

**§ 102-75.970**

another Federal agency or disposal. Guidelines for protection and maintenance of excess and surplus real property are in the GSA Customer Guide to Real Property Disposal. The landholding agency is responsible for complying with the requirements of the National Oil and Hazardous Substances Pollution Contingency Plan and initiating or cooperating with others in the actions prescribed for the prevention, containment, or remedy of hazardous conditions.

**§ 102-75.970 How long is the landholding agency responsible for the expense of protection and maintenance of excess and surplus real property pending its transfer or disposal?**

Generally, the landholding agency is responsible for the cost of protection and maintenance of excess or surplus property until the property is transferred or disposed, but not more than 15 months. However, the landholding agency is responsible for providing and funding protection and maintenance during any delay beyond that 15 month period, if the landholding agency—

- (a) Requests deferral of the disposal beyond the 15 month period;
- (b) Continues to occupy the property beyond the 15 month period to the detriment of orderly disposal; or
- (c) Otherwise takes actions that result in a delay in the disposition beyond the 15 months.

**§ 102-75.975 What happens if the property is not conveyed or disposed of during this time frame?**

If the property is not transferred to a Federal agency or disposed of during the 15-month period mentioned in § 102-75.970, then the disposal agency must pay or reimburse the landholding agency for protection and maintenance expenses incurred from the expiration date of said time period to final disposal, unless—

- (a) There is no written agreement between the landholding agency and the disposal agency specifying the maximum amount of protection and maintenance expenses for which the disposal agency is responsible;
- (b) The disposal agency's appropriation, as authorized by Congress, does not contain a provision to allow for

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payment and/or reimbursement of protection and maintenance expenses; or

- (c) The delay is caused by an Executive agency's request for an exception from the 100 percent reimbursement requirement specified in § 102-75.205. In this latter case, the requesting agency becomes responsible for protection and maintenance expenses incurred because of the delay.

**§ 102-75.980 Who is responsible for protection and maintenance expenses if there is no written agreement or no Congressional appropriation to the disposal agency?**

If there is no written agreement (between the landholding agency and the disposal agency) or no Congressional appropriation to the disposal agency, the landholding agency is responsible for all protection and maintenance expenses, without any right of contribution or reimbursement from the disposal agency.

**ASSISTANCE IN DISPOSITION**

**§ 102-75.985 Is the landholding agency required to assist the disposal agency in the disposition process?**

Yes, the landholding agency must cooperate with the disposal agency in showing the property to prospective transferees or purchasers. Unless extraordinary expenses are incurred in showing the property, the landholding agency must absorb the entire cost of such actions.

**Subpart E—Abandonment, Destruction, or Donation to Public Bodies**

**§ 102-75.990 May Federal agencies abandon, destroy, or donate to public bodies real property?**

Yes, subject to the restrictions in this subpart, any Federal agency having control of real property that has no commercial value or for which the estimated cost of continued care and handling exceeds the estimated proceeds from its sale, may—

- (a) Abandon or destroy Government-owned improvements and related personal property located on privately-owned land;

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(b) Destroy Government-owned improvements and related personal property located on Government-owned land (abandonment of such property is not authorized); or

(c) Donate to public bodies any Government-owned real property (land and/or improvements and related personal property), or interests therein.

### DANGEROUS PROPERTY

#### **§ 102-75.995 May Federal agencies dispose of dangerous property?**

No, property that is dangerous to public health or safety must be made harmless or have adequate safeguards in place before it can be abandoned, destroyed, or donated to public bodies.

### DETERMINATIONS

#### **§ 102-75.1000 How is the decision made to abandon, destroy, or donate property?**

No property shall be abandoned, destroyed, or donated by a Federal agency under § 102-75.990, unless a duly authorized official of that agency determines, in writing, that—

(a) The property has no commercial value; or

(b) The estimated cost of its continued care and handling exceeds the estimated proceeds from its sale.

#### **§ 102-75.1005 Who can make the determination within the Federal agency on whether a property can be abandoned, destroyed, or donated?**

Only a duly authorized official of that agency not directly accountable for the subject property can make the determination.

#### **§ 102-75.1010 When is a reviewing authority required to approve the determination concerning a property that is to be abandoned, destroyed, or donated?**

A reviewing authority must approve determinations made under § 102-75.1000 before any such disposal, whenever all the property proposed to be disposed of by a Federal agency has a current estimated fair market value of more than \$50,000.

### RESTRICTIONS

#### **§ 102-75.1015 Are there any restrictions on Federal agencies concerning property donations to public bodies?**

Yes, Federal agencies must obtain prior concurrence of GSA before donating to public bodies—

(a) Improvements on land or related personal property having a current estimated fair market value in excess of \$250,000; and

(b) Land, regardless of cost.

### DISPOSAL COSTS

#### **§ 102-75.1020 Are public bodies ever required to pay the disposal costs associated with donated property?**

Yes, any public body receiving donated improvements on land or related personal property must pay the disposal costs associated with the donation, such as dismantling, removal, and the cleaning up of the premises.

### ABANDONMENT AND DESTRUCTION

#### **§ 102-75.1025 When can a Federal agency abandon or destroy improvements on land or related personal property in lieu of donating it to a public body?**

A Federal agency may not abandon or destroy improvements on land or related personal property unless a duly authorized official of that agency finds, in writing, that donating the property is not feasible. This written finding is in addition to the determination prescribed in §§ 102-75.1000, 102-75.1005, and 102-75.1010. If donating the property becomes feasible at any time prior to actually abandoning or destroying the property, the Federal agency must donate it.

#### **§ 102-75.1030 May Federal agencies abandon or destroy property in any manner they decide?**

No, Federal agencies may not abandon or destroy property in a manner that is detrimental or dangerous to public health or safety or that will infringe on the rights of other persons.

## § 102-75.1035

### **§ 102-75.1035 Are there any restrictions on Federal agencies concerning the abandonment or destruction of improvements on land or related personal property?**

Yes, GSA must concur in an agency's abandonment or destruction of improvements on land or related personal property prior to abandoning or destroying such improvements on land or related personal property—

(a) That are of permanent type construction; or

(b) The retention of which would enhance the value of the underlying land, if it were to be made available for sale or lease.

### **§ 102-75.1040 May Federal agencies abandon or destroy improvements on land or related personal property before public notice is given of such proposed abandonment or destruction?**

Except as provided in § 102-75.1045, a Federal agency must not abandon or destroy improvements on land or related personal property until after it has given public notice of the proposed abandonment or destruction. This notice must be given in the area in which the property is located, must contain a general description of the property to be abandoned or destroyed, and must include an offering of the property for sale. A copy of the notice must be given to the GSA regional property disposal office for the region in which the property is located.

### **§ 102-75.1045 Are there exceptions to the policy that requires public notice be given before Federal agencies abandon or destroy improvements on land or related personal property?**

Yes, property can be abandoned or destroyed without public notice if—

(a) Its value is so low or the cost of its care and handling so great that retaining the property to post public notice is clearly not economical;

(b) Health, safety, or security considerations require its immediate abandonment or destruction; or

(c) The assigned mission of the agency might be jeopardized by the delay, and a duly authorized Federal agency official finds in writing, with respect to paragraph (a), (b), or (c) of this section,

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and a reviewing authority approves this finding. The finding must be in addition to the determinations prescribed in §§ 102-75.1000, 102-75.1005, 102-75.1010, and 102-75.1025.

### **§ 102-75.1050 Is there any property for which this subpart does not apply?**

Yes, this subpart does not apply to surplus property assigned for disposal to educational or public health institutions pursuant to 40 U.S.C. 550(c) or (d).

## Subpart F—Delegations

### DELEGATION TO THE DEPARTMENT OF DEFENSE (DoD)

### **§ 102-75.1055 What is the policy governing delegations of real property disposal authority to the Secretary of Defense?**

GSA delegates to the Secretary of Defense the authority to determine that Federal agencies do not need Department of Defense controlled excess real property and related personal property having a total estimated fair market value, including all the component units of the property, of less than \$50,000; and to dispose of the property by means deemed most advantageous to the United States.

### **§ 102-75.1060 What must the Secretary of Defense do before determining that DoD-controlled excess real property and related personal property is not required for the needs of any Federal agency and prior to disposal?**

The Secretary must conduct a Federal screening to determine that there is no further Federal need or requirement for the property.

### **§ 102-75.1065 When using a delegation of real property disposal authority under this subpart, is DoD required to report excess property to GSA?**

No, although the authority in this delegation must be used following the provisions of Chapter 5 of Subtitle I of Title 40 of the United States Code and its implementing regulations.