Secretary of the Interior requests a transfer under Public Law (PL) 80-537 (as amended by PL 92-432).
- *Wildlife conservation* – Whenever the Secretary of the Interior requests a transfer under PL 80-537.
- *Correctional facilities* – Whenever the Bureau of Prisons, Department of Justice, requests a transfer for this purpose.
- *Joint surveillance system* – Whenever the Federal Aviation Administration asks the Air Force to transfer property through us to support this system.

### **Does GSA ever waive screening excess properties with Federal agencies?**

Yes. We may waive screening in either of the following cases:

- We know that there is a Federal interest and need for the property. The property fulfills your Federal agency's known requirements, and we determine screening isn't necessary.
- We decide the property doesn't fill any Federal agency's known requirements and directly declaring the property as surplus is in the government's best interest.

## May I ever directly dispose of excess property?

You may do so if you represent the designated disposal agency for leases, permits, licenses, and easements on—

- property not owned by the government
- structures (except for government-owned machinery and equipment) to be disposed of without the underlying land
- timber, gravel, stone and underground water to be disposed of without the underlying land

But you also may ask us to do the transfer for you.

The Departments of Defense, Agriculture, and Interior have a delegation of authority from the Administrator of GSA (see Appendix B). This delegation allows the Secretaries, in their respective departments, to—

- Dispose of excess real and related personal property whose estimated fair market value is less than \$15,000.
- Dispose of such property by any means they deem appropriate and advantageous to the United States.
- Screen the property (prior to making an excess determination) with other Federal agencies.
- Dispose of the property using the provisions of the Property Act, as amended, except they need not report the property to GSA.
- Re-delegate this authority to any officer or employee of their respective departments.

The Secretary of the Interior also has a delegation granted by the Administrator regarding mineral underlying Federal real property. Under this delegation, the Secretary of Interior is authorized to—

- Maintain custody and accountability for minerals whether they are currently utilized, excess or surplus.
- Dispose of minerals by lease and to administer/manage such leases.
- Re-delegate this authority to any officer, official, or employee of the Department.

Additionally, the Secretary of the Interior is responsible for—

- Maintaining proper inventory records.
- Monitoring the minerals to make sure that no unauthorized mining or removal occurs.
- Obtaining appraisals, when necessary.
- Ensuring that land damaged or disturbed during removal of minerals are restored.
- Notifying the Administrator (GSA) when disposal of all marketable minerals is complete.
- Complying with all applicable environmental laws and regulations including the National Environmental Policy Act (NEPA) of 1969, as amended, the Council on Environmental Quality's regulations found in 40 CFR part 1500, and the Coastal Zone Management Act of 1972.
- Complying with section 106 of the National Historic Preservation Act of 1966, as amended and the Department of Commerce's regulation found in 15 CFR parts 923 and 930.

- Promptly forwarding copies of any agreements made using this delegated authority.
- Providing an annual report to the Administrator accounting for the proceeds received from the lease entered into and administered by the Secretary.

The Departments of the Interior, Health and Human Services, and Education have the delegated authority to—

- Transfer and retransfer to each other any property (real and personal) being used for the administration of any functions or programs relating to Indians.
- Transfer and retransfer property without reimbursement of fair market value except when money has been appropriated for programmed property acquisition or is otherwise required by law or regulation.
- Waive Federal screening.
- Re-delegate any part of this authority to any officers or employees of their respective departments.

This authority applies only to property that

1. Comprises a functional unit;
2. Is located within the United States; and
3. Has an acquisition cost of \$100,000 or less.

### **Does my agency remain responsible for excess property until GSA transfers it?**

Yes, you're responsible for its custody and are accountable until it is transferred. We act as your broker or agent to dispose of the property quickly and keep your expenses and liability low. But if we delay its disposal more than 12-15 months after we accept it (see Appendix A on Protection & Maintenance for standards and guidelines), we'll may reimburse you for the costs of protecting and maintaining the property until we dispose of it.

We do take over custody and accountability for two types of properties:

- Properties that revert to the Federal government because the recipient didn't comply with deed restrictions for certain public benefit uses.
- Properties the Federal government acquires by devise (bequeathed to the government in a deceased person's will).

### **May organizations outside the Federal government use my excess real property pending its disposal?**

With our concurrence, you may allow non-Federal organizations to use excess property awaiting disposal. Usually, permits document these uses, allowing them for only 30 days, and keep the Government from being held liable for them.

## What does GSA keep in the permanent record for excess real property?

To make sure records are complete, we—

- Keep a case folder that contains
  - Your incoming Report of Excess (SF 118).
  - Your Request for Transfer of Real and Related Personal Property (SF 1334), Excess Plan.
  - Our letter transferring the property.
- File these items separately on the left-hand side of the folder so people quickly can determine the disposal history and status.
- File other related materials chronologically on the right-hand side of the folder.
- Place all required information in our automated disposal system.
- Close the case when we transfer the property to a Federal agency.
- Keep the case file at our regional office for one year.
- Eventually, send the file to a Federal Records Center for permanent retention.

## What if my agency decides that the property is not excess, after we've already reported it?

Generally speaking, GSA must approve withdrawal requests. However, usually as long as the property has not been transferred to another Federal agency or is not encumbered by a legally binding agreement for disposal as surplus property, your agency may at any time, completely or partially, withdraw a report of excess.

You must request withdrawal of the report of excess in writing to the GSA regional office where you submitted the report. Also, the person (or designee) who signed the original report of excess, should be the one to request a withdrawal.

If the withdrawal is for a portion of the property, a legal description (of the portion to be withdrawn) should accompany the withdrawal request.



## Surplus Real Property

### How does excess real property become surplus property?

If no Federal agency wants to acquire a property, we call it surplus real property. Our Property Disposal office prepares a Form 1432, Determination of Surplus, which documents the change in status. We then make it available to local governments, states, counties, cities, and towns and other organizations eligible for transfers of property at a discount price for the public benefit. (The official term for this type of transfer is *public benefit discount conveyance*.)

### How does GSA offer surplus property to me as a potential user?

If you represent a State or local government or any of the Federal agencies that sponsor public benefit programs, we send you a description of the property and information on how to acquire it. The agencies that sponsor public benefit programs are the Departments of Education, Health and Human Services, Interior, Justice, Housing and Urban Development, Transportation, and the Federal Emergency Management Agency.

Through this notice, we

- List ways to acquire the property, including negotiated sale, certain public health and correctional uses, and other suitable uses.
- Give you a point of contact for each potential use and response date.
- Ask for responses to arrive within 20 days but may extend this deadline to 60 days.
- Also place the notice on the Web at our Resource Center—  
<http://rc.gsa.gov/resourcecenter>.

(Ref: E. O. 12372, 41 CFR 101-6.21)

### Why does GSA publish notices that sometimes duplicate HUD's notices offering property for homeless use?

The Stewart B. McKinney Homeless Assistance Act and subsequent court orders dictate screening homeless uses with local governments and homeless providers serving the area surrounding the surplus property. (We do the same thing with other potential transfers for the public's benefit.) HUD publishes (in the Federal Register) the availability of property they determine suitable for homeless use. Since homeless interests have priority over other types of transfers for the public's benefit, we usually publish a separate notice, similar to the surplus notice, to ensure we meet the law's requirements. These notices run for 60 days.

### How does GSA determine whether to include my use in the outreach to public agencies?

Our Property Disposal office always offers properties to local governments for *negotiated sale for public uses*. We sell these properties at fair market value, with the Congressional Committees' concurrence if the fair market value is greater than \$100,000. However, if the property's estimated value is under \$10,000 then local governments can't acquire it through negotiation.

The appropriate Disposal Division or Property Disposal regional office also considers various potential public -benefit discounts. You may take advantage of these discounts for any of the following uses, based on the property's highest and best use:

- Corrections (all properties)
- Law enforcement
- Public health
- Drug rehabilitation (all properties)
- Education
- Parks and recreation
- Seaport facilities
- Highways
- Self-help housing
- Emergency management response
- Historic monuments
- Airports

If any of these uses are reasonable, we include your use among the methods of acquisition in the notice. We determine reasonableness based on the highest and best use of the property, as well as the public's needs.

### **How does GSA resolve conflicts when several users want the same surplus property?**

First, we suggest you discuss your interests with other potential users to reach an agreement. We may be able to cut the property into parcels that meet several needs. Or you may decide to combine your resources with groups who have a similar focus. If you can't agree, we'll determine who should get the property based on the highest and best use and on who serves the greatest social and economic need.

Applications under the McKinney Act (for the homeless) have priority over other public uses. If we determine transferring a property for a use under the Federal Property and Administrative Services Act is more beneficial, we must send an explanatory statement to Congressional Committees for concurrence before awarding it.

### **What steps must I take to acquire surplus property if I represent a local government? A Federal agency sponsoring a public benefit program?**

If you represent a local government for most public uses, you must

- Respond to the public body screening notice with a letter expressing your interest in the property.
- Send us an offer to buy the property at fair market value.
- Specify your public purpose.
- Include a down payment of ten percent.
- Include in your offer an excess-profits clause that protects the Federal government's interest if you sell the property (usually, within three years of its transfer).

We send an explanatory statement to the Congressional Committees describing our negotiation with you to get the Committees' concurrence before awarding you the property.

If you represent a local government or non-profit organization for a discount conveyance in the public's interest, you must work through a designated Federal sponsoring agency. This sponsoring agency—

- Provides application information and reviews the application.
- Asks us to assign the property for transfer to you (provided your proposed use of the property meets their established criteria).
- Writes a deed for you to sign that requires compliance with program requirements
  - For 30 years, if your use is for health or education.
  - Forever, if your use is for a park or historic monument.
- Normally, gives you a 100% discount from the property's fair market value, although it may determine your intended use warrants only a partial discount. In this case, the sponsoring agency asks us for the fair market value to determine the amount due from you.

For wildlife conservation and corrections uses, we deed the property to you and oversee your compliance; for emergency management response, we prepare the deed and FEMA monitors compliance. If you don't comply with the sponsoring agency's or our requirements, the title for the property may revert to the Federal government.

### **What is "fair market value"? How does GSA apply it to a negotiated sale or a sponsoring agency's request for assignment of a property?**

We use the accepted definition of fair market value: the value that would probably be negotiated between a willing seller and a willing buyer within a reasonable time. It's usually determined by reviewing comparable sales in the area and is the commonly used measure of value in real-property transactions. We contract for an appraisal and use that as the basis for negotiation.

We apply full or partial discounts in transferring real property for the public's benefit because it allows you to show that your proposed use represents the highest and best use for the property. In turn, the highest and best use warrants waiving payment because the government considers it has received enough social and economic benefits to offset the loss of cash for the property's fair market value.



## Public Sales of Surplus Property

### When and how does GSA offer surplus property for public sale?

We offer surplus properties for competitive sale to the general public if they're still available after screening through Federal, homeless, and local governments. Our Property Disposal office—

- Develops a marketing plan that includes advertising and an invitation for bid with the terms and conditions of sale.
- Offers the property for sale through sealed bids, a physical auction, or an Internet auction.
- Usually establishes a limited time for the sale.
- Doesn't normally advertise a bid price.
- Usually accepts the highest responsive bid that meets our expected value, but always reserves the right to decline all bids.
- Collects the high bidder's balance due on the purchase price.
- Conveys or deeds the property.

### What special conditions does GSA place on property offered for public sale?

Usually, the only conditions are those for retained easements. The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) stipulates the government's responsibilities if someone later finds hazardous materials on the property.

### Does GSA offer previous owners a first option to buy or right to refuse a bid when selling property acquired from private parties?

No. We acquire most properties from private owners under a Declaration of Taking or Condemnation. In those cases, we compensate owners for the fair market value of their property at the time of taking, so they have no future rights related to the property.

### How does GSA ensure property offered for public sale meets requirements under CERCLA?

Making sure these properties don't contain hazards is a responsibility we share with holding agencies. These agencies examine their excess property to determine that no hazardous materials exist and to document non-hazardous conditions requiring disclosure for disposal. We then—

- Review information from the holding agencies and inspect sites before preparing a categorical exclusion, environmental assessment, or environmental impact statement.
- Verify that the property isn't on the National Priorities List or designated as a Superfund site.
- Verify that we have all information on the existence of hazardous substances.
- Include language that shows the holding agency has certified the information provided about hazardous substance is correct.
- Include a statement on the property deed concerning hazardous substance activity, our obligation to remediate any hazardous substance the government is responsible for, and our need to access the property to do so.

## **Other than requirements under CERCLA, how must GSA and holding agencies handle environmental concerns on sale property?**

We document that underground storage tanks on the property comply with regulations. We also must document all asbestos and lead-based paint on the property. For asbestos, we show location (pipe wrappings, ceiling tiles); amount (approximate linear feet of pipe wrapping); and condition. For lead-based paint, we show location and condition. However, disclosure alone is no longer sufficient for certain residential properties designated as "target housing". HUD's new lead based paint regulations became effective on September 15, 2000. (See Appendix C)

Holding agencies should assume these materials are present, but they need not do new discovery studies in connection with the public sale. Holding agencies also must tell us about equipment containing PCB and confirm that it meets regulations. (Ref: 40 CFR 761)

## **Does GSA address environmental concerns beyond possible harm to people on sale property?**

Yes, we follow regulations concerning floodplains and wetlands, areas under Coastal Zone Management, endangered species, and historic and cultural resources. To meet these requirements, we—

- Assess the effect of our sale on a floodplain and the need to write protective covenants into the conveyance document (Executive Order 11988).
- Protect wetlands by identifying the property and then by placing restrictions on their use.
- Assess how uses of the sale property may affect coastal resources.
- Coordinate the sale with state agencies to determine its potential effect on endangered species or on historic and archeological resources. Again, we may need to place protective covenants in the conveyance document.

(Ref: National Historic Preservation Act of 1966, Sec. 106 and 110; 42 USC 4321-4347)

# Use of Federal Real Property to Help the Homeless

Under Title V of the Stewart B. McKinney Homeless Assistance Act (McKinney Act), as amended (42 U.S.C 11411), public bodies and eligible non-profit organizations who want to help the homeless may apply to acquire government-owned real property that Housing and Urban Development (HUD) determines to be suitable for homeless use. The McKinney Act divides responsibilities among HUD, the Department of Health and Human Services, and GSA. It gives homeless uses priority over other public uses.

## Identifying Property for Homeless Use

### Does the McKinney Act apply to all government-owned property?

The McKinney Act applies to Federal real property if it's designated as unutilized, underutilized, excess, or surplus. It doesn't apply to the following types of properties:

- Machinery and equipment
- Government-owned, contractor-operated machinery, equipment, land, and other facilities reported excess for sale only to the using contractor and subject to a continuing military requirement
- Properties covered by special legislation directing a particular action
- Properties under a court order
- Property not subject to the survey requirements of Executive Order 12512 (April 29, 1985)
- Interests in mineral rights
- Interests in air space
- Indian Reservation land under section 202(a)(2) of the Federal Property and Administrative Service Act of 1949, as amended
- Property interests subject to reversion
- Easements
- Property purchased entirely or partly with Federal funds if your agency doesn't hold the title to the property

The McKinney Act also doesn't apply to disposing of property under authority other than the Property Act.

### How do I tell HUD about properties for possible homeless use?

If you have unutilized or underutilized property, you submit a checklist to HUD. You may do this at any time or respond to one of HUD's **quarterly canvasses**. For excess and surplus property, GSA submits the checklist to HUD. For information about property you've described as unutilized, underutilized, excess, or surplus in your survey under section 202 of the Federal Property and Administrative Services Act (40 U.S.C. 483) and Executive Order 12512. HUD asks you about properties you haven't reported, as well as previously reported property whose status, classification, or checklist information has changed.

By December 31 of each year, you also must file an annual report to tell HUD the availability and classification of each property listed as suitable for that year.

## **How does HUD handle my change to the status of a previously reported property?**

Assuming your property remains unutilized or underutilized, you respond to HUD's next quarterly canvass with a revised property checklist. HUD will reassess your property's suitability and, if their determination is different, republish the property information in the Federal Register. For example, property unsuitable because of national security concerns may no longer be restricted. GSA follows the same process for excess and surplus property.

## Determining Suitability for Homeless Use

### Generally, how does HUD determine a property is suitable for homeless use?

Within 30 days after receiving your information, HUD determines which of your properties are suitable and tells you what they've decided. They determine suitability without regard to how the property is to be used.

### What criteria does HUD use to determine suitability?

HUD considers all properties, buildings, and land suitable for homeless use unless they—

- **Affect national security.** A property is unsuitable if it's in an area the public can't enter because of national security—for example, where someone needs a special pass or security clearance to enter. But the property can still be suitable if the public can access it without compromising national security.
- **Contain flammable or explosive materials.** A property is unsuitable if it's within 2,000 feet of an industrial, commercial, or Federal facility that handles flammable or explosive material (excluding underground storage). This rule doesn't apply to — containers that are above ground and hold 100 gallons or less. — larger containers that provide fuel for heating or power and meet local safety, operation, and permitting standards. — underground storage, gasoline stations and tank trucks, unless they threaten personal safety (see "documented deficiencies," below).
- **Are in a clear zone for a runway or military airfield.**
- **Are in the floodway of a 100-year floodplain.** But this rule doesn't apply if the floodway has been contained or corrected, or if only part of the property is in the floodway and it doesn't affect use of the rest of the property.
- **Have documented extensive deficiencies that threaten anyone's physical safety.** Some examples of these deficiencies are contamination, structural damage or extensive deterioration, friable asbestos, PCBs, or natural hazards such as radon, periodic flooding, sinkholes, or earth slides.
- **Are inaccessible.** Inaccessible means not reachable by road (including property on small off-shore islands) or landlocked. A landlocked property can be reached only by crossing private property and has no established right or means of entry.

### If I represent an agency, must I wait to dispose of an unsuitable property?

Yes, you must wait for 20 days after the date of the notice published in the Federal Register. HUD tells you or us if a representative of the homeless appeals their unsuitability determination.

### If I represent the homeless, may I appeal a suitability determination?

Yes, but you must contact HUD within 20 days of the publication date of their notice in the Federal Register. Call HUD at 1-800-927-7588 (toll free) or write them. Send your

written request so it **arrives** within the 20-day deadline. Say why you're appealing. For example, you may believe HUD has improperly applied the criteria or relied on incorrect or incomplete information—perhaps, that the property is in a floodplain but not in a floodway.

When HUD receives your appeal, they notify the landholding agency, ask the agency to offer information concerning the review, and tell the agency not to start disposing of the property until their reconsideration is complete. Within 30 days of receiving the agency's response, HUD writes you and the agency to give you one of two decisions:

1. The property is suitable—in this case, HUD asks the agency to determine its availability and then publishes the determination in the Federal Register.
2. The property is still not suitable—in this case, HUD writes to tell you so.

## Identifying and Processing Available Properties

### **If I'm representing the landholding agency, how do I determine availability?**

Within 45 days after receiving a letter from HUD, you must write them to state what you intend to do with the property.

**For unutilized or underutilized property**, state one of the following:

- Your intention to declare the property excess.
- Your intention to make the property available for homeless use.
- The reasons why you can't declare the property excess or make it available for homeless use. Your reasons must differ from those listed as suitability criteria.

You retain custody and accountability, so you must protect and maintain any property you report as excess.

**For property you previously reported as excess**, the disposal agency will state one of the following:

- There is no compelling need for the property, so the property is surplus.
- There is a compelling Federal need for the property (explain the need), so the property isn't available for homeless use.

### **How does GSA process suitable excess property I declared available for homeless use?**

When we receive your Report of Excess, we may screen the property for Federal use. We also may screen state and local governments and eligible nonprofit organizations to determine interest in the property according to current regulations.

When we receive a letter from HUD listing suitable excess properties in our inventory, we respond to them within 45 days by stating one of the following for each identified property:

- There is no compelling Federal need for the property, so the property is surplus and available for homeless use.
- There is a compelling Federal need for the property, so the property isn't available for homeless use.

If an excess property is suitable and available, and a notice appears in the Federal Register, we notify

- Health and Human Services.
- State and local governments.
- Known organizations that help the homeless and say they're interested in the property.
- Other appropriate organizations.

### **How does HUD tell the public a property is suitable and available?**

Within 15 days after the 45 days given to landholding agencies for responses, HUD—

- Publishes in the Federal Register a list of all properties reviewed.
- Describes each property, lists its address, and classifies it.
- Designates each property as one of the following:
  - Suitable and available
  - Suitable and unavailable
  - Suitable and to be declared excess.
- Unsuitable
- Makes available a copy of the published list for public review in the library at their headquarters building.
- Makes available in their regional offices and major field offices parts of the list relevant to certain areas.



## Applying to Use Excess Property for the Homeless

### **If I represent the homeless, how do I express interest in a property?**

Write to the Department of Health and Human Services (HHS) within 60 days after HUD lists the property in the Federal Register. Send your letter to their Division of Health Facilities Planning, Public Health Service, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Identify the property, briefly describe your proposed use, include the name of your organization, and state whether your organization is public or private.

Your expression of interest will “freeze” disposal of the property for 90 days, so you can apply to use the property. Whenever HHS receives an expression of interest, they tell the landholding agency (for unutilized and underutilized properties) or us (for excess and surplus properties).

You may also send an expression of interest to HHS after the 60-day holding period has expired. In this case, your application could be approved for use by the homeless under two conditions:

- No one else has written an expression of interest or applied to use a property under any law within the holding period.
- For excess or surplus property, we haven’t received a bona fide offer to buy it or advertised it for sale.

### **What must I include in an application for homeless use?**

Follow instructions in the application packet from HHS. The application requires you to:

- Describe your organization.
- Describe the property you want.
- Describe your proposed program.
- Show your ability to finance and operate the proposed program, as well as to manage the requested property.
- Show that your use doesn’t discriminate.
- Give evidence of insurance.
- Show that you’ll comply with requirements for historic preservation.
- Show how your use will affect the environment.
- Notify local government.
- Comply with zoning and local restrictions on use.

### **By when must I apply for homeless use?**

You need to send your completed applications to arrive at HHS within 90 days after they’ve received your written expression of interest. You may get an extension from HHS if you ask for it in writing and if the landholding agency concurs. Before submitting your application, check with the landholding agency to confirm that a property is still available.

## How does Health and Human Services evaluate my application?

HHS evaluates your application within 25 days of receiving it and promptly tells you their decision. They evaluate and approve evaluations on a first-come, first-served basis. But you'll get a notice from them even if they've already approved another organization's use of the property.

## What happens to my approved application?

That depends on what kind of property you're applying to use and—for excess and surplus property—whether competing interests outweigh yours.

### For unutilized and underutilized properties:

When HHS approves an application, they tell you and forward a copy of it to the landholding agency. The agency consults with you to complete a lease or permit but maintains discretion concerning—

- How long the property will be available.
- Whether to grant use of the property through a lease or permit. (Leases and permits will be for at least one year unless you ask for a shorter term.)
- The terms and conditions of the lease or permit.

### For excess and surplus properties:

When HHS approves an application, they notify you and ask us to assign the property to them for deeding or leasing. When HHS receives our assignment, they complete the deed or lease.

Before assigning it, we may consider other Federal uses or important national needs, but we give priority to homeless uses. We may consider a competing request for the property under section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)), as amended. However, the competing request must be so meritorious and compelling that it outweighs the needs of the homeless. HHS may likewise consider any competing request under subsection 203(k)(1). When HHS receives our assignment, they complete a deed or lease.

Whenever HHS or GSA favors a competing request over your request for homeless use, the deciding agency sends an explanation to the appropriate congressional committees. This statement details the need satisfied by conveying the surplus property and shows why that need outweighed the needs of the homeless.

**What happens to a property if no one expresses interest, no one applies after expressing interest, or HHS doesn't approve any all applications for homeless use?**

The landholding agency or GSA disposes of the property according to law if either of two conditions exists:

- HHS says they did not approve any applications.
- HHS hasn't received a completed application or expression of interest within 90 days of receiving the last expression of interest.



# Appendix A

## Protection and Maintenance

### Protection and Maintenance of Excess and Surplus Real Property

Our objectives concerning the protection and maintenance (P&M) of excess and surplus Federal real property is always:

- To keep the costs associated with managing excess and/or surplus real property economical regardless of which agency is responsible for incurring the expense.
- To provide the minimum property management services needed to protect the property and the public and to preserve the Government's equity in the property.
- To avoid an "attractive public nuisance" or make safe any property that is dangerous to public health or the environment.
- To limit the costs of improvements or alterations except when not doing so will adversely affect the disposal of the property.
- To make or keep the property productive by allowing interim or temporary use of the property as long as it doesn't interfere with, delay, or otherwise impede disposal.

GSA uses the principle of "calculated risk" when determining the extent to which excess or surplus property will be protected and maintained. Calculated risk simply means that the value of expected loss and/or deterioration is anticipated to be less than the costs of taking steps to minimize loss and/or deterioration. GSA also uses the following standards (criteria) as guidelines to determine the extent of P&M that should be applied.

### Procedures

Generally, when GSA is responsible for P&M, we will review the P&M requirements of excess and surplus property continuously and conduct periodic inspections to determine whether or not certain services should be reduced or eliminated. We use GSA Form 1893, Protection and Maintenance Inspection Report after each inspection when P&M costs are involved.

When a holding agency is responsible for providing P&M services and funding, GSA will recommend any changes that appear necessary or are desirable.

When P&M costs are involved, an MOU is required. Basically, the MOU--

- Is between GSA and the holding agency.
- Provides a basis for budget requests and establishes a reasonable level of P&M.
- Specifies the date GSA assumes financial responsibility for P&M (must also state that the amount of reimbursement depends on the available funds).
- Is not an obligatory document or a contract with the holding agency.
- Does not give the authority to spend money.
- Is based on reasonable costs agreed to with the holding agency.
- Should be executed as soon as possible after the report of excess is accepted and the property is physically inspected.

Holding agencies submit their bills quarterly on Standard Form 1080, Voucher for Transfers between Appropriations and/or Funds, or Standard Form 1081, Voucher and Schedule of Withdrawals and Credits, to the Finance Division within 15 days after the close of each quarter. The Finance Division's address is below:

GSA Accounts Payable Branch (7BCP)  
P.O. BOX 17181  
Ft. Worth, TX 76102

The appropriate Property Disposal regional office sends a letter to the holding agency providing the details of P&M reimbursement of the specific property. You must forward a copy of the letter to the Finance Division in order to obligate available funds.

The appropriate Property Disposal regional office is responsible for checking monthly to ensure that the funds are obligated and the bills are paid.

If GSA is the holding agency, then use GSA Form 2957, Reimbursable Work Authorization for reimbursement.

If the property was a public benefit discount conveyance and subsequently reverted to the Government, then the appropriate GSA region is considered the holding agency.

## **Protection Standards**

### *For all protected properties--*

- If a property is within the range of municipal or other public protection services but is outside the geographic boundaries of the service provider, then advance arrangements should be made with the local authorities to provide police and fire protection.
- If a property or facility has large areas that need protection, then use automobiles to patrol the area.
- If a property is fenced, only keep open a minimum number of gates.

### *Fire protection or security personnel are not needed at--*

- Facilities that have no buildings, structures or related personal property.
- Facilities where the value of the improvements and/or related personal property (or realizable recovery of their value) is less than the cost to protect and maintain the property for one year.
- Facilities with little value, which can be locked or boarded up and are located within public police and fire department service areas.
- Facilities where major buildings do not contain large quantities of easily removable personal property and also are equipped with automatic sprinklers supervised by a monitoring service.
- Facilities where agreements can be made with a lessee of a portion of the property to protect the remaining portion(s) at no cost or nominal cost.

### *Properties that need a resident custodian (guard) are--*

- Facilities containing little removable personal property but have many buildings that will be sold for off-site use when

- the buildings have low realizable value
- the buildings are spaced far enough apart that loss of more than a few buildings in a single fire is improbable
- the buildings are located near water for firefighting purposes and the local public fire and police protection services will respond promptly.
- Small inactive industrial and commercial facilities that need to remain open for inspection and public fire and police protection can be secured by telephone.
- Facilities whose highest and best use is salvage.
- Facilities with only salvage value but are potentially dangerous and attractive to children or curiosity seekers and posting signs is not sufficient to protect the public or the property.

***Properties needing continuous guard service are--***

- Fenced facilities with high market value require one guard on duty at all times (5 guards in total are required).
- These properties are permitted one open gate which can be locked during patrols.
- All buildings can be locked.
- Local fire and police protection can be secured by telephone.

***Properties needing a high degree of protection.***

At a minimum, two firefighter-guards will be on duty at all times for the classes of facilities listed below. Consider all relevant and pertinent factors when deciding on the number and assignment of the guards.

- Facilities with a high market value that require an on-site fire-fighting force adequate to subdue fires until outside help arrives.
- Facilities with a high market value without access to outside assistance, require an on-site fire-fighting force adequate to extinguish fires.
- Facilities with a high market value with large areas to patrol.
- Facilities with a high market value with no fencing and containing large quantities of personal property susceptible to pilferage.
- Facilities with a high market value needing several gates open for operating purposes.

***Firefighter-Guards***

Firefighters and guards provide fire protection and security for excess and surplus real property requiring both forms of protection. Combine the duties of each to the maximum extent possible. In the interest of cost savings, they can also be used for various miscellaneous services such as grass/weed removal, servicing fire extinguishers, and other activities related to the general protection of the property.

***Operating Requirements of Protection Units***

Firefighter-guards or guards should periodically patrol facilities requiring protection. The frequency of the patrols will be determined by the location and size of the facility, type of structures and physical barriers, and the amount and type of activity at the facility. In some instances, a centralized monitoring service provider will suffice.

### *Watchman's Clock*

To ensure adequate coverage of the entire property by firefighter-guards or guards, an approved watchman's clock should be provided, with key stations strategically located to enable guards to cover the entire property.

### *Protection Alarm Equipment*

Automatic fire detection devices and related equipment and services can substantially reduce protection costs. However, using these devices are primarily for obtaining fire and police protection in an emergency. Such devices can supplement or in some cases, eliminate the need for guard patrols.

### *Sentry Dogs*

Some high market value facilities that cover a large area and/or are in remote locations, invite intrusion by curiosity seekers, hunters, vagrants, etc. These facilities require special protection measures. Using sentry dogs is a cost effective alternative to additional security personnel. Get advice on the use, care, and training from the nearest police department using sentry dogs. Also, when sentry dogs are used to protect government property, post a sign with view unobstructed that says "Warning--This Government Property Patrolled by Sentry Dogs."

## **Maintenance Standards**

The following standards or criteria should be used as a guide for the upkeep of excess and surplus real property:

### *Temporary Buildings and Structures*

Vacant temporary structures should not be maintained except in unusual circumstances.

Temporary buildings housing personal property that cannot be readily removed to permanent structures should be maintained only to the extent necessary to protect the personal property.

### *Permanent Buildings and Structures*

- (a) Don't paint the interior. Only spot paint exterior wood or metal surfaces to prevent serious deterioration.
- (b) Limit carpentry and glazing to only that which is necessary to close openings to prevent weather damage and pilferage, repair damage to floors, roofs, and side-walls to prevent further damage, shoring and bracing to prevent structural damage, and other similar operations.
- (c) Patch damage to roofing and sheet metal as necessary.
- (d) Perform masonry repairs, such as brick, tile, and concrete work only to prevent leakage or disintegration or to protect against imminent structural damage.
- (e) Don't heat buildings for maintenance purposes except in unusual circumstances.

## *Mechanical and Electrical Installations*

These include plumbing, heating, ventilating, air conditioning, sprinkler systems, fire alarm systems, electrical equipment, elevators, and other similar systems.

### **For inactive facilities:**

- Maintain mechanical and electrical systems only when necessary to stop or prevent serious deterioration.
- Employ personnel for this work temporarily, at periodic intervals when an inspection indicates that this work is necessary.
- De-energize electrical systems, drain water from all fixtures, turn off heat, and secure the building against unauthorized entry.
- Drain sprinkler systems during freezing weather and reactivate when there is no danger of freezing.

### **For active facilities:**

- Keep equipment in reasonable operating condition.
- Operate equipment to service private tenants or procure utility services to distribute to private tenants only to the extent necessary to comply with a lease or permit, or in cases where tenants can't get these services directly from utility companies or other sources.
- Inspect (periodically) facilities that have elevators and/or high-pressure boilers and related equipment. Inspections should be made by qualified, licensed inspectors to protect against injury or death to personnel and damage to property.
- Use individual heaters, when practical, instead of operating heating plants.

### *Grounds, Roads, Railroads, and Fencing*

- Limit grounds maintenance to the removal of vegetation in order to avoid fire hazards and to control poisonous or noxious plant growth in accordance with State and local laws and regulations.
- Plow fire lanes where needed.
- Remove snow from roads and other areas to the extent necessary for access for maintenance, fire protection, and other similar activities.
- Sell hay crops (wherever practicable) to the highest bidder (s) with the purchaser performing all labor in connection with cutting and removal.
- Use agricultural and/or grazing leases to reduce costs of grounds maintenance, where practical. These leases are subject to section 101-47.312 of the Federal Property Management Regulations. (See pg. 20 - **May organizations outside the Federal Government use any excess real property pending its disposal?**).
- Maintain the portion of road network necessary for fire trucks and other minimum traffic. These roads should be maintained to the extent necessary to allow safe passage at a reasonable speed.
- Maintain railroads to the extent necessary for protection and maintenance operations or as required in lease or permit provisions.
- Clear ditches and drainage facilities to allow surface water run-off.
- Fencing and other physical barriers should be sufficient to protect against unauthorized entry.

## *Utilities*

In cases where utilities are purchased by contract, review the utility contracts to see if you can save money by revising them.

### **For inactive properties:**

- Maintain water systems, sewage disposal systems, electrical distribution systems, etc., to the extent necessary to provide minimum service.
- De-energize electrical systems and turn off the water in buildings or areas that don't require these services.
- Don't maintain utilities not in use or that service dismantled or abandoned buildings/structures.

### **For active properties:**

- Operation rates for water supply, electrical power, and sewage disposal facilities should be far below normal capacities.
- Use engineering studies to determine structural and operating changes necessary for maximum economy.
- Turn off, rather than repair, leaky water lines unless they are necessary for fire protection or other purposes.

### *Properties Disposed of as Salvage*

Do not spend money to maintain property whose highest and best use is salvage.

## **Repairs**

Limit repairs to additions or changes necessary for preservation and maintenance of the property to--

- Deter or prevent excessive, rapid, or dangerous deterioration or obsolescence.
- Restore property damaged by storm, flood, fire, accident, or earthquake when restoration is required.

## **Improvements**

Don't spend money to improve a property to increase its sales value or otherwise make it more disposable without consulting with GSA first.

# Appendix B

## Delegations of Authority

This section is included for convenience and quick reference. It is taken from the Federal Property Management Regulations (FPMR), 101-47.6.

### *Delegation to Department of Defense (DOD)*

- (a) The Secretary of Defense is authorized to dispose excess real and related personal property under the control of DOD with an estimated fair market value less than \$15,000 (as determined by DOD) and not required for use by other Federal agencies. The Secretary can dispose of such property in a manner deemed (by the Secretary or designee) appropriate and advantageous to the United States.
- (b) The Secretary must take appropriate steps to ensure that the property is not required by any other Federal agency prior to disposing of it.
- (c) The authority in this delegation is carried out subject to the provisions in the Federal Property and Administrative Services Act of 1949, as amended. There is no need to report the property to GSA.
- (d) The authority in this delegation can be redelegated to any officer or employee of DOD.

### *Delegation to the Department of Agriculture (Agriculture)*

(a) The Secretary of Agriculture can dispose of excess real and related personal property under the control of Agriculture with an estimated fair market value less than \$15,000 (as determined by Agriculture) and not required for use by other Federal agencies. The Secretary may dispose of such property in a manner deemed (by the Secretary or designee) appropriate and advantageous to the United States.

- (b) The Secretary must take appropriate steps to ensure that the property is not required by any other Federal agency prior to disposing of it.
- (c) The authority in this delegation is carried out subject to the provisions in the Federal Property and Administrative Services Act of 1949, as amended. There is no need to report the property to GSA.
- (d) The authority in this delegation can be redelegated to any officer or employee of Agriculture.

### *Delegations to the Secretary of the Interior*

(a) The Secretary (DOI) is authorized to maintain custody, control, and accountability for minerals in, on, or under Federal real property--whether it's currently utilized, excess, or surplus. Additionally, the Secretary (DOI) can dispose of those minerals by lease and must administer and manage the leases.

- (1) This authority can be redelegated to any officer, official, or employee of DOI.
- (2) The Secretary (DOI) is responsible for--
  - (i) maintaining proper inventory records, and
  - (ii) monitoring to ensure that no unauthorized mining or removal of minerals occurs.

- (iii) obtaining any necessary appraisals following the provisions in 101-47.303-4
- (iv) coordinating with all surface landowners (Federal and non-Federal) so as not to unduly interfere with surface use
- (v) ensuring that disturbed or damaged lands are restored after minerals are removed
- (vi) notifying GSA when the disposal of all marketable minerals is complete.
- (vii) complying with applicable environmental laws and regulations, including the National Environmental Policy Act of 1969, as amended, the implementing regulations issued by the Council on Environmental Quality (40 CFR part 1500); section 106 of the National Historic Preservation Act of 1966, as amended the Coastal Zone Management Act of 1972 the Department of Commerce implementing regulations (15 CFR parts 923 and 930)
- (3) The Secretary (DOI) will submit an annual report to GSA accounting for the proceeds received from leases executed under this delegation.
- (4) The Secretary (DOI) will promptly submit copies of any agreements executed under this delegation to GSA.

(b) The Secretary (DOI) can dispose of excess real and related personal property under the control of DOI with an estimated fair market value less than \$15,000 (as determined by the Secretary) and not required for use by other Federal agencies. The Secretary may dispose of such property in a manner deemed (by the Secretary) appropriate and advantageous to the United States.

***Delegation to the Department of the Interior (DOI), the Department of Health and Human Services (HHS), and the Department of Education (Education)***

(a) The Secretaries (DOI, HHS, and Education) can transfer and retransfer to and among each other, any property of either agency for use and continued use in the administration of any functions or programs relating to Native Americans (Indians). The term "property" as it's used here, means real and other property that the Secretary determines related personal property.

(b) Property transfers and retransfers can only be done when the property--

- (1) Comprises a functional unit; and
- (2) Is located within the United States; and
- (3) Had an acquisition cost of \$100,000 or less: provided that the transferred or retransferred property is not in any area considered to be an urban area or place, as defined by the most recent decennial census.

(c) Property being transferred or retransferred by this delegation doesn't have to be screened.

(d) Property being transferred or retransferred by this delegation is done without reimbursement or compensation except--

- (1) When money is designated and appropriated to acquire property; or
- (2) When reimbursement at fair market value is required by 101-47.2

(e) If money has not been appropriated or made available to acquire the property, the Secretary requesting the transfer or retransfer must certify that money is not available.

(f) The Secretary transferring or retransferring property via this delegation will make any applicable determinations necessary to exercise this authority. (In accordance with provisions of the FPMR.)

(g) The Secretaries (DOI, HHS, and Education) can redelegate all or any part of this authority to any officers or employees of their respective departments.



# Appendix C

## Title X: The Residential Lead-Based Paint Hazard Act

### What is Title X?

Enacted by Congress in 1992, it's commonly known as the Residential Lead-Based Paint Hazard Reduction Act. It amended the Lead-Based Paint Poisoning Prevention Act of 1971, Section 403 of the Toxic Substances Control Act (TSCA), introduced new requirements to reduce hazards associated with Lead-Based Paint (LBP), and required EPA to identify LBP hazard levels for paint, dust, and soil.

Title X required HUD to develop and implement regulations addressing LBP inspection and abatement activities. The regulations became effective on September 15, 2000.

### What types of property do the regulations apply to?

They apply to residential property called target housing. Target housing is defined as any housing constructed prior to 1978, except housing for the elderly or people with disabilities (unless a child under 6 years lives or is expected to live in the housing) or zero bedroom dwellings. Subpart C specifically applies to Federally owned housing other than HUD properties.

### What property is exempt from the regulations?

- Non-residential buildings
- Zero bedroom dwellings (unless occupied by a child under 6 years)
- Housing for the elderly and disabled (unless occupied by a child under 6 years)
- Target housing that is going to be demolished
- Residential property built after 1978
- Residential property in which all LBP has been identified, removed, or given clearance prior to September 2000

### What do the regulations require?

For pre-1960 target housing, the regulations require both inspection and abatement of lead-based paint hazards.

For 1960-1978 target housing, the regulations require an inspection/risk assessment but not abatement of lead-based paint hazards.

\*See Table 2: Summary of Lead-Based Paint Requirements on page 54.

## **What is a lead-based paint "hazard"?**

A lead-based paint hazard is caused by exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that deteriorated or is present in accessible surfaces, friction surfaces, or impact surfaces resulting in adverse human health effects.\*

Peeling, chipping, chalking, or cracking lead-based paint is a hazard needing immediate attention.

## **For 1960-1978 residential property, when must I do an inspection and risk assessment?**

You (the holding agency) must perform both the LBP inspection and the risk assessment prior to closing the sale.

## **What is abatement?**

Abatement encompasses any set of measures designed to permanently eliminate LBP hazards including:

- (1) removal of lead-based paint and lead-contaminated dust, permanent enclosure or encapsulation of lead-based paint, replacement of lead-painted components or fixtures, and/or removal or covering lead-contaminated soil
- (2) all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

## **When must abatement be performed?**

Abatement must be initiated within 12 months of the risk assessment. If abatement work hasn't started within this period and the property has not yet been sold, you must update the risk assessment.

## **Can abatement be performed after sale?**

Yes. Abatement of LBP hazards may be made a condition of sale and be completed by the purchaser. However, the holding agency is responsible for ensuring that the abatement is carried out by the purchaser, before occupying the property.

We recommend that the disposal agency require (in the Contract for Sale, Offer to Purchase, or Invitation for Bid (IFB) the purchaser to send a copy of the certified abatement report to the holding and disposal agencies once abatement is completed.

\* Adverse human health effects as established or defined by the appropriate Federal agency.

## **What are interim controls and how are they used?**

Interim controls are measures designed to temporarily reduce human exposure or likely exposure to LBP hazards. This includes specialized cleaning, repairs, maintenance, painting, temporary containment, and ongoing monitoring of LBP hazards or potential hazards.

HUD's 1995 guidelines recommended the use of interim controls for potential hazard areas (400-2000 parts per million (ppm)), but the new Title X regulations do not currently address using interim controls, except as an alternative to abatement.

## **Where can Realty Specialists or Holding Agencies find qualified lead service providers?**

The National Lead Service Providers' Listing System, The Lead Listing, can help locate qualified lead service providers (lead inspectors, risk assessors, and abatement contractors), lead-trained renovators and recognized lead analysis laboratories in a timely fashion.

Please be aware that the holding agency is responsible for complying with the Title X requirements, not GSA. The Lead Listing: <http://www.leadlisting.org/>

## **Is notification/disclosure still required?**

Yes. Joint regulations developed by HUD and EPA pursuant to section 1018 of Title X (March 1996) require disclosure of known LBP or LBP hazards by persons selling or leasing target housing. The disclosure requirements (see Table 1: Disclosure Requirements) are still in effect and were not amended by the new regulations that were effective September 15, 2000.

## **If the property is non-residential but the highest and best use is residential, must I comply with the regulations?**

No. According to HUD's guidance (dated September 21, 2000), the LBP regulations do not apply to pre-1978 property that is not housing at the time of sale.

The Federal responsibility to inspect and abate applies only to existing pre-1978 target housing, not property that will be converted to or used as housing after sale.

HUD recommends Federal agencies to inform buyers that LBP hazards may be present if it's known or suspected that the structure will be used as housing.

## Table 1: Disclosure Requirements

<ul style="list-style-type: none"> <li>• Disclose the presence of known lead-based paint and/or lead-based paint hazards to purchaser.</li> <li>• Disclose additional information available concerning the known lead-based paint and/or lead-based paint hazards (e.g., location of hazards, basis for such a determination, and condition of the painted surfaces) to purchaser.</li> <li>• Provide any available records or reports pertaining to lead-based paint and/or lead-based paint hazards to purchaser.</li> <li>• Provide purchaser an approved lead hazard information pamphlet.</li> <li>• Allow 10 days for purchaser to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.</li> </ul>	<p>The Sales Contract, IFB, Offer to Purchase or lease must include an attachment containing the following elements:</p> <ul style="list-style-type: none"> <li>• “Lead Warning Statement”</li> <li>• Statement disclosing the presence of known lead-based paint and/or lead-based paint hazards.</li> <li>• Statement disclosing additional information available concerning the known lead-based paint and/or lead-based paint hazards (e.g., location of hazards, basis for such a determination, and condition of the painted surfaces) to purchaser.</li> <li>• List of records or reports that have been provided to purchaser.</li> <li>• Statement by purchaser affirming receipt of seller’s disclosure statements, records and reports, and lead hazard information pamphlet.</li> <li>• Statement by purchaser that an opportunity to conduct the risk assessment or inspection has been received.</li> <li>• Signatures of seller and purchaser certifying</li> </ul>
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**Suppose the property was sold the day before the regulations became effective and the closing occurred after the regulations were in effect, do the regulations still apply?**

No. The regulations only apply to property with a **sale date** on or after September 15, 2000.

### Where can I find out more information?

#### Regulations: Final Rules

##### *HUD's Title X*

September 15, 1999 Federal Register Notice for the Final Rule for the Requirements for Notification, Evaluation, and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance  
[http://www.access.gpo.gov/su\\_docs/fedreg/a990915c.html](http://www.access.gpo.gov/su_docs/fedreg/a990915c.html)

##### *HUD/EPA Disclosure Regulations*

March 6, 1996 Federal Register Notice for the Final Rule - Lead; Requirements for Disclosure of Known Lead-Based Paint in Housing and/or Lead-Based Paint Hazards and Housing; Final Rule <http://www.epa.gov//opptintr/leadfr06mr96.pdf>

## *EPA's Work Practice Standard*

August 6, 1999 Federal Register Notice for the Amendment to Final Rule: Lead; requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; Certification Requirement and Work Practice Standards for Individuals and Firms  
<http://www.epa.gov/lead/fr8699.pdf>

### **Proposed Rule Making**

#### *EPA Toxic Substance and Control Act (TSCA) 403*

June 3, 1998 Federal Register Notice for EPA Proposed Rulemaking for Identification of Dangerous Levels of Lead <http://www.epa.gov/lead/403nprm.pdf>

### **U.S. EPA Websites**

EPA Office of Pollution and Toxics (OPPT) Lead Programs <http://www.epa.gov/lead/>

EPA OPPT Residential Lead Hazard Standards - TSCA Section 403  
<http://www.epa.gov/lead/leadhaz.htm>

EPA OPPT Training and Certification Program for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities, Section 402/404 <http://www.epa.gov/lead/leadcert.htm>

EPA Lead Hazard Information Pamphlet, "Protect Your Family from Lead in Your Home" and Sample Disclosure Formats <http://www.hud.gov/lea/leadhelp.html>

### **HUD Websites**

HUD Office of Lead Hazard Control <http://www.hud.gov/lea/leahome.html>

HUD Reference Library for Title X <http://www.hud.gov/lea/leadwnlo.html>

### **DoD (for BRAC property only)**

Lead-Based Paint Guidelines for Disposal Of Department of Defense Residential Real Property - A Field Guide <http://www.dtic.mil/envirodod/brac/publish.html>

### **Other Websites**

NCSLnet Search: Lead Poisoning Prevention - State Contacts Directory  
<http://www.ncsl.org/programs/esnr/pbDir.htm>

National Lead Information Center 1-800-424-LEAD

**Table 2: Summary of Lead-Based Paint Requirements  
(24 CFR Part 35)<sup>1</sup>**

	<b>Paint Inspection</b>	<b>Risk Assessment</b>	<b>Abatement of Lead-Based Paint Hazards</b>	<b>Disclosure</b>
Pre-1960 Target Housing	YES Prior to Sale/transfer	YES Prior to Sale/transfer	YES <sup>2,3</sup> Must be performed within 12 months of risk assessment	YES
1960-1978 Target Housing	YES Prior to Sale/transfer	YES Prior to Sale/transfer	NO	YES
Target Housing to be demolished and the site redeveloped for residential use	NO	NO	NO	NO
Non-Residential	NO	NO	NO	NO

<sup>1</sup> The regulations, effective September 15, 2000, only apply to specially defined residential property (i.e., target housing).

<sup>2</sup> Where abatement of lead-based paint hazards is not completed before the closing of the sale, the holding agency shall be responsible for assuring that the abatement is carried out by the purchaser before occupancy of the property.

<sup>3</sup> In the case of a purchaser who is not to be an owner occupant, the agency could make abatement a condition of sale with sufficient funds escrowed.

# Glossary

**Abatement:** Any set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by appropriate Federal agencies. These measures may include (1) removal of lead-based paint and lead-contaminated dust, permanent enclosure or encapsulation of lead-based paint, replacement of lead-painted components or fixtures, and/or removal or covering of lead-contaminated soil and (2) all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

**Disclosure:** The seller provides the purchaser with notification and information about known lead-based paint and/or lead-based paint hazards, and any available records or reports pertaining to the lead-based paint and/or lead-based paint hazards. This applies to most housing built before 1978. The disclosure requirements in Table 1 are currently in effect and were not amended by the new regulations (effective 9/15/2000). The disclosure requirements were moved from Subpart H to Subpart A in the Code of Federal Regulations, Title 24, Part 35.

**Evaluation:** A risk assessment, a lead hazard screen, a lead-based paint inspection, paint testing, or a combination of these to determine the presence of lead-based paint hazards or lead-based paint.

**Federally Owned Housing:** Residential dwellings owned or managed by a Federal agency, or for which a Federal agency is a trustee or conservator. Properties seized by Federal law enforcement agencies and held for less than 270 days are exempt.

**Interim Controls:** A set of measures designed to temporarily reduce human exposure or the likelihood of exposure to lead-based paint hazards. These measures include specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential lead hazards in soil, and the establishment and operation of management and resident education programs.

**Lead-Based Paint:** Paint or other surface coatings that contain lead equal to or in excess of 1.0 mg/cm<sup>2</sup> of lead or 0.5 percent by weight.

**Lead-Based Paint Hazard:** Any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or is present on accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects, as established by the appropriate Federal agency.

**Paint Inspection:** A surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

**Risk Assessment:** An on-site investigation to determine and report the existence, nature, severity, and location of lead-based paint hazards in residential dwellings, including (1) information gathered on the age and history of the housing and occupancy by children under age 6; (2) visual inspection; (3) limited wipe sampling or other environmental sampling techniques; (4) other activity as may be appropriate; and (5) a report explaining the results of the investigation.

**Target Housing:** Housing constructed before 1978, except housing for the elderly or persons with disabilities (unless a child under age 6 resides or is expected to reside in the housing) or zero bedroom dwellings. Child-care facilities are not target housing unless located within a residence that is itself target housing.