

§ 102-75.215

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 If the request is withdrawn, responsibility for protection and maintenance cost will return to the landholding agency at that time.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

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not impair the ability to dispose of the property.

Subpart C—Surplus Real Property Disposal

§ 102-75.250 What general policy must the disposal agency follow concerning the disposal of surplus property?

The disposal agency must dispose of surplus real property—

(a) In the most economical manner consistent with the best interests of the Government; and

(b) Ordinarily for cash, consistent with the best interests of the Government.

§ 102-75.255 What are disposal agencies' specific responsibilities concerning the disposal of surplus property?

The disposal agency must determine that there is no further Federal need or requirement for the excess real property and the property is surplus to the needs of the Federal Government. After reaching this determination, the disposal agency must expeditiously make the surplus property available for acquisition by State and local governmental units and non-profit institutions (see § 102-75.350) or for sale by public advertising, negotiation, or other disposal action. The disposal agency must consider the availability of real property for public purposes on a case-by-case basis, based on highest and best use and estimated fair market value. Where hazardous substance activity is identified, see §§ 102-75.340 and 102-75.345 for required information that the disposal agency must incorporate into the offer to purchase and conveyance document.

§ 102-75.260 When may the disposal agency dispose of surplus real property by exchange for privately owned property?

The disposal agency may dispose of surplus real property by exchange for privately owned property for property management considerations such as boundary realignment or for providing access. The disposal agency may also dispose of surplus real property by exchange for privately owned property where authorized by law, when the re-

questing Federal agency receives approval from the Office of Management and Budget and the appropriate oversight committees, and where the transaction offers substantial economic or unique program advantages not otherwise obtainable by any other acquisition method.

§ 102-75.265 Are conveyance documents required to identify all agreements and representations concerning property restrictions and conditions?

Yes, conveyance documents must identify all agreements and representations concerning restrictions and conditions affecting the property's future use, maintenance, or transfer.

APPLICABILITY OF ANTITRUST LAWS

§ 102-75.270 Must antitrust laws be considered when disposing of property?

Yes, antitrust laws must be considered in any case in which there is contemplated a disposal to any private interest of—

(a) Real and related personal property that has an estimated fair market value of \$3 million or more; or

(b) Patents, processes, techniques, or inventions, irrespective of cost.

§ 102-75.275 Who determines whether the proposed disposal would create or maintain a situation inconsistent with antitrust laws?

The Attorney General determines whether the proposed disposal would create or maintain a situation inconsistent with antitrust laws.

§ 102-75.280 What information concerning a proposed disposal must a disposal agency provide to the Attorney General to determine the applicability of antitrust laws?

The disposal agency must promptly provide the Attorney General with notice of any such proposed disposal and the probable terms or conditions, as required by 40 U.S.C. 559. If notice is given by any disposal agency other than GSA, a copy of the notice must also be provided simultaneously to the GSA Regional Office in which the property is located. Upon request, a disposal agency must furnish information