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General Services Administration

41 CFR Parts 101–6, et al.
Real Property Policies; Final Rule

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101–6, 101–17, 101–18, 101–19, 101–20, 101–33, 101–47, 102–71, 102–72, 102–73, 102–74, 102–75, 102–76, 102–77, 102–78, 102–79, 102–80, 102–81, 102–82

[FPMR Amendment D–97]

RIN 3090–AF95

Real Property Policies

AGENCY: Office of Government-wide Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is adding coverage on real property policies to the Federal Management Regulation (FMR). A section has been added to each affected Federal Property Management Regulations (FPMR) part to direct readers to the additional policy coverage contained in the FMR. The FMR coverage is written in plain language to provide agencies with updated regulatory material that is easy to read and understand.

EFFECTIVE DATE: January 18, 2001.

FOR FURTHER INFORMATION CONTACT: Stanley C. Langfeld, Director, Real Property Policy Division, at (202) 501–1737.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule describes the current real property policies applicable to GSA and Federal agencies to whom GSA real property authority has been delegated. The policies contained in this rule reflect the way that real property operations are currently conducted and these policies have been separated from their procedural components resulting in a more efficient and easy to understand regulation.

The policies contained in this rule were published as a proposed rule at 62 FR 42444, August 7, 1997. GSA received several comments on the proposed rule. The comments were from an individual, special interest groups, and Federal agencies. All comments were considered in the formulation of the final rule. GSA believes the final regulation is responsive to the concerns raised by all parties providing comments.

B. Executive Order 12866

The General Services Administration (GSA) has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866.

C. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for comment. Therefore, the Regulatory Flexibility Act does not apply.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose reporting, recordkeeping or information collection requirements which require the approval of the Office of Management and Budget pursuant to 44 U.S.C. 3501 *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 101–6, 101–17, 101–18, 101–19, 101–20, 101–33, 101–47 and 102–71 Through 102–82

Administrative practice and procedure, Blind, Concessions, Federal buildings and facilities, Fire prevention, Government property management, Homeless, Individuals with disabilities, Occupational safety and health, Parking, Real property acquisition, Security measures, Surplus Government property, Utilities.

For the reasons set forth in the preamble, GSA amends 41 CFR chapters 101 and 102 as follows:

CHAPTER 101—[AMENDED]

PART 101–6—MISCELLANEOUS REGULATIONS

1. The authority citation for part 101–6 is revised to read as follows:

Authority: 31 U.S.C. 1344(e)(1); 40 U.S.C. 486(c).

2. Amend § 101–6.300 by adding paragraph (g) to read as follows:

§ 101–6.300 Federal facility ridesharing general policy.

* * * * *

(g) For more information on Federal facility ridesharing, see 41 CFR parts 102–71 through 102–82. To the extent that any policy statements in this subpart are inconsistent with the policy statements in 41 CFR parts 102–71 through 102–82, the policy statements in 41 CFR parts 102–71 through 102–82 are controlling.

3. Amend § 101–6.600 by designating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 101–6.600 Scope of subpart.

* * * * *

(b) For more information on fire protection (firesafety) engineering, see 41 CFR parts 102–71 through 102–82. To the extent that any policy statements in this subpart are inconsistent with the policy statements in 41 CFR parts 102–71 through 102–82, the policy statements in 41 CFR parts 102–71 through 102–82 are controlling.

4. Part 101–17 is revised to read as follows:

PART 101–17—ASSIGNMENT AND UTILIZATION OF SPACE

Authority: 40 U.S.C. 285, 304c, 601 *et seq.*, 490 note; E.O. 12072, 43 FR 36869, 3 CFR, 1978 Comp., p. 213.

§ 101–17.0 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For information on assignment and utilization of space, see FMR part 102–79 (41 CFR part 102–79).

PART 101–18—ACQUISITION OF REAL PROPERTY

5. The authority citation for part 101–18 is revised to read as follows:

Authority: Sec. 1–201(b), E.O. 12072, 43 FR 36869, 3 CFR, 1978 Comp., p. 213.

6. Amend § 101–18.000 by designating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 101–18.000 Scope of part.

* * * * *

(b) For more information on the acquisition of real property, see 41 CFR parts 102–71 through 102–82. To the extent that any policy statements in this part are inconsistent with the policy statements in 41 CFR parts 102–71 through 102–82, the policy statements in 41 CFR parts 102–71 through 102–82 are controlling.

PART 101–19—CONSTRUCTION AND ALTERATION OF PUBLIC BUILDINGS

7. The authority citation for part 101–19 is revised to read as follows:

Authority: 40 U.S.C. 486(c), 490 and 601–619; 86 Stat. 216.

8. Amend § 101–19.000 by designating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 101–19.000 Scope of part

* * * * *

(b) For more information on the construction and alteration of public buildings, see 41 CFR parts 102–71 through 102–82. To the extent that any policy statements in this part are

inconsistent with the policy statements in 41 CFR parts 102–71 through 102–82, the policy statements in 41 CFR parts 102–71 through 102–82 are controlling.

PART 101–20—MANAGEMENT OF BUILDINGS AND GROUNDS

9. The authority citation for part 101–20 is revised to read as follows:

Authority: 40 U.S.C. 486(c).

10. Amend § 101–20.000 by designating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 101–20.000 Scope of part.

* * * * *

(b) For more information on the management of buildings and grounds, see 41 CFR parts 102–71 through 102–82. To the extent that any policy statements in this part are inconsistent with the policy statements in 41 CFR parts 102–71 through 102–82, the policy statements in 41 CFR parts 102–71 through 102–82 are controlling.

11. The Appendix to Subchapter D is amended by adding § 101–17.000 to interim rule D–1 to read as follows:

Appendix to Subchapter D—Temporary Regulations

* * * * *

Federal Property Management Regulations; Interim Rule D–1

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§ 101–17.000 Scope of part.

For more information on location of space, see 41 CFR parts 102–71 through 102–82. To the extent that any policy statements in this part are inconsistent with the policy statement in 41 CFR parts 102–71 through 102–82, the policy statements in 41 CFR parts 102–71 through 102–82 are controlling.

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PART 101–33—PUBLIC UTILITIES

12. The authority citation for part 101–33 is revised to read as follows:

Authority: 40 U.S.C. 486(c).

13. Amend § 101–33.000 by designating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 101–33.000 Scope of part.

* * * * *

(b) For more information on the management of public utility services, see 41 CFR parts 102–71 through 102–82. To the extent that any policy statements in this part are inconsistent with the policy statements in 41 CFR parts 102–71 through 102–82, the policy statements in 41 CFR parts 102–71 through 102–82 are controlling.

PART 101–47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

14. The authority for part 101–47 is revised to read as follows:

Authority: 40 U.S.C. 486(c).

15. Amend § 101–47.000 by designating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 101–47.000 Scope of part.

* * * * *

(b) For more information on the utilization and disposal of real property, see 41 CFR parts 102–71 through 102–82. To the extent that any policy statements in this part are inconsistent with the policy statements in 41 CFR parts 102–71 through 102–82, the policy statements in 41 CFR parts 102–71 through 102–82 are controlling.

CHAPTER 102—[AMENDED]

16. Parts 102–71 through 102–82 are added to subchapter C to read as follows:

PART 102–71—GENERAL

Sec.

102–71.5 What are the scope and philosophy of the General Services Administration's (GSA) real property policies?
102–71.10 How are these policies organized?
102–71.15 What happens if the policy statements in this part and parts 102–72 through 102–82 of this chapter conflict with policy statements in 41 CFR parts 101–6, 101–17 through 101–20, 101–33, and 101–47?
102–71.20 What definitions apply to GSA's real property policies?
102–71.25 Who must comply with GSA's real property policies?
102–71.30 How must these real property policies be implemented?
102–71.35 Are agencies allowed to deviate from GSA's real property policies?

Authority: 40 U.S.C. 486(c).

§ 102–71.5 What are the scope and philosophy of the General Services Administration's (GSA) real property policies?

GSA's real property policies contained in this part and parts 102–72 through 102–82 of this chapter apply to Federal agencies, including the GSA/Public Buildings Service (PBS), operating under, or subject to, the authorities of the Administrator of General Services. These policies cover the acquisition, management, and utilization and disposal of real property by Federal agencies that initiate and have decisionmaking authority over actions for real property services. The detailed guidance implementing these policies is contained in separate customer service guides.

§ 102–71.10 How are these policies organized?

GSA has divided its real property policies into the following functional areas:

(a) Delegation of authority;
(b) Real estate acquisition;
(c) Facility management;
(d) Real property disposal;
(e) Design and construction;
(f) Art-in-architecture;
(g) Historic preservation;
(h) Assignment and utilization of space;
(i) Safety and environmental management;
(j) Security; and
(k) Utility services.

§ 102–71.15 What happens if the policy statements in this part and parts 102–72 through 102–82 of this chapter conflict with policy statements in 41 CFR parts 101–6, 101–17 through 101–20, 101–33, and 101–47?

The policies in this part and parts 102–72 through 102–82 of this chapter apply to 41 CFR parts 101–17 through 101–20, 101–33, and 101–47. To the extent that any policy statements elsewhere in 41 CFR parts 101–17 through 101–20, 101–33, and 101–47 are inconsistent with the policy statements in this part and parts 102–72 through 102–82 of this chapter, the policy statements in this chapter are controlling.

§ 102–71.20 What definitions apply to GSA's real property policies?

The following definitions apply to GSA's real property policies:

Executive agency means any Executive department or independent establishment in the Executive branch of the Government, including any wholly owned Government corporation.

Federal agency means any Executive agency or any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his or her direction).

Federal Government real property services provider means any Federal Government entity operating under, or subject to, the authorities of the Administrator of General Services, that provides real property services to Federal agencies. This definition also includes private sector firms under contract with Federal agencies that

deliver real property services to Federal agencies. This definition excludes any entity operating under, or subject to, authorities other than those of the Administrator of General Services.

Public building means:

(1) Any building which is suitable for office and/or storage space for the use of one or more Federal agencies or mixed ownership corporations, such as Federal office buildings, post offices, customhouses, courthouses, border inspection facilities, warehouses, and any such building designated by the President. It also includes buildings of this sort that are acquired by the Federal Government under the Administrator's installment-purchase, lease-purchase, and purchase-contract authorities.

(2) *Public building* does not include buildings:

(i) On the public domain.

(ii) In foreign countries.

(iii) On Indian and native Eskimo properties held in trust by the United States.

(iv) On lands used in connection with Federal programs for agricultural, recreational, and conservation purposes.

(v) On or used in connection with river, harbor, flood control, reclamation or power projects, or for chemical manufacturing or development projects, or for nuclear production, research, or development projects.

(vi) On or used in connection with housing and residential projects.

(vii) On military installations.

(viii) On Department of Veteran's Affairs' installations used for hospital or domiciliary purposes.

(ix) Excluded by the President.

§ 102–71.25 Who must comply with GSA's real property policies?

Federal agencies operating under, or subject to, the authorities of the Administrator of General Services must comply with these policies.

§ 102–71.30 How must these real property policies be implemented?

Each Federal Government real property services provider must provide services that are in accord with the policies presented in parts 102–71 through 102–82 of this chapter. Also, Federal agencies must make the provisions of any contract with private sector real property services providers conform to the policies in parts 102–71 through 102–82 of this chapter.

§ 102–71.35 Are agencies allowed to deviate from GSA's real property policies?

Yes, see § § 102–2.60 through 102–2.110 of this chapter to request a deviation from the requirements of these real property policies.

PART 102–72—DELEGATION OF AUTHORITY

Sec.

102–72.5 What is the scope of this part?
102–72.10 What basic policy governs delegation of authority to Federal agencies?
102–72.15 What criteria must a delegation meet?
102–72.20 Are there limitations on this delegation of authority?
102–72.25 What are the different types of delegations of authority?
102–72.30 What are the different types delegations related to real estate leasing?
102–72.35 What are the requirements for obtaining an ACO delegation from GSA?
102–72.40 What are facility management delegations?
102–72.45 What are the different types of facility management delegations?
102–72.50 What are Executive agencies' responsibilities under a delegation of real property management and operation authority from GSA?
102–72.55 What are the requirements for obtaining a delegation of real property management and operation authority from GSA?
102–72.60 What are Executive agencies' responsibilities under a delegation of individual repair and alteration project authority from GSA?
102–72.65 What are the requirements for obtaining a delegation of individual repair and alteration project authority from GSA?
102–72.70 What are Executive agencies' responsibilities under a delegation of lease management authority (contracting officer representative authority) from GSA?
102–72.75 What are the requirements for obtaining a delegation of lease management authority (contracting officer representative authority) from GSA?
102–72.80 What are Executive agencies' responsibilities under a disposal of real property delegation of authority from GSA?
102–72.85 What are the requirements for obtaining a disposal of real property delegation of authority from GSA?
102–72.90 What are Executive agencies' responsibilities under a security delegation of authority from GSA?
102–72.95 What are the requirements for obtaining a security delegation of authority from GSA?
102–72.100 What are Executive agencies' responsibilities under a utility service delegation of authority from GSA?
102–72.105 What are the requirements for obtaining a utility services delegation of authority from GSA?

Authority: 40 U.S.C. 486(c), (d) and (e).

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

The real property policies contained in this part apply to Federal agencies, including the GSA/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.

§ 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, Agency special purpose space delegations, and delegations to specific agencies for certain space and lands outside urban areas (see § 101–18.104 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 general purpose space for terms of up to 20 years 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 Administrative Contracting Officer (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 don't change the lease term length or the amount of space under lease.

§ 102–72.35 What are the requirements for obtaining an ACO delegation from GSA?

When Federal agencies don't exercise the delegation of authority for general purpose space mentioned in § 102–72.30(b), 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, under § 101–20.106 of this title.

§ 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.

§ 102–72.70 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 101–47, subpart 101–47.6, of this title.

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

With a security delegation, Executive agencies have the authority and responsibility to protect persons and property at the locations identified in the delegation document.

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

Executive agencies may be delegated security authority when any of the following conditions exist:

(a) A clear and unique security requirement;

(b) A critical national security issue;

(c) An intelligence or law enforcement mission; or

(d) The current security contractor is ineffective.

§ 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

Sec.
102–73.5 What is the scope of this part?
102–73.10 What is the basic real estate acquisition policy?
102–73.15 What real estate acquisition and related services must Federal agencies provide?
102–73.20 When may Federal agencies consider leases of privately owned land and buildings to satisfy their space needs?
102–73.25 Are Federal agencies required to give priority consideration to space in buildings under the custody and control of the United States Postal Service in fulfilling Federal agency space needs?
102–73.30 On what basis must Federal agencies acquire leases?
102–73.35 Are Executive agencies required to acquire leased space by negotiation?
102–73.40 Is the CICA applicable to lease acquisition?
102–73.45 What policy must Executive agencies comply with in locating Federal facilities?
102–73.50 What historic preservation provisions must Federal agencies comply with when acquiring space by lease?
102–73.55 With whom may Federal agencies enter into lease agreements?
102–73.60 Are there any limitations on leasing certain space?
102–73.65 When may Federal agencies consider acquiring leases with purchase options?
102–73.70 What scoring rules must Federal agencies follow when considering leases and leases with purchase options?
102–73.75 When may Federal agencies consider purchase of buildings?
102–73.80 What factors must Executive agencies consider when purchasing sites?
102–73.85 What land acquisition policy must Federal agencies follow?
102–73.90 What relocation assistance policy must Federal agencies follow?
102–73.95 Is a prospectus required for all acquisition, construction or alteration projects?
102–73.100 What happens if the project exceeds the prospectus threshold?

Authority: 40 U.S.C. 486(c); Sec. 3(c), Reorganization Plan No. 18 of 1950 (40 U.S.C. 490 note); Sec. 1–201(b), E.O. 12072, 43 FR 36869, 3 CFR, 1978 Comp., p. 213.

§ 102–73.5 What is the scope of this part?

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

§ 102–73.10 What is the basic real estate acquisition policy?

If suitable Government-controlled space is unavailable, Executive agencies must acquire real estate and related services in an efficient and cost effective manner.

§ 102–73.15 What real estate acquisition and related services must Federal agencies provide?

Federal agencies, upon approval from GSA, may provide real estate and related services, including leases (with and without purchase options), building purchase, purchase of sites, condemnation, and relocation assistance.

§ 102–73.20 When may Federal agencies consider leases of privately owned land and buildings to satisfy their space needs?

Federal agencies may consider leases of privately owned land and buildings only when needs cannot be satisfactorily met in Government-controlled space and one or more of the following conditions exist:

(a) Leasing is more advantageous to the Government than constructing a new building, or more advantageous than altering an existing Federal building;

(b) New construction or alteration is unwarranted because demand for space in the community is insufficient, or is indefinite in scope or duration; or

(c) Federal agencies cannot provide for the completion of a new building within a reasonable time.

§ 102–73.25 Are Federal agencies required to give priority consideration to space in buildings under the custody and control of the United States Postal Service in fulfilling Federal agency space needs?

Yes, after considering the availability of GSA-controlled space, Federal agencies must extend priority consideration to available space in buildings under the custody and control of the United States Postal Service (USPS) in fulfilling Federal agency space needs.

§ 102–73.30 On what basis must Federal agencies acquire leases?

Federal agencies must acquire leases on the most favorable basis to the Federal Government, with due consideration to maintenance and operational efficiency, and at charges consistent with prevailing market rates for comparable facilities in the community.

§ 102–73.35 Are Executive agencies required to acquire leased space by negotiation?

Yes, Executive agencies must acquire leased space by negotiation, except where the sealed bid procedure is required by the Competition in Contracting Act of 1984 (CICA), as amended (41 U.S.C. 253(a)). See also 40 U.S.C. 618(b) with respect to the use of competitive procedures for the acquisition of leaseholds in buildings constructed for Federal Government use.

§ 102–73.40 Is the CICA applicable to lease acquisition?

Yes, Executive agencies must obtain full and open competition among suitable locations meeting minimum Government requirements, except as otherwise provided by CICA.

§ 102–73.45 What policy must Executive agencies comply with in locating Federal facilities?

When acquiring space by lease, Executive agencies must comply with the location policies in § 101–17.205 and § 102–79.90 (E.O. 13006 (61 FR 26071, 3 CFR, 1996 Comp., p. 195)) of this title.

§ 102–73.50 What historic preservation provisions must Federal agencies comply with when acquiring space by lease?

When acquiring space by lease, Federal agencies must comply with the provisions of section 110(a) of the National Historic Preservation Act of 1966, as amended, (16 U.S.C. 470h–2(a)), regarding the use of historic properties.

§ 102–73.55 With whom may Federal agencies enter into lease agreements?

Federal agencies, upon approval from GSA, may enter into lease agreements with any person, copartnership, corporation, or other public or private entity, which do not bind the Government for periods in excess of twenty years (40 U.S.C. 490(h)(1)). This policy does not include persons who might otherwise be barred from contracting with the Federal Government (*e.g.,* debarred or suspended contractors or Members of Congress).

§ 102–73.60 Are there any limitations on leasing certain space?

Yes, the limitations on leasing certain space are as follows:

(a) In general, Federal agencies may not lease any space to accommodate computer and telecommunications operations; secure or sensitive activities related to the national defense or security; or a permanent courtroom, judicial chamber, or administrative office for any United States court, if the average annual net rental cost of leasing such space would exceed the prospectus threshold (40 U.S.C. 606(e)).

(b) Federal agencies may lease such space only if the Administrator of General Services first determines that leasing such space is necessary to meet

requirements which cannot be met in public buildings and submits such reasons to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives in accordance with 40 U.S.C. 606(e).

§ 102–73.65 When may Federal agencies consider acquiring leases with purchase options?

Agencies may consider leasing with a purchase option at or below fair market value when one or more of the following conditions exist:

(a) The purchase option offers economic and other advantages to the Government and is consistent with the Government's goals;

(b) The Government is the sole or major tenant of the building, and has a long-term need for the property; or

(c) Leasing with a purchase option is otherwise in the best interest of the Government.

§ 102–73.70 What scoring rules must Federal agencies follow when considering leases and leases with purchase options?

All Federal agencies must follow the budget scorekeeping rules for leases, capital leases, and lease-purchases identified in appendices A and B of OMB Circular A–11 (For availability, see 5 CFR 1310.3).

§ 102–73.75 When may Federal agencies consider purchase of buildings?

Agencies may consider purchase of buildings on a case-by-case basis when one or more of the following conditions exist:

(a) It is economically more beneficial to own and manage the property;

(b) There is a long-term need for the property;

(c) The property is an existing building, or a building nearing completion, that can be purchased and occupied within a reasonable time; or

(d) When otherwise in the best interests of the Government.

§ 102–73.80 What factors must Executive agencies consider when purchasing sites?

Agencies must locate proposed Federal buildings on sites that are most advantageous to the United States. Executive agencies must consider factors such as whether the site will contribute to economy and efficiency in the construction, maintenance and operation of the individual building, and how the proposed site relates to the Government's total space needs in the community. Prior to acquiring, constructing or leasing buildings (or sites for such buildings), Federal agencies must use, to the maximum extent feasible, historic properties available to the agency. In site selections, Executive agencies must consider Executive Orders 12072 (3 CFR, 1978 Comp., p. 213) and 13006 (40 U.S.C. 601a note). In addition, Executive agencies must consider all of the following:

(a) Maximum utilization of Government-owned land (including excess land) whenever it is adequate, economically adaptable to requirements and properly located, where such use is consistent with the provisions of part 101–47, subpart 101–47.8, of this title.

(b) A site adjacent to or in the proximity of an existing Federal building which is well located and is to be retained for long-term occupancy.

(c) The environmental condition of proposed sites prior to purchase: The sites must be free from contamination, unless it is otherwise determined to be in the best interests of the Government to purchase a contaminated site (*e.g.,* reuse of a site under an established ''Brownsfields'' program).

(d) Purchase options to secure the future availability of a site.

(e) All applicable policies concerning the location of Federal facilities (*e.g.,* to give first priority to locating facilities in rural areas under the Rural Development Act (7 U.S.C. 2204b–1)).

§ 102–73.85 What land acquisition policy must Federal agencies follow?

Federal agencies must follow a land acquisition policy that:

(a) Encourages and expedites the acquisition of real property by agreements with owners;

(b) Avoids litigation, including condemnation actions, where possible and relieves congestion in the courts;

(c) Provides for consistent treatment of owners; and

(d) Promotes public confidence in Federal land acquisition practices.

§ 102–73.90 What relocation assistance policy must Federal agencies follow?

Federal agencies, upon approval from GSA, must provide appropriate relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4651–4655) to eligible owners and tenants of property purchased for use by Federal agencies. Appropriate relocation assistance means that the Federal agency must pay the displaced person for actual reasonable moving expenses (in moving himself, his family, business, etc.); actual direct losses of tangible personal property as a result of moving or discontinuing a business; actual reasonable expenses in searching for a replacement business or farm; and actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, but not to exceed $10,000. The implementing regulations are found in 49 CFR part 24 (see § 105–51.000 of this title).

§ 102–73.95 Is a prospectus required for all acquisition, construction or alteration projects?

(a) No, a prospectus is not required if the dollar value of a project does not exceed the prospectus threshold. The Public Buildings Act of 1959, as amended, 40 U.S.C. 601–619, establishes a prospectus threshold, applicable to Federal agencies operating under, or subject to, the authorities of the Administrator of General Services, for the construction, alteration, purchase, and acquisition of any building to be used as a public building, and establishes a prospectus threshold to lease any space for use for public purposes. (Because of the important role the prospectus approval process plays in the budget preparation and planning process and with Congressional oversight responsibilities, Federal agencies must continue to prepare and submit prospectuses for all projects that exceed the prospectus threshold identified in § 102–73.55. All GSA delegations of leasing, alteration, and construction authority are subject to this policy.)

(b) Public Law 104–66, 109 Stat. 734, eliminated the prospectus submission requirement of the Public Buildings Act of 1959 (40 U.S.C. 606(a) and 610(b)).

§ 102–73.100 What happens if the project exceeds the prospectus threshold?

Such projects require approval by the Senate and the House of Representatives if the dollar value exceeds the prospectus threshold. In order to obtain this approval, prospectuses for such projects must be submitted to GSA and the Administrator of General Services will transmit the proposed prospectuses to Congress for consideration by the Senate and the House of Representatives.

PART 102–74—FACILITY MANAGEMENT

Sec.

102–74.5 What is the scope of this part?
102–74.10 What is the basic facility management policy?
102–74.15 What are occupancy services?
102–74.20 What responsibilities do Executive agencies have regarding occupancy services?
102–74.25 What standard in providing occupancy services must Executive agencies follow?

102–74.30 What building services must Executive agencies provide?
102–74.35 What are concessions services?
102–74.40 When must Federal agencies provide concessions services?
102–74.45 Are Federal agencies required to give blind vendors priority in operating vending facilities?
102–74.50 What are conservation programs?
102–74.55 What are asset services?
102–74.60 What asset services must an Executive agency provide?
102–74.65 What standard in providing asset services must Executive agencies follow?
102–74.70 What Federal facility ridesharing policy must Executive agencies follow?
102–74.75 What steps must Executive agencies take to promote ridesharing at Federal facilities?
102–74.80 What specific ridesharing information must Executive agencies report to the Administrator of General Services?
102–74.85 Where should Executive agencies send their Federal Facility Ridesharing Reports?
102–74.90 Are there any exceptions to these ridesharing reporting requirements?

Authority: 40 U.S.C. 486(c); E.O. 12191, 45 FR 7997, 3 CFR, 1980 Comp., p 138.

§ 102–74.5 What is the scope of this part?

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

§ 102–74.10 What is the basic facility management policy?

Executive agencies must manage, operate, and maintain Government-owned and leased buildings in a manner that provides for quality space and services consistent with their operational needs and that accomplish overall Government objectives. The management, operation, and maintenance of buildings and building systems must:

(a) Be cost effective and energy efficient;

(b) Be adequate to meet the agencies' missions;

(c) Meet nationally recognized standards; and

(d) Be at an appropriate level to maintain and preserve the physical plant assets, consistent with available funding.

§ 102–74.15 What are occupancy services?

Occupancy services are:

(a) Building services (see § 102–74.30);

(b) Concession services; and

(c) Conservation programs.

§ 102–74.20 What responsibilities do Executive agencies have regarding occupancy services?

Executive agencies, upon approval from GSA, must manage, administer, and enforce the requirements of agreements (such as Memoranda of Understanding, etc.) and contracts that provide for the delivery of occupancy services.

§ 102–74.25 What standard in providing occupancy services must Executive agencies follow?

Executive agencies must provide occupancy services that substantially conform to nationally recognized standards. As needed, Executive agencies may adopt other standards for buildings and services in Federally-controlled facilities in order to conform to statutory requirements and to implement cost-reduction efforts.

§ 102–74.30 What building services must Executive agencies provide?

Executive agencies, upon approval from GSA, must provide:

(a) Building services such as custodial, solid waste management (including recycling), heating and cooling, landscaping and grounds maintenance, tenant alterations, minor repairs, building maintenance, integrated pest management, signage, parking, and snow removal, at appropriate levels to support Federal agency missions; and

(b) Arrangements for raising and lowering the United States flags at appropriate times. In addition, agencies must display P.O.W. and M.I.A. flags at locations specified in 36 U.S.C. 189a on P.O.W./M.I.A. flag display days.

§ 102–74.35 What are concessions services?

Concessions services are services such as dry cleaners, gift shops, vending facilities (onsite preparation facilities, prepackaged facilities, sundry facilities, and vending machines), cafeterias, employee health units, and public pay telephones.

§ 102–74.40 When must Federal agencies provide concessions services?

Federal agencies, upon approval from GSA, must provide concessions services where building population supports such services and when the availability of existing commercial services is insufficient to meet Federal agency needs. See the Randolph-Sheppard Act, as amended, 20 U.S.C. 107 *et seq.,* and part 101–20, subpart 101–20.2, of this title.

§ 102–74.45 Are Federal agencies required to give blind vendors priority in operating vending facilities?

With certain exceptions, the Randolph-Sheppard Act requires that blind persons licensed under the provisions of the Act be authorized to operate vending facilities on any Federal property, including leased buildings. The Act imposes a positive obligation on Federal agencies to have suitable sites for vending facilities in buildings that they acquire.

§ 102–74.50 What are conservation programs?

Conservation programs are programs that improve energy and water efficiency and promote the use of solar and other renewable energy. These programs must promote and maintain an effective source reduction activity (reducing consumption of resources such as energy, water and paper), resource recovery activity (obtaining materials from the waste stream that can be recycled into new products), and reuse activity (reusing same product before disposition, such as reusing unneeded memos for scratch paper).

§ 102–74.55 What are asset services?

Asset services include repairs (as opposed to those minor repairs identified in § 102–74.30(a)), alterations, and modernizations for real property assets. Typically, these are the type of repairs and alterations necessary to preserve or enhance the value of the real property asset.

§ 102–74.60 What asset services must Executive agencies provide?

Executive agencies, upon approval from GSA, must provide asset services such as repairs (in addition to those minor repairs identified in § 102–74.30(a)), alterations, and modernizations for real property assets. Federal agencies must follow the prospectus submission and approval policy identified in § § 102–73.95 and 102–73.100.

§ 102–74.65 What standard in providing asset services must Executive agencies follow?

Executive agencies must provide asset services that maintain continuity of Government operations, continue efficient building operations, extend the useful life of buildings and related building systems, and provide a quality workplace environment that enhances employee productivity.

§ 102–74.70 What Federal facility ridesharing policy must Executive agencies follow?

Executive agencies must actively promote the use of ridesharing

(carpools, vanpools, privately leased buses, public transportation, and other multi-occupancy modes of travel) by personnel working at Federal facilities to conserve energy, reduce congestion, improve air quality, and provide an economical way for Federal employees to commute to work.

§ 102–74.75 What steps must Executive agencies take to promote ridesharing at Federal facilities?

Agencies must:

(a) Establish an annual ridesharing goal for each facility.

(b) Report to the Administrator of General Services by June 1 of each year the goals established, the means developed to achieve those goals, and the progress achieved.

(c) Cooperate with State and local ridesharing agencies where such agencies exist.

§ 102–74.80 What specific ridesharing information must Executive agencies report to the Administrator of General Services?

The head of each agency must submit to GSA by June 1 of each year a report which includes all of the following:

(a) The name, address, title, and telephone number of the agencywide Employee Transportation Coordinator (ETC).

(b) A narrative on actions taken and barriers encountered in promoting ridesharing within the agency.

(c) Information on any noticeable facility achievements.

(d) A copy of instructions issued to the agency's facility ETC's for implementing the Federal Facility Ridesharing Program.

§ 102–74.85 Where should Executive agencies send their Federal Facility Ridesharing Reports?

Agencies must send their Federal Facility Ridesharing Reports to the Real Property Policy Division (MPR), General Services Administration, 1800 F Street, NW., Washington, DC 20405.

§ 102–74.90 Are there any exceptions to these ridesharing reporting requirements?

Yes, facilities with less than 100 full-time employees or less than 100 full-time employees on the largest shift are not required to submit an annual report. Agencies must not subdivide buildings, groups of buildings, or worksites for the purpose of meeting the exception standards.

PART 102–75—REAL PROPERTY DISPOSAL

Sec.

102–75.5 What is the scope of this part?
102–75.10 What basic real property disposal policy governs Executive agencies?
102–75.15 What real property disposal services must Executive agencies provide?
102–75.20 What are Executive agencies' responsibilities concerning the utilization of excess property?
102–75.25 What are Executive agencies' responsibilities concerning real property surveys?
102–75.30 When may landholding Federal agencies grant rights for non-Federal interim use of excess property reported to GSA?
102–75.35 What are Executive agencies' responsibilities concerning the disposal of surplus property?
102–75.40 When may Executive agencies dispose of surplus real property by exchange for privately owned property?
102–75.45 When may Executive agencies outlease surplus real property for non-Federal interim use?
102–75.50 What are Federal agencies' reporting responsibilities under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411)?
102–75.55 What are Executive agencies' responsibilities concerning public benefit conveyances?
102–75.60 When may Executive agencies conduct negotiated sales?
102–75.65 What are Executive agencies' responsibilities concerning negotiated sales?
102–75.70 What can Executive agencies do to eliminate the potential for windfall profits to public agencies in negotiated sales?
102–75.75 What is a negotiated sale for economic development purposes?
102–75.80 What are Executive agencies' responsibilities concerning public sales?
102–75.85 How can Federal agencies obtain related disposal services?
102–75.90 What type of appraisal value must be obtained for real property disposal transactions?
102–75.95 Are appraisals required for all real property disposal transactions?
102–75.100 Who must appraise the real property?

Authority: 40 U.S.C. 486(c), 483(a), and 484; E.O. 12512, 50 FR 18453, 3 CFR, 1985 Comp., p. 340.

§ 102–75.5 What is the scope of this part?

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

§ 102–75.10 What basic real property disposal policy governs Executive agencies?

Executive agencies must provide, in a timely, efficient, and cost effective manner, the full range of real estate services necessary to support their real property utilization and disposal needs. Landholding agencies must make surveys of real property under their jurisdiction to identify property that is unutilized, underutilized, or not being put to optimum use. Executive agencies must have adequate procedures in place to promote the effective utilization and disposal of such real property.

§ 102–75.15 What real property disposal services must Executive agencies provide?

Executive agencies must provide real property disposal services for real property assets under their custody and control. These real property disposal services include utilization of excess property, surveys, disposal of surplus property, public benefit conveyances, negotiated sales, public sales, related disposal services, and appraisals.

§ 102–75.20 What are Executive agencies' responsibilities concerning the utilization of excess property?

Executive agencies' responsibilities concerning the utilization of excess property are to:

(a) Increase the identification and reporting of their excess real property;

(b) Achieve maximum use of their excess real property, in terms of economy and efficiency, to minimize expenditures for the purchase of real property;

(c) Provide for the transfer of excess real property among Federal agencies, to mixed-ownership Government corporations, and to the municipal government of the District of Columbia; and

(d) Obtain assistance from GSA in resolving conflicting requests for transferring real property that the involved agencies cannot resolve.

§ 102–75.25 What are Executive agencies' responsibilities concerning real property surveys?

A landholding agency's responsibilities concerning real property surveys are to:

(a) Survey real property under its control (*i.e.,* that property reported on its financial statements) at least annually to identify property that is not needed, underutilized, or not being put to optimum use. When other needs for the property are identified or recognized, the agency must determine whether continuation of the current use or another use would better serve the public interest, considering both the Federal agency's needs and the property's location. In conducting annual reviews of their property holdings, § 101–47.801(b) of this title and other applicable GSA regulations provide guidelines for Executive agencies to consider in identifying unneeded Federal real property;

(b) Maintain its inventory of real property at the absolute minimum

consistent with economical and efficient conduct of the affairs of the agency; and

(c) Promptly report to GSA real property that it has determined to be excess.

§ 102–75.30 When may landholding Federal agencies grant rights for non-Federal interim use of excess property reported to GSA?

Landholding Federal agencies 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.

§ 102–75.35 What are Executive agencies' responsibilities concerning the disposal of surplus property?

Executive agencies must obtain from GSA a determination that their excess real property is not needed for Federal use and is surplus to the needs of the Federal Government. After receiving this determination, Executive agencies, upon approval from GSA, must expeditiously make the surplus property available for acquisition by State and local governmental units and nonprofit institutions (*see* § 102–75.55) or for sale by public advertising, negotiation, or other disposal action. Executive agencies 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. See § 101–47.202–2(b) of this title for the requirements for reporting excess real property. Where hazardous substance activity is identified, see § 101–47.304–14 of this title for required information that the disposal agency must incorporate into Invitation for Bids/Offers to Purchase.

§ 102–75.40 When may Executive agencies dispose of surplus real property by exchange for privately owned property?

Executive agencies may dispose of surplus real property by exchange for privately owned property only:

(a) For property management considerations such as boundary realignment or provision of access; or

(b) Where authorized by law, when the requesting 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.

§ 102–75.45 When may Executive agencies outlease surplus real property for non-Federal interim use?

Executive agencies may outlease surplus real property for non-Federal interim use, pending its disposition, when both of the following conditions exist:

(a) The lease or permit does not exceed one year and is revocable with not more than a 30-day notice by the disposal agency; and

(b) The use and occupancy will not interfere with, delay, or impede the disposal of the property.

§ 102–75.50 What are Federal agencies' reporting responsibilities under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411)?

By December 31 of each year, each landholding agency responsible for reporting must notify the Department of Housing and Urban Development (HUD) regarding the current availability status and classification of each property controlled by the agency that:

(a) Was included in a list of suitable properties published that year by HUD; and

(b) Remains available for application for use to assist the homeless, or has become available for application during that year.

§ 102–75.55 What are Executive agencies' responsibilities concerning public benefit conveyances?

Based on a highest and best use analysis, Executive agencies, upon approval from GSA, may make surplus real property available to State and local governments and certain nonprofit institutions at up to 100 percent public benefit discount for public benefit purposes. Some examples of such purposes are education, health, park and recreation, the homeless, historic monuments, public airports, highways, correctional facilities, ports, and wildlife conservation. The implementing regulations are found at § 101–47.308 of this title.

§ 102–75.60 When may Executive agencies conduct negotiated sales?

Executive agencies may conduct negotiated sales only when:

(a) The estimated fair market value of the property does not exceed $15,000; or

(b) Bid prices after advertising are unreasonable (for all or part of the property) or were not independently arrived at in open competition; or

(c) The character or condition of the property or unusual circumstances make it impractical to advertise for competitive bids and the fair market value of the property and other satisfactory terms of disposal are obtainable by negotiation; or

(d) The disposals will be to States, Commonwealth of Puerto Rico, possessions, political subdivisions thereof, or tax-supported agencies therein, and the estimated fair market value of the property and other satisfactory terms of disposal are obtainable by negotiations. Such negotiated sales to public bodies must be limited to where a public benefit will result from a negotiated sale which would not be realized from a competitive sale disposal (some examples of such purposes are administrative offices and economic development); or

(e) Negotiation is otherwise authorized by the Federal Property and Administrative Services Act of 1949 or other law, such as disposals of power transmission lines for public or cooperative power projects.

§ 102–75.65 What are Executive agencies' responsibilities concerning negotiated sales?

Executive agencies must:

(a) Obtain such competition as is feasible in all negotiations of disposals and contracts for disposal of surplus property; and

(b) Prepare and transmit an explanatory statement, identifying the circumstances of each disposal by negotiation for any real property specified in 40 U.S.C. 484(e)(6)(A), to the appropriate committees of the Congress in advance of such disposal.

§ 102–75.70 What can Executive agencies do to eliminate the potential for windfall profits to public agencies in negotiated sales?

To eliminate the potential for windfall profits to public agencies, Executive agencies must include in negotiated sales to public agencies an excess profits clause, which usually runs for 3 years. This clause states that, if the purchaser should sell or enter into agreements to sell the property within 3 years from the date of title transfer by the Federal Government, all proceeds in excess of the purchasers costs will be remitted to the Federal Government. (Put the clause found in § 101–47.4908 of this title in the offer to purchase and in the conveyance document.)

§ 102–75.75 What is a negotiated sale for economic development purposes?

A negotiated sale for economic development purposes means that the public body purchasing the property will develop or make substantial improvements to the property with the intention of reselling or leasing the property in parcels to users to advance the community's economic benefit. This type of negotiated sale is acceptable where the expected public benefits to the community are greater than the anticipated proceeds derived from a competitive public sale.

§ 102–75.80 What are Executive agencies' responsibilities concerning public sales?

Executive agencies must make available by competitive public sale any surplus property that is not disposed of by public benefit discount conveyance or by negotiated sale. Awards must be made to the responsible bidder whose bid will be most advantageous to the Government, price and other factors considered.

§ 102–75.85 How can Federal agencies obtain related disposal services?

Federal agencies with independent disposal authority are encouraged to obtain disposal related services from those agencies with expertise in real property disposal, such as GSA, as allowed by 31 U.S.C. 1535 (the Economy Act), so that agencies may remain focused on their core mission.

§ 102–75.90 What type of appraisal value must be obtained for real property disposal transactions?

For all real property transactions requiring appraisals, Executive agencies must in all cases obtain, as appropriate, an appraisal of either the fair market value or the fair annual rental value of property available for disposal.

§ 102–75.95 Are appraisals required for all real property disposal transactions?

Generally, yes, appraisals are required for all real property disposal transactions. However, appraisals are not required when either of the following conditions exist:

(a) An appraisal will serve no useful purpose (*e.g.,* legislation authorizes conveyance without monetary consideration or at a fixed price). This exception does not apply to negotiated sales to public agencies intending to use the property for a public purpose not covered by any of the special disposal provisions in § 101–47.308 of this title.

(b) The estimated fair market value of property to be offered on a competitive sale basis does not exceed $50,000.

§ 102–75.100 Who must appraise the real property?

Executive agencies must use only experienced and qualified real estate appraisers familiar with types of property to be appraised when conducting the appraisal. When an appraisal is required for the purposes of disposing of surplus property by negotiation under § 102–75.60(c), (d), or (e), contract appraisers that meet this same standard must be used. However, Executive agencies may authorize any other method of obtaining an estimate of the fair market value or the fair annual rental when the cost of obtaining such data from a contract appraiser would be out of proportion to the expected recoverable value of the property.

PART 102–76—DESIGN AND CONSTRUCTION

Sec.

102–76.5 What is the scope of this part?
102–76.10 What basic design and construction policy governs Federal agencies?
102–76.15 What are design and construction services?
102–76.20 What issues must Federal agencies consider in providing site planning and landscape design services?
102–76.25 What standards must Federal agencies meet in providing architectural and interior design services?
102–76.30 Seismic safety. [Reserved]
102–76.35 Flood plains. [Reserved]

Authority: 40 U.S.C. 486(c) (in furtherance of the Administrator's authorities under 40 U.S.C. 601–619 and elsewhere as included under 40 U.S.C. 490(a) and (c)); E.O. 12411, 48 FR 13391, 3 CFR, 1983 Comp., p. 155; E.O. 12512, 50 FR 18453, 3 CFR, 1985 Comp., p. 340.

§ 102–76.5 What is the scope of this part?

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

§ 102–76.10 What basic design and construction policy governs Federal agencies?

Federal agencies, upon approval from GSA, are bound by the following basic design and construction policies:

(a) Provide the highest quality services for designing and constructing new Federal facilities and for repairing and altering existing Federal facilities. These services must be timely, efficient, and cost effective.

(b) Use a distinguished architectural style and form in Federal facilities that reflects the dignity, enterprise, vigor and stability of the Federal Government.

(c) Follow nationally recognized model building codes and other applicable nationally recognized codes that govern Federal construction to the maximum extent feasible and consider local building code requirements. (See 40 U.S.C. 618 and 619.)

(d) Design Federal buildings to have a long life expectancy and accommodate periodic changes due to renovations.

(e) Make buildings cost effective, energy efficient, and accessible to and usable by the physically impaired.

(f) Provide for building service equipment that is accessible for maintenance, repair, or replacement without significantly disturbing occupied space.

(g) Consider ease of operation when selecting mechanical and electrical equipment.

(h) Agencies must follow the prospectus submission and approval policy identified in §§ 102–73.95 and 102–73.100 of this chapter.

§ 102–76.15 What are design and construction services?

Design and construction services are:

(a) Site planning and landscape design;

(b) Architectural and interior design; and

(c) Engineering systems design.

§ 102–76.20 What issues must Federal agencies consider in providing site planning and landscape design services?

In providing site planning and design services, Federal agencies must:

(a) Make the site planning and landscape design a direct extension of the building design;

(b) Make a positive contribution to the surrounding landscape;

(c) Consider requirements (other than procedural requirements) of local zoning laws and laws relating to setbacks, height, historic preservation and aesthetic qualities of a building;

(d) Identify areas for future building expansion in the architectural and site design concept for all buildings where an expansion need is identified to exist;

(e) Create a landscape design that is a pleasant, dynamic experience for occupants and visitors to Federal facilities and, where appropriate, encourage public access to and stimulate pedestrian traffic around the facilities. Coordinate the landscape design with the architectural characteristics of the building; and

(f) Comply with the requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 et seq., and the National Historic Preservation Act, as amended, 16 U.S.C. 470 et seq., for each project.

(g) Consider the vulnerability of the facility as well as the security needs of the occupying agencies.

§ 102–76.25 What standards must Federal agencies meet in providing architectural and interior design services?

Federal agencies must design distinctive and high quality Federal facilities that meet all of the following standards:

(a) Reflect the local architecture in buildings through the use of building form, materials, colors, or detail. Express a quality of permanence in the building interior similar to the building exterior.

(b) For new construction and major renovations, provide full access to and

use of Federally-controlled facilities for physically impaired persons. Follow the Architectural Barriers Act of 1968, 42 U.S.C. 4151–4157 (Uniform Federal Accessibility Standards (UFAS)) or Americans with Disabilities Act of 1990, Public Law 101–336, 104 Stat. 327 (ADA accessibility guidelines), whichever is more stringent. For minor renovations in existing buildings, meet minimum UFAS requirements. A more detailed explanation of these standards can be found in part 101–19, subpart 101–19.6, of this title.

(c) Use metric specifications in construction where the metric system is the accepted industry standard, and to the extent that such usage is economically feasible and practical.

(d) Provide for the design of security systems to protect Federal workers and visitors and to safeguard facilities against criminal activity and/or terrorist activity. Security design must support the continuity of Government operations during civil disturbances, natural disasters and other emergency situations.

(e) Design and construct facilities that meet or exceed the energy performance standards applicable to Federal buildings in 10 CFR part 435.

§ 102–76.30 Seismic safety. [Reserved]

§ 102–76.35 Flood plains. [Reserved]

PART 102–77—ART-IN-ARCHITECTURE

Sec.

102–77.5 What is the scope of this part?
102–77.10 What basic Art-in-architecture policy governs Federal agencies?
102–77.15 Who funds the Art-in-architecture efforts?
102–77.20 Who should Federal agencies collaborate with when commissioning and selecting art for Federal buildings?
102–77.25 Do Federal agencies have responsibilities to provide national visibility for Art-in-architecture?

Authority: 40 U.S.C. 486(c) and 601a.

§ 102–77.5 What is the scope of this part?

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

§ 102–77.10 What basic Art-in-architecture policy governs Federal agencies?

Federal agencies must incorporate fine arts as an integral part of the total building concept when designing new Federal buildings, and when making substantial repairs and alterations to existing Federal buildings, as appropriate. The selected fine arts, including painting, sculpture, and artistic work in other media, must reflect the national cultural heritage and emphasize the work of living American artists.

§ 102–77.15 Who funds the Art-in-architecture efforts?

To the extent not prohibited by law, Federal agencies must fund the Art-in-architecture efforts by allocating a portion of the estimated cost of constructing or purchasing new Federal buildings, or of completing major repairs and alterations of existing buildings. Funding for qualifying projects, including new construction, building purchases, other building acquisition, or prospectus-level repair and alteration projects, must be in a range determined by the Administrator of General Services.

§ 102–77.20 Who should Federal agencies collaborate with when commissioning and selecting art for Federal buildings?

To the maximum extent practicable, Federal agencies should seek the support and involvement of local citizens in selecting appropriate artwork. Federal agencies should collaborate with the artist and community to produce works of art that reflect the cultural, intellectual, and historic interests and values of a community. In addition, Federal agencies should work collaboratively with the architect of the building, art professionals, when commissioning and selecting art for Federal buildings. Federal agencies should commission artwork that is diverse in style and media.

§ 102–77.25 Do Federal agencies have responsibilities to provide national visibility for Art-in-architecture?

Yes, Federal agencies should provide Art-in-architecture that receives appropriate national and local visibility to facilitate participation by a large and diverse group of artists representing a wide variety of types of artwork.

PART 102–78—HISTORIC PRESERVATION

Sec.

102–78.5 What is the scope of this part?
102–78.10 What basic historic preservation policy governs Federal agencies?
102–78.15 What are historic properties?
102–78.20 Are Federal agencies required to identify historic properties?
102–78.25 What is an undertaking?
102–78.30 What are consulting parties?
102–78.35 Are Federal agencies required to involve consulting parties in their historic preservation activities?
102–78.40 What responsibilities do Federal agencies have when an undertaking adversely affects a historic or cultural property?
102–78.45 What are Federal agencies' responsibilities concerning nomination of properties to the National Register?
102–78.50 What historic preservation services must Federal agencies provide?
102–78.55 For which properties must Federal agencies provide historic preservation services?
102–78.60 What are Federal agencies' historic preservation responsibilities when acquiring leased space?
102–78.65 What are Federal agencies' historic preservation responsibilities when disposing of real property under their control?
102–78.70 What are an agency's historic preservation responsibilities when disposing of another Federal agency's real property?

Authority: 16 U.S.C. 470 h–2; 40 U.S.C. 486(c) and 490(a).

§ 102–78.5 What is the scope of this part?

The real property policies contained in this part apply to Federal agencies, including the GSA/Public Buildings Service (PBS), operating under, or subject to, the authorities of the Administrator of General Services. The policies in this part are in furtherance of GSA's preservation program under section 110 of the National Historic Preservation Act (16 U.S.C. 470) and apply to properties under the jurisdiction or control of the Administrator and to any Federal agencies operating, maintaining or protecting such properties under a delegation of authority from the Administrator.

§ 102–78.10 What basic historic preservation policy governs Federal agencies?

To protect, enhance and preserve historic and cultural property under their control, Federal agencies must consider the effects of their undertakings on historic and cultural properties and give the Advisory Council on Historic Preservation (Advisory Council), the State Historic Preservation Officer (SHPO), and other consulting parties a reasonable opportunity to comment regarding the proposed undertakings.

§ 102–78.15 What are historic properties?

Historic properties are those that are included in, or eligible for inclusion in, the National Register of Historic Places (National Register) as more specifically defined at 36 CFR 800.16.

§ 102–78.20 Are Federal agencies required to identify historic properties?

Yes, Federal agencies must identify all National Register or National

Register-eligible historic properties under their control. In addition, Federal agencies must apply National Register Criteria (36 CFR part 63) to properties that have not been previously evaluated for National Register eligibility and that may be affected by the undertakings of Federally sponsored activities.

§ 102–78.25 What is an undertaking?

The term undertaking means a project, activity, or program under the direct or indirect jurisdiction of a Federal agency, including those:

(a) Carried out by or on behalf of the agency;

(b) Carried out with Federal financial assistance;

(c) Requiring a Federal permit, license, or approval; and

(d) Subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.

§ 102–78.30 What are consulting parties?

As more particularly described in 36 CFR 800.2(c), consulting parties are those parties having consultative roles in the Section 106 process (*i.e.,* Section 106 of the National Historic Preservation Act) that requires Federal agencies to take into account the effects of their undertakings on historic properties and afford the Council a reasonable opportunity to comment on such undertakings. Specifically, consulting parties include the State Historic Preservation Officer; Tribal Historic Preservation Officer; Indian tribes and Native Hawaiian organizations; Representatives of local governments; Applicants for Federal assistance, permits, licenses and other approvals; and other individuals and organizations with a demonstrated interest in the undertaking.

§ 102–78.35 Are Federal agencies required to involve consulting parties in their historic preservation activities?

Yes, Federal agencies must solicit information from consulting parties to carry out their responsibilities under historic and cultural preservation laws and regulations. Federal agencies must invite the participation of consulting parties through their normal public notification processes.

§ 102–78.40 What responsibilities do Federal agencies have when an undertaking adversely affects a historic or cultural property?

Federal agencies must not perform an undertaking that could alter, destroy, or modify an historic or cultural property until they have consulted with the SHPO and the Advisory Council. Federal agencies must minimize all adverse impacts of their undertakings on historic or cultural properties to the extent that is feasible and prudent. Federal agencies must follow the specific guidance on the protection of historic and cultural properties in 36 CFR part 800.

§ 102–78.45 What are Federal agencies' responsibilities concerning nomination of properties to the National Register?

Federal agencies must nominate to the National Register all properties under their control determined eligible for inclusion in the National Register.

§ 102–78.50 What historic preservation services must Federal agencies provide?

Federal agencies must provide the following historic preservation services:

(a) Prepare a Historic Building Preservation Plan for each National Register or National Register-eligible property under their control. When approved by consulting parties, such plans become a binding management plan for the property; and

(b) Investigate for historic and cultural factors all proposed sites for direct and leased construction.

§ 102–78.55 For which properties must Federal agencies assume historic preservation responsibilities?

Federal agencies must assume historic preservation responsibilities for real property assets under their custody and control. Federal agencies occupying space in buildings under the custody and control of other Federal agencies must obtain approval from the agency having custody and control of the building.

§ 102–78.60 What are Federal agencies historic preservation responsibilities when acquiring leased space?

In leasing historic property, Federal agencies must give a preference to such leasing actions in accordance with hierarchy of consideration identified in § 102–79.90 of this chapter.

§ 102–78.65 What are Federal agencies' historic preservation responsibilities when disposing of real property under their control?

Federal agencies must:

(a) To the extent practicable, establish and implement alternatives for historic properties, including adaptive reuse, that are not needed for current or projected agency purposes. Agencies are required to get the Secretary of Interior's approval of the plans of transferees of surplus Federally-owned historic properties.

(b) Review all proposed excess actions to identify any properties listed on or eligible for listing on the National Register. Federal agencies must not perform disposal actions that could result in the alteration, destruction, or modification of an historic or cultural property until Federal agencies have consulted with the SHPO and the Advisory Council.

§ 102–78.70 What are an agency's historic preservation responsibilities when disposing of another Federal agency's real property?

Federal agencies must not accept property declared excess by another Federal agency nor act as an agent for transfer or sale of such properties until the holding agency provides evidence that the Federal agency has met its National Historic Preservation Act responsibilities.

PART 102–79—ASSIGNMENT AND UTILIZATION OF SPACE

Sec.

102–79.5 What is the scope of this part?
102–79.10 What basic assignment and utilization of space policy governs an Executive agency?
102–79.15 What objectives must an Executive agency strive to meet in providing assignment and utilization of space services?
102–79.20 What standard must Executive agencies promote when assigning space?
102–79.25 Can Federal agencies allot space in Federal buildings for the provision of child care services?
102–79.30 Can Federal agencies allot space in Federal buildings for establishing fitness centers?
102–79.35 What elements must Federal agencies address in their planning effort for establishing fitness programs?
102–79.40 Can Federal agencies allot space in Federal buildings to Federal credit unions?
102–79.45 What type of services may Federal agencies provide without charge to Federal credit unions?
102–79.50 What standard must Executive agencies promote in their utilization of space?
102–79.55 Are agencies required to use historic properties available to the agency?
102–79.60 Are Executive agencies required to give first priority to the location of new offices and other facilities in rural areas?
102–79.65 When an agency's mission and program requirements call for the location in an urban area, are Executive agencies required to give first consideration to central business areas?
102–79.70 What is a central business area?
102–79.75 Who is responsible for identifying the delineated area within which a Federal agency wishes to locate specific activities?
102–79.80 Who must approve the final delineated area?
102–79.85 Are Executive agencies required to consider whether the central business area will provide for adequate competition when acquiring leased space?

102–79.90 Are Executive agencies required to give preference to historic properties when acquiring leased space?
102–79.95 Automated external defibrillators. [Reserved]

Authority: 40 U.S.C. 486(c); E.O. 12411, 48 FR 13391, 3 CFR, 1983 Comp., p. 155; and E.O. 12512, 50 FR 18453, 3 CFR, 1985 Comp., p. 340.

§ 102–79.5 What is the scope of this part?

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

§ 102–79.10 What basic assignment and utilization of space policy governs an Executive agency?

Executive agencies must provide a quality workplace environment that supports program operations, preserves the value of real property assets, meets the needs of the occupant agencies, and provides child care and physical fitness facilities in the workplace when adequately justified. An Executive agency must promote maximum utilization of Federal workspace, consistent with mission requirements, to maximize its value to the Government.

§ 102–79.15 What objectives must an Executive agency strive to meet in providing assignment and utilization of space services?

Executive agencies must provide assignment and utilization services that will maximize the value of Federal real property resources and improve the productivity of the workers housed therein.

§ 102–79.20 What standard must Executive agencies promote when assigning space?

Executive agencies must promote the optimum use of space for each assignment at the minimum cost to the Government, provide quality workspace that is delivered and occupied in a timely manner, and assign space based on mission requirements.

§ 102–79.25 Can Federal agencies allot space in Federal buildings for the provision of child care services?

Yes, in accordance with 40 U.S.C. 490b, Federal agencies can allot space in Federal buildings to individuals or entities who will provide child care services to Federal employees if:

(a) Such space is available;

(b) Such agency determines that such space will be used to provide child care services to children of whom at least 50 percent have one parent or guardian who is a Federal Government employee; and

(c) Such agency determines that such individual or entity will give priority for available child care services in such space to Federal employees.

§ 102–79.30 Can Federal agencies allot space in Federal buildings for establishing fitness centers?

Yes, in accordance with 5 U.S.C. 7901, Federal agencies can allot space in Federal buildings for establishing fitness programs.

§ 102–79.35 What elements must Federal agencies address in their planning effort for establishing fitness programs?

Federal agencies must address the following elements in their planning effort for establishing fitness programs:

(a) A survey indicating employee interest in the program;

(b) A three to five year implementation plan demonstrating long-term commitment to physical fitness/health for employees;

(c) A health related orientation, including screening procedures, individualized exercise programs, identification of high-risk individuals, and appropriate follow-up activities;

(d) Identification of a person skilled in prescribing exercise to direct the fitness program;

(e) An approach which will consider key health behavior related to degenerative disease, including smoking and nutrition;

(f) A modest facility that includes only the essentials necessary to conduct a program involving cardiovascular and muscular endurance, strength activities, and flexibility;

(g) Provision for equal opportunities for men and women, and all employees, regardless of grade level.

§ 102–79.40 Can Federal agencies allot space in Federal buildings to Federal credit unions?

Yes, in accordance with 12 U.S.C. 1770, Federal agencies may allot space in Federal buildings to Federal credit unions without charge for rent or services if:

(a) At least 95 percent of the membership of the credit union to be served by the allotment of space is composed of persons who either are presently Federal employees or were Federal employees at the time of admission into the credit union, and members of their families; and

(b) If space is available.

§ 102–79.45 What type of services may Federal agencies provide without charge to Federal credit unions?

Federal agencies may provide without charge to Federal credit union services such as:

(a) Lighting;

(b) Heating and cooling;

(c) Electricity;

(d) Office furniture;

(e) Office machines and equipment;

(f) Telephone service (including installation of lines and equipment and other expenses associated with telephone service); and

(g) Security systems (including installation and other expenses associated with security systems).

§ 102–79.50 What standard must Executive agencies promote in their utilization of space?

Executive agencies, acquiring or utilizing Federally owned and leased space under the Federal Property and Administrative Services Act of 1949, as amended, must promote efficient utilization of space according to GSA standards. In order to maximize the use of vacant space, use existing GSA-controlled space to the maximum extent practical. After considering the availability of GSA-controlled space, extend priority consideration to available space in buildings under the custody and control of the U.S. Postal Service before acquiring additional space. Where there is no Federal agency space need, Executive agencies must make every effort to maximize the productive use of vacant space through out-granting (for example, outlease, permit, license) to non-Federal entities to the extent authorized by law.

§ 102–79.55 Are agencies required to use historic properties available to the agency?

Yes, Federal agencies must assume responsibility for the preservation of the historic properties they own or control. Prior to acquiring, constructing or leasing buildings, agencies must use, to the maximum extent feasible, historic properties already owned or leased by the agency (16 U.S.C. 470h–2).

§ 102–79.60 Are Executive agencies required to give first priority to the location of new offices and other facilities in rural areas?

Yes, Executive agencies must give first priority to the location of new offices and other facilities in rural areas (7 U.S.C. 2204b–1), unless their mission or program requirements call for locations in an urban area.

§ 102–79.65 When an agency's mission and program requirements call for the location in an urban area, are Executive agencies required to give first consideration to central business areas?

Yes, when agency mission and program requirements call for location in an urban area and new space must be acquired, constructed or leased,

Executive agencies must give first consideration to central business areas (CBAs) and other areas designated by local officials (Executive Order 12072 (43 FR 36869, 3 CFR, 1978 Comp., p. 213.) and Executive Order 13006 (61 FR 26071, 3 CFR, 1996 Comp., p. 195)).

§ 102–79.70 What is a central business area?

Central business area means the centralized community business area and adjacent areas of similar character, including other specific areas which may be recommended by local officials in accordance with Executive Order 12072.

§ 102–79.75 Who is responsible for identifying the delineated area within which a Federal agency wishes to locate specific activities?

Each Federal agency is responsible for identifying the delineated area within which it wishes to locate specific activities, consistent with its mission and program requirements, and in accordance with all applicable laws, regulations, and Executive orders.

§ 102–79.80 Who must approve the final delineated area?

Federal agencies conducting the procurement must approve the final delineated area for site acquisitions and lease actions and must confirm that the final delineated area complies with the requirements of all applicable laws, regulations, and Executive orders.

§ 102–79.85 Are Executive agencies required to consider whether the central business area will provide for adequate competition when acquiring leased space?

In accordance with the Competition in Contracting Act of 1984 (CICA), as amended, (41 U.S.C. 253(a)) Executive agencies must consider whether restricting the delineated area for obtaining leased space to the central business area will provide for adequate competition when acquiring leased space. Where an Executive agency determines that the delineated area must be expanded beyond the CBA in order to provide adequate competition, the agency may expand the delineated area in consultation with local officials. Executive agencies must continue to include the CBA in such expanded areas.

§ 102–79.90 Are Executive agencies required to give preference to historic properties when acquiring leased space?

Yes, section 110 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470h–2), requires that agencies first consider historic properties already under agency control. However, the Act also provides that prior to acquiring, constructing or leasing new space, and subject to the requirements of Section 601 of Title VI of the Rural Development Act of 1972, as amended (7 U.S.C. 2204b–1), Executive Order 13006 and Executive Order 12072, Executive agencies must first consider historic properties within historic districts when locating Federal facilities. If no such suitable historic property is available, Executive agencies must then consider other developed or undeveloped sites within historic districts. Finally, Executive agencies must consider suitable historic properties outside of historic districts, if no suitable site exists within a historic district.

§ 102–79.95 Automated external defibrillators. [Reserved]

PART 102–80—SAFETY AND ENVIRONMENTAL MANAGEMENT

Sec.

102–80.5 What is the scope of this part?
102–80.10 What are the basic safety and environmental management policies for real property?
102–80.15 What are Federal agencies' responsibilities concerning the assessment and management of asbestos?
102–80.20 What are Federal agencies' responsibilities concerning the abatement of radon?
102–80.25 What are Federal agencies' responsibilities concerning the management of indoor air quality?
102–80.30 What are Federal agencies' responsibilities concerning lead?
102–80.35 What are Federal agencies' responsibilities concerning the monitoring of hazardous materials and wastes?
102–80.40 What are Federal agencies' responsibilities concerning the management of underground storage tanks?
102–80.45 What are Federal agencies' responsibilities concerning fire prevention and fire protection engineering?
102–80.50 Are Federal agencies responsible for identifying/estimating risks and for appropriate reduction strategies?
102–80.55 Are Federal agencies responsible for performing facility assessments?
102–80.60 Are Federal agencies responsible for managing the execution of risk reduction projects?
102–80.65 What are Federal agencies' responsibilities concerning the investigation of incidents, such as fires, accidents, injuries, and environmental incidents?
102–80.70 Are Federal agencies responsible for informing their tenants of the condition and management of their facility safety and environment?
102–80.75 Who assesses environmental issues in Federal construction and lease construction projects?

Authority: 40 U.S.C. 486(c) and 490.

§ 102–80.5 What is the scope of this part?

The real property policies contained in this part apply to Federal agencies, including the GSA/Public Buildings Service (PBS), operating under, or subject to, the authorities of the Administrator of General Services. The responsibilities for safety and environmental management under this part are intended to apply to GSA or those Federal agencies operating in GSA space pursuant to a GSA delegation of authority.

§ 102–80.10 What are the basic safety and environmental management policies for real property?

The basic safety and environmental management policies for real property are that Federal agencies must:

(a) Provide for a safe and healthful work environment for Federal employees and the visiting public;

(b) Protect Federal real and personal property;

(c) Promote mission continuity;

(d) Provide reasonable safeguards for emergency forces if an incident occurs;

(e) Assess risk;

(f) Make decisionmakers aware of risks; and

(g) Act promptly and appropriately in response to risk.

§ 102–80.15 What are Federal agencies' responsibilities concerning the assessment and management of asbestos?

Federal agencies have the following responsibilities concerning the assessment and management of asbestos:

(a) Inspect and assess buildings for the presence and condition of asbestos-containing materials. Space to be leased must be free of all asbestos containing materials, except undamaged asbestos flooring in the space or undamaged boiler or pipe insulation outside the space, in which case an asbestos

management program conforming to Environmental Protection Agency (EPA) guidance must be implemented;

(b) Manage in-place asbestos that is in good condition and not likely to be disturbed;

(c) Abate damaged asbestos, and asbestos likely to be disturbed. Federal agencies must perform a pre-alteration asbestos assessment for activities that may disturb asbestos;

(d) Not use asbestos in new construction, renovation/modernization or repair of their owned or leased space. Unless approved by GSA, Federal agencies must not obtain space with asbestos through purchase, exchange, transfer, or lease, except as identified in paragraph (a) of this section; and

(e) Communicate all written and oral asbestos information about the leased space to tenants.

§ 102–80.20 What are Federal agencies' responsibilities concerning the abatement of radon?

Federal agencies have the following responsibilities concerning the abatement of radon in space when radon levels exceed current EPA standards:

(a) Retest abated areas and make lessors retest, as required, abated areas to adhere to EPA standards; and

(b) Test non-public water sources (in remote areas for projects such as border stations) for radon according to EPA guidance. Radon levels that exceed current applicable EPA standards must be mitigated. Federal agencies must retest, as required, to adhere to EPA standards.

§ 102–80.25 What are Federal agencies' responsibilities concerning the management of indoor air quality?

Federal agencies must assess indoor air quality of buildings as part of their safety and environmental facility assessments. Federal agencies must respond to tenant complaints on air quality and take appropriate corrective action where air quality does not meet applicable standards.

§ 102–80.30 What are Federal agencies' responsibilities concerning lead?

Federal agencies have the following responsibilities concerning lead in buildings:

(a) Test space for lead-based paint in renovation projects that require sanding, welding or scraping painted surfaces.

(b) Not remove lead based paint from surfaces in good condition.

(c) Test all painted surfaces for lead in proposed or existing child care centers.

(d) Abate lead-based paint found in accordance with Department of Housing and Urban Development (HUD) Lead-Based Paint Guidelines, available by writing to HUD USER, P.O. Box 6091, Rockville, MD, 20850.

(e) Test potable water for lead in all drinking water outlets in child care centers.

(f) Take corrective action when lead levels exceed the HUD Guidelines.

§ 102–80.35 What are Federal agencies' responsibilities concerning the monitoring of hazardous materials and wastes?

Federal agencies' responsibilities concerning the monitoring of hazardous materials and wastes are to:

(a) Monitor the transport, use, and disposition of hazardous materials and waste in buildings to provide for compliance with GSA, Occupational Safety and Health Administration (OSHA), Department of Transportation, EPA, and applicable State and local requirements. In addition to those operating in GSA space pursuant to a delegation of authority, tenants in GSA space must comply with these requirements.

(b) In leased space, include in all agreements with the lessor requirements that hazardous materials kept in leased space are kept and maintained according to applicable Federal, State, and local environmental regulations.

§ 102–80.40 What are Federal agencies' responsibilities concerning the management of underground storage tanks?

Federal agencies have the following responsibilities concerning the management of underground storage tanks in real property:

(a) Register, manage and close underground storage tanks, including heating oil and fuel oil tanks, in accordance with GSA, EPA, and applicable State and local requirements.

(b) Require the party responsible for tanks they use but don't own to follow these requirements and to be responsible for the cost of compliance.

§ 102–80.45 What are Federal agencies' responsibilities concerning fire prevention and fire protection engineering?

Federal agencies must follow accepted fire prevention practices in operating and managing buildings. Federally-owned buildings are generally exempt from State and local code requirements in fire protection; however, in accordance with 40 U.S.C. 619, each building constructed or altered by a Federal agency must be constructed or altered, to the maximum extent feasible, in compliance with one of the nationally recognized model building codes and with other nationally recognized codes. Leased buildings are subject to local requirements and inspection. Federal agencies must use the National Fire Protection Association (NFPA) codes and standards (obtained by writing to NFPA, 11 Tracy Drive, Avon, MA 02322.) as a guide for their building operations.

§ 102–80.50 Are Federal agencies responsible for identifying/estimating risks and for appropriate reduction strategies?

Yes, Federal agencies must identify and estimate safety and environmental management risks and appropriate reduction strategies for buildings. Federal agencies occupying as well as operating buildings must identify any safety and environmental management risks and report or correct the situation, as appropriate.

§ 102–80.55 Are Federal agencies responsible for performing facility assessments?

Yes, Federal agencies must evaluate facilities to comply with GSA's safety and environmental program and applicable Federal, State and local environmental laws and regulations. Federal agencies should conduct these evaluations in accordance with schedules that are compatible with repair and alteration and leasing operations.

§ 102–80.60 Are Federal agencies responsible for managing the execution of risk reduction projects?

Yes, Federal agencies must manage the execution of risk reduction projects in buildings they operate. Federal agencies must identify and take appropriate action to eliminate hazards and regulatory noncompliance.

§ 102–80.65 What are Federal agencies' responsibilities concerning the investigation of incidents, such as fires, accidents, injuries, and environmental incidents?

Federal agencies have the following responsibilities concerning the investigation of incidents, such as fires, accidents, injuries, and environmental incidents in buildings they operate:

(a) Investigate all incidents regardless of severity.

(b) Form Boards of Investigation for incidents resulting in serious injury, death, or significant property losses.

§ 102–80.70 Are Federal agencies responsible for informing their tenants of the condition and management of their facility safety and environment?

Yes, Federal agencies must inform their tenants of the condition and management of their facility safety and environment. Agencies operating GSA buildings must report any significant

facility safety or environmental concerns to GSA.

§ 102–80.75 Who assesses environmental issues in Federal construction and lease construction projects?

Federal agencies must assess required environmental issues throughout planning and project development, so that the environmental impacts of a project are considered during the decisionmaking process.

PART 102–81—SECURITY

Sec.
102–81.5 What is the scope of this part?
102–81.10 What basic security policy governs Federal agencies?
102–81.15 Who is responsible for upgrading and maintaining security standards in each Federally-owned facility?

Authority: 40 U.S.C. 318a, 486(c) and 490.

§ 102–81.5 What is the scope of this part?

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

§ 102–81.10 What basic security policy governs Federal agencies?

Federal agencies on Federal property under the charge and control of the Administrator and having a security delegation of authority from the Administrator must provide for the security and protection of the real estate they occupy, including the protection of persons within the property.

§ 102–81.15 Who is responsible for upgrading and maintaining security standards in each Federally-owned facility?

In a June 28, 1995, Presidential Policy Memorandum for Executive Departments and Agencies, entitled, ''Upgrading Security at Federal Facilities'' (see the Weekly Compilation of Presidential Documents, vol. 31, p. 1148), the President directed that Executive agencies must, where feasible, upgrade and maintain security in facilities they own or lease under their own authority to the minimum standards specified in the Department of Justice's June 28, 1995 study entitled ''Vulnerability Assessment of Federal Facilities.'' The study may be obtained by writing to the Superintendent of Documents, P. O. Box 371954, Pittsburgh, PA, 15250–7954.

PART 102–82—UTILITY SERVICES

Sec.
102–82.5 What is the scope of this part?
102–82.10 What basic utility services policy govern Executive agencies?
102–82.15 What utility services must Executive agencies provide?
102–82.20 What are Executive agencies' rate intervention responsibilities?
102–82.25 What are Executive agencies' responsibilities concerning the procurement of utility services?

Authority: 40 U.S.C. 481(a) and 486(c).

§ 102–82.5 What is the scope of this part?

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

§ 102–82.10 What basic utility services policy govern Executive agencies?

Executive agencies procuring, managing or supplying utility services under the Federal Property and Administrative Services Act of 1949 must provide or procure services that promote economy and efficiency with due regard to the mission responsibilities of the agencies concerned.

§ 102–82.15 What utility services must Executive agencies provide?

Executive agencies must negotiate with public utilities to procure utility services and, where appropriate, provide rate intervention services in proceedings (see § § 102–72.100 and 102-72.105 of this chapter) before Federal and State utility regulatory bodies.

§ 102–82.20 What are Executive agencies' rate intervention responsibilities?

Where the consumer interests of the Federal Government will be significantly affected and upon receiving a delegation of authority from GSA, Executive agencies must provide representation in proceedings involving utility services before Federal and State regulatory bodies. Specifically, these responsibilities include instituting formal or informal action before Federal and State regulatory bodies to contest the level, structure, or applicability of rates or service terms of utility suppliers. The Secretary of Defense is independently authorized to take such actions without a delegation from GSA when the Secretary determines such actions to be in the best interests of national security.

§ 102–82.25 What are Executive agencies' responsibilities concerning the procurement of utility services?

Executive agencies, operating under a utility services delegation from GSA, or the Secretary of Defense when the Secretary determines it to be in the best interests of national security, must provide for the procurement of utility services (such as commodities and utility rebate programs), as required, and must procure from sources of supply that are the most advantageous to the Federal Government in terms of economy, efficiency, reliability, or quality of service. Executive agencies, upon receiving a delegation of authority from GSA, may enter into contracts for utility services for periods not exceeding ten years (40 U.S.C. 481).

Dated: December 21, 2000.

Thurman M. Davis, Sr.,

Acting Administrator of General Services.

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