

107TH CONGRESS
2^D SESSION

H. R. 3947

To amend the Federal Property and Administrative Services Act of 1949
to enhance Federal asset management, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 12, 2002

Mr. SESSIONS (for himself, Mr. TOM DAVIS of Virginia, and Mr. BURTON of Indiana) introduced the following bill; which was referred to the Committee on Government Reform, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Federal Property and Administrative Services
Act of 1949 to enhance Federal asset management, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Property Asset
5 Management Reform Act of 2002”.

1 **SEC. 2. DEFINITION OF LANDHOLDING AGENCY.**

2 Section 3 of the Federal Property and Administrative
3 Services Act of 1949 (40 U.S.C. 472) is amended by add-
4 ing at the end the following:

5 “(m) The term ‘landholding agency’—

6 “(1) subject to paragraphs (2) and (3), means
7 any Federal agency that, by specific or general stat-
8 utory authority, has jurisdiction, custody, and con-
9 trol over property (as defined in paragraph (d)) that
10 is real property;

11 “(2) does not include a Federal agency with re-
12 spect to the agency—

13 “(A) disposing of an interest in real prop-
14 erty for public benefit purposes pursuant to sec-
15 tion 203;

16 “(B) holding lands in trust or restricted
17 fee status for individual Indians or Indian
18 tribes; or

19 “(C) having jurisdiction over national park
20 lands or national forest lands; and

21 “(3) does not include the Bureau of Land Man-
22 agement.”.

23 **SEC. 3. LIFE CYCLE PLANNING AND MANAGEMENT.**

24 Title II of the Federal Property and Administrative
25 Services Act of 1949 (40 U.S.C. 481 et seq.) is amended
26 by adding at the end the following:

1 **“SEC. 213. ASSET MANAGEMENT PRINCIPLES, PERFORM-**
2 **ANCE MEASUREMENT, AND DATABASE.**

3 “(a) MANAGEMENT PRINCIPLES.—(1) Under the au-
4 thorities vested in the Administrator under section 205(c)
5 of this Act, the Administrator, in consultation with the
6 heads of Federal agencies and the Director of the Office
7 of Management and Budget, shall establish and maintain
8 current management principles to be applied by Federal
9 agencies where appropriate to real and personal property
10 assets subject to this Act and under the jurisdiction, cus-
11 tody, and control of such agencies.

12 “(2) With respect to the outlease of property through
13 the use of public-private partnerships authorized under
14 section 216(d), the principles under this subsection shall
15 include the following:

16 “(A) Under no circumstances shall the liability
17 of the Federal Government arising from an arrange-
18 ment with a nongovernmental entity or from the op-
19 eration of any partnership, cooperative venture, lim-
20 ited liability company, corporation, trust, or other
21 business arrangement created as the result of an
22 agreement with a nongovernmental entity exceed the
23 amount of the Federal Government’s capital con-
24 tribution or equity contribution.

1 “(B)(i) Such projects may only be undertaken
2 if the Federal asset is not developed to its highest
3 and best use and the project is economically viable.

4 “(ii) For purposes of this subparagraph, deter-
5 mination of economic viability would include, among
6 other relevant economic factors, the internal rate of
7 return of the investment to the Government (with
8 preference given to higher rates of return) at lease-
9 back rates not exceeding market rates.

10 “(C) Such projects may only be undertaken if
11 the market conditions are favorable to development
12 and full occupancy by government and private ten-
13 ants.

14 “(b) PERFORMANCE MEASUREMENT BENCH-
15 MARKS.—(1) The Administrator, in consultation with the
16 heads of landholding agencies, shall establish performance
17 measures to determine the effectiveness of Federal real
18 property management.

19 “(2) The performance measures shall monitor and as-
20 sess the following:

21 “(A) The disposal of real property assets.

22 “(B) The reduction in vacant Federal space.

23 “(C) The realization of equity value in Federal
24 real property assets.

1 “(D) The value added to Federal agency mis-
2 sions through cooperative arrangements with the
3 commercial real estate community.

4 “(E) The enhancement of Federal agency pro-
5 ductivity through an improved working environment.

6 “(3) The performance measures shall be designed
7 to—

8 “(A) enable the Congress and heads of Federal
9 agencies to track progress in the achievement of
10 property management objectives on a Government-
11 wide basis; and

12 “(B) allow for comparing the performance of
13 Federal agencies against industry and other public
14 sector agencies.

15 “(4) In developing and implementing the perform-
16 ance measures, the Administrator shall use existing data
17 sources and automated data collection tools to the max-
18 imum extent practical.

19 “(c) INVENTORY DATABASE.—(1) The Administrator
20 shall establish and maintain a single, comprehensive, and
21 descriptive database of all real property interests under
22 the custody and control of each Federal agency.

23 “(2)(A) For purposes of paragraph (1), the Adminis-
24 trator, in cooperation with the heads of other Federal
25 agencies, shall collect from each Federal agency such de-

1 scriptive information, except for classified information, as
2 the Administrator considers will best describe the nature,
3 use, and extent of the real property holdings of the Fed-
4 eral Government. The head of a Federal agency shall
5 promptly provide to the Administrator, upon request, such
6 information regarding real property holdings under the
7 custody and control of the agency.

8 “(B) For purposes of this paragraph, the term ‘real
9 property holdings’ includes—

10 “(i) all public lands (as that term is defined in
11 section 103 of the Federal Land Policy and Manage-
12 ment Act of 1976 (43 U.S.C. 1702)); and

13 “(ii) all real property of the Federal Govern-
14 ment that is located outside of the 50 States, includ-
15 ing the District of Columbia, Puerto Rico, American
16 Samoa, Guam, the Northern Mariana Islands, and
17 the United States Virgin Islands.

18 “(3) To facilitate reporting of information on a uni-
19 form basis, the Administrator may establish data and
20 other information technology standards for use by Federal
21 agencies in developing or upgrading Federal agency real
22 property information systems.

23 “(d) PUBLIC ACCESS TO INFORMATION.—(1) Except
24 as provided in paragraphs (2) and (3), the listing compiled
25 under this section shall be a public record.

1 “(2) The Administrator may withhold from public
2 disclosure information included in the listing, including
3 the location of classified facilities, if the Administrator de-
4 termines that withholding such information would be in
5 the public interest.

6 “(3) Nothing in this subsection requires an agency
7 to make available to the public information that is exempt
8 from disclosure pursuant to section 552 of title 5, United
9 States Code, popularly known as the Freedom of Informa-
10 tion Act.

11 “(e) JURISDICTION OF ADMINISTRATOR.—Except for
12 the purpose of maintaining the property listing required
13 under subsection (c), nothing in this section authorizes the
14 Administrator to assume jurisdiction over the acquisition,
15 management, or disposal of real property not subject to
16 this Act.

17 **“SEC. 214. SENIOR REAL PROPERTY OFFICERS.**

18 “(a) IN GENERAL.—(1) Within 180 days after the
19 effective date of this section, the head of each landholding
20 agency shall appoint, or designate from among senior
21 management officials of such agency, a Senior Real Prop-
22 erty Officer. Such individual shall have education, train-
23 ing, and real estate portfolio or facilities management ex-
24 perience required to administer the functions described
25 under this section.

1 “(2) The head of any landholding agency may ap-
2 point a Real Property Officer for any major component
3 of the agency. A Real Property Officer of a landholding
4 agency, for the purposes of complying with the require-
5 ments of this Act, shall report to the Senior Real Property
6 Officer.

7 “(b) RESPONSIBILITIES.—The Senior Real Property
8 Officer of a landholding agency shall be responsible for
9 continuously monitoring real property assets of the agency
10 so that—

11 “(1) real property of the agency, including its
12 functional use, occupancy, reinvestment require-
13 ments, and future utility, is managed in a manner
14 that is—

15 “(A) consistent with and supportive of the
16 goals and objectives set forth in the agency’s
17 strategic plan under section 306 of title 5,
18 United States Code;

19 “(B) consistent with the real property
20 asset management principles established by the
21 Administrator under section 213(a); and

22 “(C) reflected in an agency asset manage-
23 ment plan issued under subsection (c);

1 “(2) real property assets that can benefit from
2 the application of the enhanced asset management
3 tools described in section 216 are identified;

4 “(3) such enhanced asset management tools, in
5 those cases in which a real property asset can so
6 benefit, are applied in such a way that any resulting
7 transaction shall—

8 “(A) result in the agency receiving fair
9 market value which, in the case of an exchange
10 or sale of Federal real property, shall be based
11 on an appraisal; and

12 “(B) protect the Federal Government from
13 unreasonable financial or other risks;

14 “(4) provide to the Administrator annually—

15 “(A) a listing and description of the real
16 property assets under the jurisdiction, custody,
17 and control of that agency, including public
18 lands of the United States and property located
19 in foreign lands; and

20 “(B) any other relevant information the
21 Administrator may request, for inclusion in the
22 Governmentwide listing of all Federal real prop-
23 erty interests established and maintained under
24 section 213(c);

1 scribed in section 216 to a real property interest under
2 the agency’s jurisdiction, custody, and control if—

3 “(1) the head of the agency has determined
4 that such real property interest is not excess prop-
5 erty, and includes as part of the documentation re-
6 quired under subsection (b)(3) a description of the
7 need and mission requirement fulfilled by the Fed-
8 eral property;

9 “(2) the real property interest is used to fulfill
10 or support a continuing mission requirement of the
11 agency; and

12 “(3) the real property interest can, by the ap-
13 plication of the enhanced asset management tool,
14 improve the support of such mission.

15 “(b) CRITERIA FOR APPLICATION.—Before applying
16 an enhanced asset management tool defined in section 216
17 to a real property interest identified under subsection (a),
18 the head of the agency, in consultation with the Adminis-
19 trator, must determine that such application meets all of
20 the following criteria:

21 “(1) The application supports the goals and ob-
22 jectives set forth in the agency’s strategic plan under
23 section 306 of title 5, United States Code, and the
24 agency’s real property asset management plan under
25 section 214.

1 “(2) Use of the real property is economical,
2 cost effective, and in the best interests of the United
3 States.

4 “(3) The application is documented in a busi-
5 ness plan that, commensurate with the nature of the
6 selected tool—

7 “(A) analyzes all reasonable options for
8 using the property;

9 “(B) takes into account applicable provi-
10 sions of law, including otherwise applicable pro-
11 visions of the National Environmental Policy
12 Act of 1969 (42 U.S.C. 4321 et seq.); and

13 “(C) evidences compliance with the re-
14 quirements of the McKinney-Vento Homeless
15 Assistance Act (42 U.S.C. 11301 et seq.), in-
16 cluding by—

17 “(i) describing the result of the deter-
18 mination under that Act by the Secretary
19 of Housing and Urban Development of the
20 suitability of the property for use to assist
21 the homeless; and

22 “(ii) explaining the rationale for the
23 landholding agency’s decision not to make
24 the property available for use to assist the
25 homeless.

1 **“SEC. 216. ENHANCED ASSET MANAGEMENT TOOLS.**

2 “(a) INTERAGENCY TRANSFERS OR EXCHANGES.—

3 The head of any landholding agency may acquire replace-
4 ment real property by transfer or exchange of real prop-
5 erty subject to this Act with other Federal agencies under
6 terms mutually agreeable to the heads of the agencies in-
7 volved.

8 “(b) SALES TO OR EXCHANGES WITH NON-FEDERAL
9 SOURCES.—The head of a landholding agency may ac-
10 quire replacement real property by selling or exchanging
11 a real property asset or interests therein with any non-
12 Federal source: *Provided*, That—

13 “(1) the transaction does not conflict with other
14 applicable laws governing the acquisition of interests
15 in real property by Federal agencies;

16 “(2) following consultation with the Adminis-
17 trator, the agency first made the property available
18 for transfer or exchange to other Federal agencies;
19 and

20 “(3) the transaction results in the agency re-
21 ceiving fair market value, which shall be based upon
22 an appraisal. Forms of consideration may include
23 cash or cash equivalent, other property (either real
24 or personal), in-kind assets, services related to the
25 transaction, future consideration, or any combina-
26 tion thereof.

1 “(c) SUBLEASES.—(1) The head of any landholding
2 agency may, by lease, permit, license or similar instru-
3 ment, make available in accordance with this subsection
4 to any other Federal agency or to any non-Federal entity
5 the unexpired portion of any government lease for real
6 property.

7 “(2) The term of any sublease under this subsection
8 shall not exceed the unexpired portion of the term of the
9 original government lease of the property.

10 “(3) The head of a landholding agency may not sub-
11 lease property under this subsection unless the sublease
12 results in the agency receiving fair market rental value
13 for the property.

14 “(4) Before subleasing property under this subsection
15 to a private person, the head of a landholding agency, in
16 consultation with the Administrator, shall give consider-
17 ation to the needs of the following entities, with the needs
18 of entities listed in subparagraph (A) being considered be-
19 fore the needs of entities listed in subparagraph (B):

20 “(A) The needs of each of the following entities,
21 equally, shall be given first consideration by the
22 agency:

23 “(i) Federal agencies.

24 “(ii) Indian tribes (as that term is defined
25 in section 4 of the Indian Health Care Improve-

1 ment Act (25 U.S.C. 1603)), urban Indian or-
2 ganizations (as defined in that section), and
3 tribal organizations (as defined by section 4 of
4 the Indian Self-Determination and Education
5 Assistance Act (25 U.S.C. 450b)), through the
6 Secretary of the Interior and the Secretary of
7 Health and Human Services, if the property is
8 to be used for purposes in connection with an
9 Indian self-determination contract or grant pur-
10 suant to the Indian Self-Determination Act (25
11 U.S.C. 450f et seq.).

12 “(B) The needs of each of the following enti-
13 ties, equally, shall be given second consideration by
14 the agency:

15 “(i) State and local governments.

16 “(ii) Indian tribes, tribal organizations,
17 and urban Indian organizations (as defined in
18 the provisions referred to in subparagraph
19 (A)(ii)), through the Secretary of the Interior
20 and the Secretary of Health and Human Serv-
21 ices, if the property is to be used for purposes
22 other than the purposes referred to in subpara-
23 graph (A)(ii) and such use of the property is
24 authorized by law other than this subsection.

1 “(d) OUTLEASES AND PUBLIC PRIVATE PARTNER-
2 SHIPS.—(1) The head of any landholding agency may
3 make available by outlease agreements with other Federal
4 agencies and non-Federal entities any unused or
5 underused portion of or interest in any real and related
6 personal property of the landholding agency, if—

7 “(A) the agency head finds that—

8 “(i) there is no long-term mission require-
9 ment for the property, but the Federal Govern-
10 ment is not permitted to dispose of it; or

11 “(ii)(I) there is a continuing, long-term
12 mission requirement of the landholding agency
13 for the property to remain in Government own-
14 ership; and

15 “(II) the use of the real property by the
16 lessee will not be inconsistent with such mis-
17 sion; and

18 “(B) in the case of an outlease to a non-Fed-
19 eral entity, the outlease is conducted competitively.

20 If the agency head makes a finding under subparagraph
21 (A)(ii), the agency head shall include a written rationale
22 for the finding of a continuing Federal need for the prop-
23 erty in the business plan submitted under section
24 215(b)(3).

1 “(2) To reduce vacant space and realize the equity
2 value of Government-owned real property assets, provide
3 Federal agencies with modern functional work environ-
4 ments, and work cooperatively with the commercial real
5 estate community, the landholding agency may enter into
6 an agreement with a non-Federal entity. Any agreement
7 under this subsection—

8 “(A) may be to a partnership, cooperative ven-
9 ture, limited liability company, corporation, trust,
10 sole proprietorship, or other business arrangement;

11 “(B) shall be for a term no longer than 50
12 years;

13 “(C) shall result in the agency receiving fair
14 market value which, in the case of an exchange or
15 sale of Federal real property, shall be based upon an
16 appraisal. Forms of consideration may include cash
17 or cash equivalent, other property (either real or
18 personal), in-kind assets, services related to the
19 transaction, future consideration, or any combina-
20 tion thereof;

21 “(D) may provide a leaseback option to the
22 Federal Government to occupy space in any facilities
23 acquired, constructed, repaired, renovated, or reha-
24 bilitated by the nongovernmental entity: *Provided*,
25 That the agreement does not guarantee Government

1 occupancy; any subsequent agreements to leaseback
2 space in such facilities must be in accordance with
3 the competition requirements of title III;

4 “(E) shall provide—

5 “(i) that neither the United States, nor its
6 agencies or employees, shall be liable for any
7 actions, debts, or liability of the non-Federal
8 entity, and

9 “(ii) that neither the lessee nor the non-
10 Federal entity shall be authorized to execute
11 and shall not execute any instrument or docu-
12 ment creating or evidencing any indebtedness
13 unless such instrument or document specifically
14 disclaims any liability of the United States, and
15 of any Federal agency or employee thereunder,
16 in excess of the Government’s capital contribu-
17 tion in the non-Federal entity;

18 “(F) shall provide—

19 “(i) that the Government’s interest under
20 the agreement is senior to that of any lender to
21 the non-Federal entity; and

22 “(ii) that under no circumstances shall the
23 liability of the United States arising from its
24 arrangement with the non-Federal entity, or
25 from the operations of any partnership, cooper-

1 ative venture, limited liability company, cor-
2 poration, trust, or other business arrangement
3 created as the result of the agreement with the
4 non-Federal entity, exceed the amount of the
5 Federal Government’s capital contribution or
6 equity contribution to the partnership, coopera-
7 tive venture, limited liability company, corpora-
8 tion, trust, or other business arrangement; and
9 “(G) may contain such other terms and condi-
10 tions as the head of the landholding agency making
11 the property available considers necessary to protect
12 the interests of the Federal Government.

13 “(3) In making property available for use or outlease
14 under this subsection, the landholding agency shall follow
15 the order of consideration listed in subsection (c)(4).

16 “(4) Before a landholding agency executes any agree-
17 ment authorized under subsection (d) that would result
18 in the development or substantial rehabilitation or renova-
19 tion of Federal assets under a business arrangement with
20 a non-Federal entity, the head of such agency shall under-
21 take an analysis of the proposed arrangement or trans-
22 action to determine the business and legal risks and bene-
23 fits to the Federal Government that would likely result
24 from the proposed arrangement or transaction.

1 “(5)(A) For the sole purpose of scoring leaseback
2 agreements for purposes of the Federal budget, if the non-
3 Federal entity shall exercise management control of the
4 business of the public-private entity referenced under in
5 subsection (d)(2)(A) and holds a majority interest in own-
6 ership in the public-private venture, then the project shall
7 not be considered to be constructed on Government-owned
8 land.

9 “(B) All leaseback agreements must meet the re-
10 quirements of an operating lease as specified in relevant
11 Office of Management and Budget circulars.

12 “(6) If, during the term of an outlease involving the
13 development or substantial rehabilitation or renovation of
14 a Federal asset in a business arrangement with a non-
15 Federal entity, the head of the landholding agency deter-
16 mines that the property is no longer needed by the land-
17 holding agency, the head of the agency may initiate action
18 for the transfer to the non-Federal entity of all right, title,
19 and interest of the United States in the property by re-
20 questing the Administrator of General Services to dispose
21 of the property. A disposition under this section may be
22 made for such consideration as the head of the land-
23 holding agency and the Administrator jointly determine is
24 in the best interests of the United States and upon such

1 other terms and conditions as the head of the landholding
2 agency and the Administrator consider appropriate.

3 “(7) This subsection shall not be construed to affect
4 any other authority of any Federal agency to outlease
5 property or to otherwise make property available for any
6 reason.

7 “(8) The authority to enter into agreements under
8 subsection (b) and this subsection expires 10 years after
9 the date of enactment of this subsection.

10 “(9) The Comptroller General of the United States
11 shall submit biennial reports to the Congress, including
12 to the Committee on Government Reform of the House
13 of Representatives and the Committee on Governmental
14 Affairs of the Senate, on the effectiveness of the use of
15 authority under this subsection.

16 **“SEC. 217. FORMS OF CONSIDERATION.**

17 “Notwithstanding any other provision of law, the
18 forms of consideration received from an enhanced asset
19 management tool as described in section 216 may include
20 cash or cash equivalents, other property (either real or
21 personal), in-kind assets, services related to the trans-
22 action, future consideration, or any combination thereof.

23 **“SEC. 218. TRANSACTIONAL REPORTS.**

24 “(a) IN GENERAL.—For those transactions author-
25 ized under section 216 involving the sale, exchange, or

1 outlease to a non-Federal entity of any asset valued in
2 excess of \$700,000 at the time of the transaction, the head
3 of the landholding agency performing the transaction shall
4 submit the business plan required by subsection 215(b)(3)
5 to the Director of the Office of Management and Budget,
6 the Committee on Governmental Affairs of the Senate,
7 and the Committee on Government Reform of the House
8 of Representatives at least 30 calendar days before the
9 final execution of such transaction.

10 “(b) ADJUSTMENT OF THRESHOLD.—The Adminis-
11 trator of General Services may increase or decrease the
12 dollar amount in subsection (a) to reflect a percentage in-
13 crease or decrease in the Department of Commerce Con-
14 sumer Price Index.”.

15 (b) REPEAL.—Section 321 of the Act of June 30,
16 1932 (40 U.S.C. 303b), is repealed.

17 **SEC. 5. INCENTIVES FOR REAL AND PERSONAL PROPERTY**
18 **MANAGEMENT IMPROVEMENT.**

19 (a) TREATMENT OF PROCEEDS OF FEDERAL PROP-
20 erty DISPOSALS.—Section 204 of the Federal Property
21 and Administrative Services Act of 1949 (40 U.S.C. 485)
22 is amended as follows:

23 (1) In subsection (h)(2)—

24 (A) by striking “(b)” and inserting “(c)”,

25 and

1 (B) by striking “, to the extent provided in
2 appropriations Acts,”.

3 (2) By amending subsection (i) to read as fol-
4 lows:

5 “(i)(1) A Federal agency may retain from the pro-
6 ceeds of the sale of personal property amounts necessary
7 to recover, to the extent practicable, the full costs, direct
8 and indirect, incurred by the agencies in disposing of such
9 property, including the costs for warehousing, storage, en-
10 vironmental services, advertising, appraisal, and transpor-
11 tation of the property.

12 “(2) Such amounts shall be deposited into an account
13 that shall be available for such costs without regard to
14 fiscal year limitations. Amounts that are not needed to
15 pay such costs shall be transferred at least annually to
16 the general fund or to a specific account in the Treasury
17 as otherwise authorized by law.”.

18 (3) By redesignating subsections (c), (d), (e),
19 (f), (g), (h), and (i), as subsections (d), (e), (f), (g),
20 (h), (i), and (j), respectively.

21 (4) By striking subsections (a) and (b) and in-
22 serting the following:

23 “(a) AGENCY RETENTION OF PROCEEDS FROM REAL
24 AND PERSONAL PROPERTY.—(1) Proceeds resulting from
25 the transfer or disposition of real property and related per-

1 sonal property under this title shall be credited to the
2 fund, account (including the capital asset account under
3 subsection (b)), or appropriation of the landholding agency
4 that made the property available for transfer or disposi-
5 tion and shall be treated as provided in subsections (b)
6 and (c).

7 “(2) Proceeds from any transfer of excess personal
8 property to a Federal agency or from any sale, lease, or
9 other disposition of surplus personal property shall be
10 treated as prescribed in subsection (j) or as otherwise au-
11 thorized by law.

12 “(3) All proceeds from the transfer or disposition of
13 property under this title that are not deposited or credited
14 to a specific agency account shall be covered into the
15 Treasury as miscellaneous receipts except as provided in
16 subsections (d), (e), (f), (g), (h), (i), and (j) of this section
17 or as otherwise authorized by law.

18 “(b) MONETARY PROCEEDS TO AGENCY CAPITAL
19 ASSET ACCOUNTS.—(1) Monetary proceeds received by
20 agencies from the transfer or disposition of real and re-
21 lated personal property shall be credited to an existing ac-
22 count or an account to be established in the Treasury to
23 pay for the capital asset expenditures of the particular
24 agency making the property available. Such account shall
25 be known as the agency’s capital asset account.

1 “(2) Subject to subsection (c), any amounts credited
2 or deposited to such account under this section, along with
3 such other amounts as may be appropriated or credited
4 from time to time in annual appropriations Acts, shall be
5 devoted to the sole purpose of funding that agency’s cap-
6 ital asset expenditures, including any expenses necessary
7 and incident to the agency’s real property capital acquisi-
8 tions, improvements, and dispositions, and such funds
9 shall remain available until expended, in accordance with
10 the agency’s asset management plan under section 214,
11 without further authorization: *Provided*, That—

12 “(A) moneys from an exchange or sale of real
13 property, or a portion of a real property holding,
14 under section 216(b) shall be applied only to the re-
15 placement of that property or to the rehabilitation of
16 the portion of that real property holding that re-
17 mains in Federal ownership, and

18 “(B) the head of each landholding agency shall
19 include with the materials the agency annually sub-
20 mits under section 1105 of title 31, United States
21 Code, a detailed accounting of all real property
22 transactions carried out under this title and of re-
23 cepts and disbursements from the agency’s capital
24 asset account during the previous fiscal year.

1 “(c) TRANSACTIONAL AND OTHER COSTS.—Federal
2 agencies may be reimbursed from the monetary proceeds
3 of real property dispositions under this Act or from other
4 available resources, including from the agency’s capital
5 asset account, for the full costs, direct and indirect, to the
6 agency disposing of such property, including the costs of
7 site remediation, restoration, or other environmental serv-
8 ices, relocating affected tenants and occupants, adver-
9 tising and marketing, community outreach, surveying, ap-
10 praisal, brokerage, historic preservation services, title in-
11 surance, due diligence, document notarization and record-
12 ing services, and the costs of managing leases and pro-
13 viding necessary services to the lessees.”.

14 (b) RELATIONSHIP TO OTHER LAW.—(1) Nothing in
15 this Act shall be construed to repeal or supersede any
16 other provision of Federal law directing the use of pro-
17 ceeds from specific real property transactions or directing
18 how or where a particular Federal agency is to deposit,
19 credit, or use the proceeds from the sale, exchange, or
20 other disposition of Federal property except as expressly
21 provided for in this Act.

22 (2) Section 2(a) of the Land and Water Conservation
23 Fund Act of 1965 (16 U.S.C. 4601–5(a)) is superseded
24 only to the extent that the Federal Property and Adminis-
25 trative Services Act of 1949, as amended by this Act, or

1 a provision of this Act, provides for an alternative disposi-
2 tion of the proceeds from the disposal of any surplus real
3 property and related personal property subject to this Act,
4 or the disposal of any interest therein.

5 (3) Subsection 3302(b) of title 31, United States
6 Code, is superseded only to the extent that this Act or
7 any other Act provides for the disposition of money re-
8 ceived by the Government.

9 (c) IMPLEMENTATION FOR FISCAL YEARS 2003–
10 2007.—For purposes of implementing this section, the fol-
11 lowing shall apply:

12 (1) For each of fiscal years 2003 through 2007,
13 the Director of the Office of Management and Budget
14 shall allocate to each agency a pro rata share of
15 the baseline estimate of total surplus real property
16 sales receipts transferred to the Land and Water
17 Conservation Fund as set forth in the President’s
18 budget for fiscal year 2003, made pursuant to sec-
19 tion 1109 of title 31, United States Code. The Di-
20 rector of the Office of Management and Budget
21 shall notify the affected agencies and the Appropria-
22 tion Committees of the House of Representatives
23 and the Senate in writing of this allocation within
24 30 days after the date of enactment of this Act and
25 shall not subsequently revise the allocation.

1 (2) On September 30 of each such fiscal year,
2 each agency shall remit to the Treasury an amount
3 equal to its allocation for that fiscal year, out of the
4 proceeds realized from any sales of the agency’s sur-
5 plus real property assets during that fiscal year.

6 (3) If an agency’s actual sale proceeds in any
7 such fiscal year are less than the amount allocated
8 to it by the Director of the Office of Management
9 and Budget for that fiscal year, the agency shall
10 remit all of its sale proceeds to the Treasury, and
11 its allocation for the subsequent fiscal year shall be
12 increased by the difference.

13 (4) On September 30, 2007, if an agency has
14 remitted less sale proceeds to the Treasury than its
15 total allocation for the five years, the agency shall
16 remit the difference to the Treasury out of any other
17 funds available to the agency.

18 **SEC. 6. STREAMLINED AND ENHANCED DISPOSAL AU-**
19 **THORITIES.**

20 (a) **PUBLIC BENEFIT CONVEYANCES TO STATE AND**
21 **LOCAL GOVERNMENTS.**—Section 203(k)(3) of the Federal
22 Property and Administrative Services Act of 1949 (40
23 U.S.C. 484(k)(3)) is amended as follows:

24 (1) By striking “or municipality” and inserting
25 “municipality, or qualified nonprofit organization es-

1 established for the primary purpose of preserving his-
2 toric monuments”.

3 (2) By inserting after the first sentence the fol-
4 lowing: “Such property may be conveyed to a non-
5 profit organization only if the State, political sub-
6 division, instrumentalities thereof, and municipality
7 in which the property is located do not request con-
8 veyance of the property under this section within 30
9 days after notice to them of the proposed conveyance
10 by the Administrator to that nonprofit organiza-
11 tion.”.

12 (b) DUTIES OF SECRETARY OF INTERIOR.—Section
13 203(k)(4)(C) of the Federal Property and Administrative
14 Services Act of 1949 (40 U.S.C. 484(k)(4)(C)) is amended
15 to read as follows:

16 “(C) the Secretary of the Interior, in the
17 case of property transferred pursuant to the
18 Surplus Property Act of 1944, and pursuant to
19 this Act, to States, political subdivisions, and
20 instrumentalities thereof, and municipalities for
21 use as a public park or public recreation area,
22 and to State, political subdivisions, and instru-
23 mentalities thereof, municipalities, and non-
24 profit organizations for use as a historic monu-
25 ment, for the benefit of the public; and”.

1 (c) NEGOTIATED DISPOSALS.—Section 203(e) of the
2 Federal Property and Administrative Services Act of 1949
3 (40 U.S.C. 484(e)) is amended as follows:

4 (1) by striking paragraphs (3)(A), (3)(B),
5 (3)(C), and (3)(E);

6 (2) by redesignating paragraph (3)(D) and
7 paragraphs (3)(F) through (3)(I), as paragraphs
8 (3)(A) through (3)(E), respectively;

9 (3) by amending paragraph (3)(E) (as so reded-
10 igned) to read as follows:

11 “(E) otherwise authorized by this Act or
12 other law or, with respect to personal property,
13 the negotiated disposal is considered by the
14 agency head to be advantageous to the Govern-
15 ment.”;

16 (4) in paragraph (6) by amending so much as
17 precedes subparagraph (B) to read as follows:

18 “(6)(A) An explanatory statement shall be pre-
19 pared by the head of the landholding agency and
20 submitted to the Committee on Governmental Af-
21 fairs of the Senate and the Committee on Govern-
22 ment Reform of the House of Representatives, ex-
23 plaining the circumstances of each disposal by nego-
24 tiation of any real property that has an estimated
25 fair market value in excess of \$700,000. The dollar

1 amount in the preceding sentence may be increased
2 or decreased by the Administrator to reflect a per-
3 centage increase or decrease in the Department of
4 Commerce Consumer Price Index.”; and

5 (5) by striking paragraphs (6)(C) and (6)(D).

6 (d) CONVEYANCES FOR AIRPORT USE.—Section 203
7 of the Federal Property and Administrative Services Act
8 of 1949 is further amended by adding to the end thereof
9 the following new subsection:

10 “(s) The authority of any department, agency, or in-
11 strumentality of the executive branch or wholly owned
12 Government corporation to convey surplus real and related
13 personal property for public airport purposes under sub-
14 chapter II of title 49, United States Code, shall be subject
15 to the requirements of this Act, and any surplus real prop-
16 erty available for conveyance under that subchapter shall
17 first be made available to the Administrator for disposal
18 under this section, including conveyance for any public
19 benefit purposes, including public airport use, as the Ad-
20 ministrator, after consultation with the affected agencies,
21 considers advisable.”.

22 (e) ACQUISITION OF PERSONAL PROPERTY OR RE-
23 LATED SERVICES.—Section 201(e) of the Federal Prop-
24 erty and Administrative Services Act of 1949 (40 U.S.C.
25 481(e)) is revised to read as follows:

1 “(c) In acquiring personal property or related serv-
2 ices, or a combination thereof, any executive agency, under
3 regulations to be prescribed by the Administrator, and
4 subject to regulations prescribed by the Administrator for
5 Federal Procurement Policy pursuant to the Office of
6 Federal Procurement Policy Act (41 U.S.C. 401 et seq.),
7 may exchange or sell personal property and may apply the
8 exchange allowance or proceeds of sale in such cases in
9 whole or in part payment for similar property or related
10 services, or a combination thereof, acquired: *Provided*,
11 That any transaction carried out under the authority of
12 this subsection shall be evidenced in writing. Sales of prop-
13 erty pursuant to this subsection shall be governed by sec-
14 tion 203(e), and shall be exempt from the provisions of
15 section 3709 of the Revised Statutes (41 U.S.C. 5).”.

16 (f) ABANDONMENT, DESTRUCTION, OR OTHER DIS-
17 POSAL.—Section 202(h) of the Federal Property and Ad-
18 ministrative Services Act of 1949 (40 U.S.C. 483(h)) is
19 amended to read as follows:

20 “(h) The Administrator may authorize the abandon-
21 ment, destruction, or other disposal of property if the
22 property has no commercial value, or if the estimated cost
23 of continued care and handling of the property would ex-
24 ceed the estimated fair market value.”.

1 (g) TRANSFER OF SURPLUS PERSONAL PROPERTY
2 TO STATES.—Section 203(j) of the Federal Property and
3 Administrative Services Act of 1949 (40 U.S.C. 484(j))
4 is amended as follows:

5 (1) Paragraph (1) is amended—

6 (A) by striking “the fair and equitable dis-
7 tribution, through donation,” and inserting “do-
8 nation on a fair and equitable basis”; and

9 (B) by striking “paragraphs (2) and (3)”
10 and inserting “paragraph (2)”.

11 (2) Paragraph (2) is repealed.

12 (3) Paragraph (3) is redesignated as paragraph
13 (2), and amended as follows:

14 (A) By striking so much as precedes sub-
15 paragraph (A) and inserting the following:

16 “(2) The Administrator shall, pursuant to criteria
17 that are based on need and utilization and established
18 after such consultation with State agencies as is feasible,
19 allocate surplus personal property among the States on a
20 fair and equitable basis, taking into account the condition
21 of the property and the original acquisition cost thereof,
22 and transfer to the State agency property selected by it
23 for purposes of donation within the State—”;

24 (B) in subparagraph (A) by striking “or”
25 after the semicolon at the end;

1 (C) in subparagraph (B) by—

2 (i) striking “providers of assistance to
3 homeless individuals, providers of assist-
4 ance to families or individuals whose an-
5 nual incomes are below the poverty line (as
6 that term is defined in section 673 of the
7 Community Services Block Grant Act),”;

8 (ii) striking “schools for the mentally
9 retarded, schools for the physically handi-
10 capped” and inserting “schools for persons
11 with mental or physical disabilities”;

12 (iii) striking “and libraries” and in-
13 sserting “libraries, and educational activi-
14 ties identified by the Secretary of Defense
15 as being of special interest to the Armed
16 Services,” following the word “region,”;
17 and

18 (iv) striking the period at the end and
19 inserting “; or”; and

20 (D) by adding at the end the following:

21 “(C) to nonprofit institutions or organiza-
22 tions that are exempt from taxation under sec-
23 tion 501 of the Internal Revenue Code of 1986
24 and that have for their primary function the
25 provision of food, shelter, or other necessities to

1 homeless individuals or families or individuals
2 whose annual income is below the poverty line
3 (as that term is defined in section 673 of the
4 Community Services Block Grant Act) for use
5 in assisting the poor and homeless.”.

6 (4) Paragraphs (4) and (5) are redesignated in
7 order as paragraphs (3) and (4).

8 (h) AMENDMENTS TO MCKINNEY-VENTO HOMELESS
9 ASSISTANCE ACT.—

10 (1) AMENDMENTS.—Section 501 of the McKin-
11 ney-Vento Homeless Assistance Act, as codified at
12 section 11411 of title 42, United States Code, is
13 amended as follows:

14 (A) In the first sentence of subsection (a),
15 by inserting before the period the following: “,
16 and that have not been previously reported on
17 by an agency under this subsection”.

18 (B) In the second sentence of subsection
19 (a), by inserting after “to the Secretary” the
20 following: “, which shall not include information
21 previously reported on by the agency under this
22 subsection”.

23 (C) Each of subsections (b)(1), (c)(1)(A),
24 and (c)(2)(A), by striking “45” and inserting
25 “30”.

1 (D) In subsection (c)(1)(A)(i), by inserting
2 after “(a)” the following: “that have not been
3 previously published”.

4 (E) In subsection (c)(1)(A)(ii), by insert-
5 ing after “properties” the following: “that have
6 not been previously published”.

7 (F) By striking subsections (c)(1)(D) and
8 (c)(4).

9 (G) In subsection (c)(2)(B), by inserting at
10 the end the following: “Such efforts as are nec-
11 essary to provide for the widest possible dis-
12 semination of the information on such list shall
13 include publishing the information on an Inter-
14 net website maintained by the Secretary and
15 providing notice of the information on such list
16 to the local Continuum of Care organization for
17 homeless assistance within the jurisdiction in
18 which the property is located, or if there is no
19 such organization, then to the State.”.

20 (H) In each of subsections (d)(1) and
21 (d)(2), by striking “60” and inserting “90”.

22 (I) In subsection (d)(4), by amending so
23 much as precedes subparagraph (B) to read as
24 follows:

1 “(4)(A) Written notice of intent to apply for a prop-
2 erty published under subsection (c)(1)(A)(ii) may be filed
3 at any time after the 90-day period described in paragraph
4 (1) has expired. An application submitted pursuant to the
5 notice may be approved for disposal for use to assist the
6 homeless only if the property remains available for use to
7 assist the homeless. If the property remains available for
8 use to assist the homeless, the use to assist the homeless
9 shall be given the same priority of consideration as a pub-
10 lic health use under section 203(k) of the Federal Prop-
11 erty and Administrative Services Act of 1949 (40 U.S.C.
12 484(k)).”.

13 (J) In subsection (e)(3), by inserting the
14 following after the first sentence: “The Sec-
15 retary of Health and Human Services shall give
16 a preference to applications that contain a cer-
17 tification that their proposal is consistent with
18 the local Continuum of Care strategy for home-
19 less assistance.”.

20 (K) In subsection (f)(3)(A), by adding at
21 the end the following: “Such priority of consid-
22 eration shall apply only with respect to prop-
23 erties as to which the written notice of intent
24 to apply for a property referred to in subsection
25 (d)(2) is received by the Secretary of Health

1 and Human Services within the 90-day period
2 described in subsection (d)(1).”.

3 (L) In subsection (h) in the heading, by
4 striking “APPLICABILITY TO PROPERTY UNDER
5 BASE CLOSURE PROCESS” and inserting “EX-
6 EMPTIONS”.

7 (M) In subsection (h), by adding at the
8 end the following:

9 “(3) The provisions of this section shall not
10 apply to buildings and property that—

11 “(A) are in a secured area for national de-
12 fense purposes; or

13 “(B) are inaccessible by road and that can
14 be reached only by crossing private property.”.

15 (2) SURVEY AND AVAILABILITY OF PROPERTIES
16 IN MOST RECENT LIST.—Within 30 days of the date
17 of enactment of this section, the Secretary of Hous-
18 ing and Urban Development shall survey landholding
19 agencies to determine whether the properties in-
20 cluded in the most recent comprehensive list of prop-
21 erties published pursuant to section 501(c)(1)(A) of
22 the McKinney-Vento Homeless Assistance Act re-
23 main available for application for use to assist home-
24 less. The Secretary shall publish in the Federal Reg-
25 ister a list of all such properties. Such properties

1 shall remain available for application for use to as-
2 sist the homeless in accordance with sections 501(d)
3 and 501(e) of such Act (as amended by this sub-
4 section) as if such properties had been published
5 under section 501(c)(1)(A)(ii) of such Act.

6 **SEC. 7. MISCELLANEOUS.**

7 (a) SCOPE AND CONSTRUCTION.—The authorities
8 granted by this Act to the heads of Federal agencies for
9 the management of real and personal property and the
10 conduct of transactions involving such property, including
11 the disposition of the proceeds therefrom, shall be in addi-
12 tion to, and not in lieu of, any authorities provided in any
13 law existing on the date of enactment of this Act. Except
14 as expressly provided herein, nothing in this Act shall be
15 construed to repeal or supersede any such authorities.

16 (b) SEVERABILITY.—Although this Act is intended to
17 be integrated legislation, if any portion or provision of this
18 Act is found to be invalid or otherwise unenforceable by
19 a court of competent jurisdiction, such portion or portions
20 shall be considered independent and severable for all other
21 provisions of this Act, such invalidity shall not, by itself,
22 invalidate any other provisions of this Act, any such other
23 provisions shall have the full force and effect of law.

24 (c) NO WAIVER.—Nothing in this Act shall be con-
25 strued to limit or waive any right, remedy, immunity, or

1 jurisdiction of any Federal agency or any claim, judgment,
2 lien, or benefit due the Government of the United States.

3 (d) EFFECTIVE DATE.—This Act and the amend-
4 ments made by its provisions shall be effective upon enact-
5 ment except as otherwise specifically provided in this Act.

6 (e) REPORT OF THE COMPTROLLER GENERAL.—Not
7 later than 5 years after the date of enactment of this Act,
8 the Comptroller General of the United States shall submit
9 to the Congress a report on the use by Federal landholding
10 agencies of the authorities provided by this Act.

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