

§ 102-75.180

(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.

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§ 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

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