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SOURCE: 70 FR 67789, Nov. 8, 2005, unless otherwise noted.

Subpart A—General Provisions

§ 102–72.5 What is the scope of this part?

The real property policies contained in this part apply to Federal agencies, including GSA's Public Buildings Service (PBS), operating under, or subject to, the authorities of the Administrator of General Services.

§ 102–72.10 What basic policy governs delegation of authority to Federal agencies?

The Administrator of General Services may delegate and may authorize successive redelegations of the real property authority vested in the Administrator to any Federal agency.

Subpart B—Delegation of Authority

§ 102–72.15 What criteria must a delegation meet?

Delegations must be in the Government's best interest, which means that GSA must evaluate such factors as whether a delegation would be cost effective for the Government in the delivery of space.

§ 102–72.20 Are there limitations on this delegation of authority?

Federal agencies must exercise delegated real property authority and functions according to the parameters described in each delegation of authority document, and Federal agencies may only exercise the authority of the Administrator that is specifically provided within the delegation of authority document.

§ 102–72.25 What are the different types of delegations of authority?

The basic types of GSA Delegations of Authority are—

(a) Delegation of Leasing Authority;

(b) Delegation of Real Property Management and Operation Authority;

(c) Delegation of Individual Repair and Alteration Project Authority;

(d) Delegation of Lease Management Authority (Contracting Office Representative Authority);

(e) Delegation of Administrative Contracting Officer (ACO) Authority;

(f) Delegation of Real Property Disposal Authority;

(g) Security Delegation of Authority; and

(h) Utility Services Delegation of Authority.

§ 102–72.30 What are the different types of delegations related to real estate leasing?

Delegations related to real estate leasing include the following:

(a) Categorical space delegations and agency special purpose space delegations (see § 102–73.140 of this title).

(b) The Administrator of General Services has issued a standing delegation of authority (under a program known as ''Can't Beat GSA Leasing'') to the heads of all Federal agencies to accomplish all functions relating to leasing of up to 19,999 rentable square feet of general purpose space for terms of up to 20 years and below prospectus level requirements, regardless of geographic location. This delegation includes some conditions Federal agencies must meet when conducting the procurement themselves, such as training in lease contracting and reporting data to GSA.

(c) An ACO delegation, in addition to lease management authority, provides Federal agencies with limited contracting officer authority to perform such duties as paying and withholding lessor rent and modifying lease provisions that do not change the lease term length or the amount of space under lease.

[70 FR 67789, Nov. 8, 2005, as amended at 73 FR 2167, Jan. 14, 2008]

§ 102–72.35 What are the requirements for obtaining an Administrative Contracting Officer (ACO) delegation from GSA?

When Federal agencies do not exercise the delegation of authority for general purpose space mentioned in § 102–72.30(b) of this part, GSA may consider granting an ACO delegation when Federal agencies—

(a) Occupy at least 90 percent of the building's GSA-controlled space, or Federal agencies have the written concurrence of 100 percent of rent-paying occupants covered under the lease; and

(b) Have the technical capability to perform the leasing function.

§ 102–72.40 What are facility management delegations?

Facility management delegations give Executive agencies authority to operate and manage buildings day to day, to perform individual repair and alteration projects, and manage real property leases.

§ 102–72.45 What are the different types of delegations related to facility management?

The principal types of delegations involved in the management of facilities are—

(a) Real property management and operation authority;

(b) Individual repair and alteration project authority; and

(c) Lease management authority (contracting officer representative authority).

§ 102–72.50 What are Executive agencies' responsibilities under a delegation of real property management and operation authority from GSA?

With this delegation, Executive agencies have the authority to operate and manage buildings day to day. Delegated functions may include building operations, maintenance, recurring repairs, minor alterations, historic preservation, concessions, and energy management of specified buildings subject to the conditions in the delegation document.

§ 102–72.55 What are the requirements for obtaining a delegation of real property management and operation authority from GSA?

An Executive agency may be delegated real property management and operation authority when it—

(a) Occupies at least 90 percent of the space in the Government-controlled facility, or has the concurrence of 100 percent of the rent-paying occupants to perform these functions; and

(b) Demonstrates that it can perform the delegated real property management and operation responsibilities.

§ 102–72.60 What are Executive agencies' responsibilities under a delegation of individual repair and alteration project authority from GSA?

With this delegation of authority, Executive agencies have the responsibility to perform individual repair and alterations projects. Executive agencies are delegated repair and alterations authority for reimbursable space alteration projects up to the simplified acquisition threshold, as specified in the GSA Customer Guide to Real Property.

§ 102–72.65 What are the requirements for obtaining a delegation of individual repair and alteration project authority from GSA?

Executive agencies may be delegated repair and alterations authority for other individual alteration projects when they demonstrate the ability to perform the delegated repair and alterations responsibilities and when such a delegation promotes efficiency and economy.

§ 102–72.66 Do Executive agencies have a delegation of authority to perform ancillary repair and alteration projects in federally owned buildings under the jurisdiction, custody or control of GSA?

Yes. Executive agencies, as defined in § 102–71.20, are hereby delegated the authority to perform ancillary repair and alteration work in federally owned buildings under the jurisdiction, custody or control of GSA in accordance with the terms, conditions and limitations set forth in §§ 102–72.67 through 102–72.69.

[74 FR 12273, Mar. 24, 2009]

§ 102–72.67 What work is covered under an ancillary repair and alteration delegation?

(a) For purposes of this delegation, ancillary repair and alteration projects are those—

(1) Where an Executive agency has placed an order from a vendor under a GSA Multiple Award Schedule and ancillary repair and alteration services

also are available from that same vendor as a Special Item Number (SIN);

(2) Where the ancillary repair and alteration work to be performed is associated solely with the repair, alteration, delivery, or installation of products or services also purchased under the same GSA Multiple Award Schedule;

(3) That are routine and non-complex in nature, such as routine painting or carpeting, simple hanging of drywall, basic electrical or plumbing work, landscaping, and similar non-complex services; and

(4) That are necessary to be performed to use, execute or implement successfully the products or services purchased from the GSA Multiple Award Schedule.

(b) Ancillary repair and alteration projects do not include—

(1) Major or new construction of buildings, roads, parking lots, and other facilities;

(2) Complex repair and alteration of entire facilities or significant portions of facilities; or

(3) Architectural and engineering services procured pursuant to 40 U.S.C. 1101–1104.

[74 FR 12273, Mar. 24, 2009]

§ 102–72.68 What preconditions must be satisfied before an Executive agency may exercise the delegated authority to perform an individual ancillary repair and alteration project?

The preconditions that must be satisfied before an Executive agency may perform ancillary repair and alteration work are as follows:

(a) The ordering agency must order both the products or services and the ancillary repair and alteration services under the same GSA Multiple Award Schedule from the same vendor;

(b) The value of the ancillary repair and alteration work must be less than or equal to $100,000 (for work estimated to exceed $100,000, the Executive agency must contact the GSA Assistant Regional Administrator, Public Buildings Service, in the region where the work is to be performed to request a specific delegation);

(c) All terms and conditions applicable to the acquisition of ancillary repair and alteration work as required by the GSA Multiple Award Schedule ordering procedures must be satisfied;

(d) The ancillary repair and alteration work must not be in a facility leased by GSA or in any other leased facility acquired under a lease delegation from GSA; and

(e) As soon as reasonably practicable, the Executive agency must provide the building manager with a detailed scope of work, including cost estimates, and schedule for the project, and such other information as may be reasonably requested by the building manager, so the building manager can determine whether or not the proposed work is reasonably expected to have an adverse effect on the operation and management of the building, the building's structural, mechanical, electrical, plumbing, or heating and air conditioning systems, the building's aesthetic or historic features, or the space or property of any other tenant in the building. The Executive agency must obtain written approval from the building manager prior to placing an order for any ancillary repair and alteration work.

[74 FR 12273, Mar. 24, 2009]

§ 102–72.69 What additional terms and conditions apply to an Executive agencies' delegation of ancillary repair and alteration authority?

(a) Before commencing any ancillary repair and alteration work, the Executive agency shall deliver, or cause its contractor to deliver, to the building manager evidence that the contractor has obtained at least $5,000,000 comprehensive general public liability and property damage insurance policies to cover claims arising from or relating to the contractor's operations that cause damage to persons or property; such insurance shall name the United States as an additional insured.

(b) The Executive agency shall agree that GSA has no responsibility or liability, either directly or indirectly, for any contractual claims or disputes that arise out of or relate to the performance of ancillary repair and alteration work, except to the extent such claim or dispute arises out of or relates to the wrongful acts or negligence of GSA's agents or employees.

(c) The Executive agency shall agree to administer and defend any claims and actions, and shall be responsible for the payment of any judgments rendered or settlements agreed to, in connection with contract claims or other causes of action arising out of or relating to the performance of the ancillary repair and alteration work.

(d) For buildings under GSA's custody and control, GSA shall have the right, but not the obligation, to review the work from time to time to ascertain that it is being performed in accordance with the approved project requirements, schedules, plans, drawings, specifications, and other related construction documents. The Executive agency shall promptly correct, or cause to be corrected, any non-conforming work or property damage identified by GSA, including damage to the space or property of any other tenant in the building, at no cost or expense to GSA.

(e) The Executive agency shall remain liable and financially responsible to GSA for any and all personal or property damage caused, in whole or in part, by the acts or omissions of the Executive agency, its employees, agents, and contractors.

(f) If the cost or expense to GSA to operate the facility is increased as a result of the ancillary repair and alteration project, the Executive agency shall be responsible for any such costs or expenses.

(g) Disputes between the Executive agency and GSA arising out of the ancillary repair and alteration work will, to the maximum extent practicable, be resolved informally at the working level. In the event a dispute cannot be resolved informally, the matter shall be referred to GSA's Public Buildings Service. The Executive agency agrees that, in the event GSA's Public Buildings Service and the Executive agency fail to resolve the dispute, they shall refer it for resolution to the Administrator of General Services, whose decision shall be binding.

[74 FR 12273, Mar. 24, 2009]

§ 102–72.70 What are Executive agencies' responsibilities under a delegation of lease management authority (contracting officer representative authority) from GSA?

When an Executive agency does not exercise the delegation of authority mentioned in § 102–72.30(b) to lease general purpose space itself, it may be delegated, upon request, lease management authority to manage the administration of one or more lease contracts awarded by GSA.

§ 102–72.75 What are the requirements for obtaining a delegation of lease management authority (contracting officer representative authority) from GSA?

An Executive agency may be delegated lease management authority when it—

(a) Occupies at least 90 percent of the building's GSA-controlled space or has the written concurrence of 100 percent of rent-paying occupants covered under the lease to perform this function; and

(b) Demonstrates the ability to perform the delegated lease management responsibilities.

§ 102–72.80 What are Executive agencies' responsibilities under a disposal of real property delegation of authority from GSA?

With this delegation, Executive agencies have the authority to utilize and dispose of excess or surplus real and related personal property and to grant approvals and make determinations, subject to the conditions in the delegation document.

§ 102–72.85 What are the requirements for obtaining a disposal of real property delegation of authority from GSA?

While disposal delegations to Executive agencies are infrequent, GSA may delegate authority to them based on situations involving certain low-value properties and when they can demonstrate that they have the technical expertise to perform the disposition functions. GSA may grant special delegations of authority to Executive agencies for the utilization and disposal of certain real property through the procedures set forth in part 102–75, subpart F of this chapter.

§ 102–72.90 What are Executive agencies' responsibilities under a security delegation of authority from GSA?

Law enforcement and related security functions were transferred to the Department of Homeland Security upon its establishment in 2002. The Homeland Security Act authorizes the Secretary of Homeland Security, in consultation with the Administrator of General Services, to issue regulations necessary for the protection and administration of property owned or occupied by the Federal Government and persons on the property. Notwithstanding the foregoing, GSA retained all powers, functions and authorities necessary for the operation, maintenance, and protection of buildings and grounds owned and occupied by the Federal Government and under the jurisdiction, custody, or control of GSA.

§ 102–72.95 What are the requirements for obtaining a security delegation of authority from GSA?

An Executive agency may request a security delegation from GSA by submitting a written request with the detailed basis for the requested delegation to the Assistant Regional Administrator, PBS, in the region where the building is located. A request for multiple buildings in multiple regions should be directed to the Commissioner of PBS. The delegation may be granted where the requesting agency demonstrates a compelling need for the delegated authority and the delegation is not inconsistent with the authorities of any other law enforcement agency.

§ 102–72.100 What are Executive agencies' responsibilities under a utility service delegation of authority from GSA?

With this delegation, Executive agencies have the authority to negotiate and execute utility services contracts for periods over one year but not exceeding ten years for their use and benefit. Agencies also have the authority to intervene in utility rate proceedings to represent the consumer interests of the Federal Government, if so provided in the delegation of authority.

§ 102–72.105 What are the requirements for obtaining a utility services delegation of authority from GSA?

Executive agencies may be delegated utility services authority when they have the technical expertise and adequate staffing.

PART 102–73—REAL ESTATE ACQUISITION

Subpart A—General Provisions

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PROSPECTUS REQUIREMENTS

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