

§ 102-75.150

landholding agency, in writing, whether the report is acceptable or other information is needed within 15 calendar days after receipt of the report.

§ 102-75.150 What happens when GSA determines that the report of excess is adequate?

When GSA determines that a report is adequate, GSA will accept the report and inform the landholding agency of the acceptance date. However, the landholding agency must, upon request, promptly furnish any additional information or documents relating to the property required by GSA to accomplish a transfer or a disposal.

§ 102-75.155 What happens if GSA determines that the report of excess is insufficient?

Where GSA determines that a report is insufficient, GSA will return the report and inform the landholding agency of the facts and circumstances that make the report insufficient. The landholding agency must promptly take appropriate action to submit an acceptable report to GSA. If the landholding agency is unable to submit an acceptable report, the property will no longer be considered as excess property and the disposal agency will cease activity for the disposal of the property. However, GSA may accept the report of excess on a conditional basis and identify what deficiencies in the report must be corrected in order for the report to gain full acceptance.

DESIGNATION AS PERSONAL PROPERTY

§ 102-75.160 Should prefabricated movable structures be designated real or personal property for disposition purposes?

Prefabricated movable structures such as Butler-type storage warehouses, Quonset huts, and house trailers (with or without undercarriages) reported to GSA along with the land on which they are located may, at GSA's discretion, be designated for disposition as personal property for off-site use or as real property for disposal with the land.

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§ 102-75.165 Should related personal property be designated real or personal property for disposition purposes?

Related personal property may, at the disposal agency's discretion, be designated as personal property for disposal purposes. However, for fine artwork and sculptures, GSA's policy is that artwork specifically created for a Federal building is considered as a fixture of the building. This also applies to sculptures created for a Federal building or a public park. Disposal agencies must follow the policies and guidance for disposal of artwork and sculptures developed by the GSA Office of the Chief Architect, Center for Design Excellence and the Arts, and the Bulletin dated March 26, 1934, entitled "Legal Title to Works Produced under the Public Works of Art Project."

§ 102-75.170 What happens to the related personal property in a structure scheduled for demolition?

When a structure is to be demolished, any fixtures or related personal property therein may, at the disposal agency's discretion, be designated for disposition as personal property where a ready disposition can be made of these items. As indicated in §102-75.165, particular consideration should be given to designating items having possible historical or artistic value as personal property.

TRANSFERS

§ 102-75.175 What are GSA's responsibilities regarding transfer requests?

Before property can be transferred among Federal agencies, to mixed-ownership Government corporations, and to the municipal government of the District of Columbia, GSA must determine that—

- (a) The transfer is in the best interest of the Government;
- (b) The requesting agency is the appropriate agency to hold the property; and
- (c) The proposed land use will maximize use of the real property, in terms of economy and efficiency, to minimize expenditures for the purchase of real property.

Federal Management Regulation

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(Note: See Subpart I—Screening of Excess Federal Real Property (§§ 102-75.1220 through 102-75.1290) for information on screening and transfer requests.)

§ 102-75.180 May landholding agencies transfer excess real property without notifying GSA?

Landholding agencies may, without notifying GSA, transfer excess real property that they use, occupy, or control under a lease, permit, license, easement, or similar instrument when—

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

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

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

§ 102-75.185 In those instances where landholding agencies may transfer excess real property without notifying GSA, which policies must they follow?

In those instances, landholding agencies must transfer property following the policies in this subpart.

§ 102-75.190 What amount must the transferee agency pay for the transfer of excess real property?

The transferee agency must pay an amount equal to the property's fair market value (determined by the Administrator)—

(a) Where the transferor agency has requested the net proceeds of the transfer pursuant to 40 U.S.C. 574; or

(b) Where either the transferor or transferee agency (or organizational unit affected) is subject to the Government Corporation Control Act (31 U.S.C. 841), is a mixed-ownership Government corporation, or the municipal government of the District of Columbia.

§ 102-75.195 If the transferor agency is a wholly owned Government corporation, what amount must the transferee agency pay?

As may be agreed upon by GSA and the corporation, the transferee agency must pay an amount equal to—

(a) The estimated fair market value of the property; or

(b) The corporation's book value of the property.

§ 102-75.200 What amount must the transferee agency pay if property is being transferred for the purpose of upgrading the transferee agency's facilities?

Where the transfer is for the purpose of upgrading facilities (i.e., for the purpose of replacing other property of the transferee agency, which because of the location, nature, or condition thereof, is less efficient for use), the transferee must pay an amount equal to the difference between the fair market value of the property to be replaced and the fair market value of the property requested, as determined by the Administrator.

§ 102-75.205 Are transfers ever made without reimbursement by the transferee agency?

Transfers may be made without reimbursement by the transferee agency only if—

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

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

§ 102-75.210 What must a transferee agency include in its request for an exception from the 100 percent reimbursement requirement?

The request must include an explanation of how granting the exception would further essential agency program objectives and at the same time be consistent with Executive Order 12512, Federal Real Property Management, dated April 29, 1985. The transferee agency must attach the explanation to the Request for Transfer of Excess Real and Related Personal

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Property (GSA Form 1334) prior to submitting the form to GSA. The unavailability of funds alone is not sufficient to justify an exception.

§ 102-75.215 Who must endorse requests for exception to the 100 percent reimbursement requirement?

Agency heads must endorse requests for exceptions to the 100 percent reimbursement requirement.

§ 102-75.220 Where should an agency send a request for exception to the 100 percent reimbursement requirement?

Agencies must submit all requests for exception from the 100 percent reimbursement requirement to the appropriate GSA regional property disposal office.

§ 102-75.225 Who must review and approve a request for exception from the 100 percent reimbursement requirement?

The Administrator must review all requests for exception from the 100 percent reimbursement requirement. If the Administrator approves the request, it is then submitted to OMB for final concurrence. If OMB approves the request, then GSA may complete the transfer.

§ 102-75.230 Who is responsible for property protection and maintenance costs while the request for exception is being reviewed?

The agency requesting the property will assume responsibility for protection and maintenance costs not more than 40 days from the date of the Administrator's letter to OMB requesting concurrence for an exception to the 100 percent reimbursement requirement. If the request is denied, the requesting agency may pay the fair market value for the property or withdraw its request. If the request is withdrawn, responsibility for protection and maintenance cost will return to the landholding agency at that time.

§ 102-75.235 May disposal agencies transfer excess property to the Senate, the House of Representatives, and the Architect of the Capitol?

Yes, disposal agencies may transfer excess property to the Senate, the

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House of Representatives, and the Architect of the Capitol and any activities under his or her direction, pursuant to the provisions of 40 U.S.C. 113(d). The amount of reimbursement for such transfer must be the same as would be required for a transfer of excess property to an Executive agency under similar circumstances.

TEMPORARY UTILIZATION

§ 102-75.240 May excess real property be temporarily assigned/reassigned?

Yes, whenever GSA determines that it is more advantageous to assign property temporarily rather than permanently, it may do so. If the space is for office, storage, or related facilities, GSA will determine the length of the assignment/reassignment. Agencies are required to reimburse the landholding agency (or GSA, if GSA has become responsible for seeking an appropriation for protection and maintenance expenses) (see § 102-75.970) for protection and maintenance expenses. GSA may also temporarily assign/reassign excess real property for uses other than storage, office or related facilities. In such cases, the agency receiving the temporary assignment may be required to pay a rental or users charge based upon the fair market value of the property, as determined by GSA. If the property will be required by the agency for a period of more than 1 year, it may be transferred on a conditional basis, with an understanding that the property will be reported excess at an agreed upon time (see § 102-75.85). The requesting agency is responsible for protection and maintenance expenses.

NON-FEDERAL INTERIM USE OF EXCESS PROPERTY

§ 102-75.245 When can landholding agencies grant rights for non-Federal interim use of excess property reported to GSA?

Landholding agencies, upon approval from GSA, may grant rights for non-Federal interim use of excess property reported to GSA, when it is determined that such excess property is not required for the needs of any Federal agency and when the interim use will