

**AGRICULTURE PROPERTY MANAGEMENT REGULATIONS
CHAPTER 110-73 REAL ESTATE ACQUISITION**

SUPPLEMENTING

**FEDERAL MANAGEMENT REGULATION
SUBCHAPTER C – REAL PROPERTY
PART 102-73—REAL ESTATE ACQUISITION**

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Subpart A—General Provisions

§102-73.5—What is the scope of this part?

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

110-73.5 Scope of part.

The Office of Procurement and Property Management (OPPM) has general oversight of USDA's acquisition of real property. OPPM establishes Department-wide policies, standards and guidelines, and maintains liaison with GSA, other Government agencies, and with the private sector. It ensures that each agency of the Department will acquire only such interest in real property as needed to carry out its programs in accordance with applicable laws, policies and procedures.

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

When seeking to acquire space, Federal agencies should first seek space in Government-owned and Government-leased buildings. If suitable Government-controlled space is unavailable, Federal agencies must acquire real estate and related services in an efficient and cost effective manner.

110-73.10 USDA Acquisition Policy.

(a) Prior to notifying GSA of a space request, every effort will be made to utilize USDA-owned facilities and leased space under the control of USDA agencies in the area that meets program requirements.

(b) If an agency objects to a GSA space related proposal, the agency should make every effort to resolve the objection with the appropriate GSA regional office. The matter should be referred to OPPM if a satisfactory resolution cannot be reached.

(c) Agencies are responsible for ensuring that the provisions of Departmental Regulation [1620-2](#) are met prior to submitting a request for space to GSA. Specifically, the provision that requires prior OPPM approval for new GSA assignments of 5,000 square feet or more should be noted. Additionally, OPPM notification is required when instituting a space action that will impact the central Rent account.

In some cases GSA may require other forms of space requests. Examples are as follows:

(1) Occupancy Agreements. (Please refer to GSA's Public Buildings Service's Pricing Desk Guide).

(2) Space Request Memorandum. In some regions, GSA had indicated that a memorandum stating funds are available, the term of the lease, how much space required, number of personnel to be housed, and any changes you need to get the project started can be used.

§102-73.15—What real estate acquisition and related services may Federal agencies provide?

Federal agencies, upon approval from GSA, may provide real estate acquisition and related services, including leasing (with or without purchase options), building and/or site purchase, condemnation, and relocation assistance. For information on the design and construction of Federal facilities, see Part 102-76 of this chapter.

United States Postal Service-Controlled Space

§102-73.20—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 and determining that no such space is available to meet its needs, 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, as specified in the “Agreement Between General Services Administration and the United States Postal Service Covering Real and Personal Property Relationships and Associated Services,” dated July 1985.

Locating Federal Facilities

§102-73.25—What policies must Executive agencies comply with in locating Federal facilities?

Executive agencies must comply with the location policies in this part and Part 102-83 of this chapter.

Historic Preservation

§102-73.30—What historic preservation provisions must Federal agencies comply with prior to acquiring, constructing, or leasing space?

Prior to acquiring, constructing, or leasing space, 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. Federal agencies can find guidance on protecting, enhancing, and preserving historic and cultural property in Part 102-78 of this chapter.

Prospectus Requirements

§102-73.35—Is a prospectus required for all acquisition, construction, or alteration projects?

No, a prospectus is not required if the dollar value of a project does not exceed the prospectus threshold. 40 U.S.C. 3307 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. The current prospectus threshold value for each fiscal year can be accessed by entering GSA's Web site at <http://www.gsa.gov> and then inserting "prospectus thresholds" in the search mechanism in the upper right-hand corner of the page.

§102-73.40—What happens if the dollar value of the project exceeds the prospectus threshold?

Projects require approval by the Senate and the House of Representatives if the dollar value of a project exceeds the prospectus threshold. To obtain this approval, the Administrator of General Services will transmit the proposed prospectuses to Congress for consideration by the Senate and the House of Representatives. Furthermore, as indicated in 102-72.30(b), the general purpose lease delegation authority is restricted to below the prospectus threshold, and therefore, GSA must conduct all lease acquisitions over the threshold.

110-73.40 USDA prospectus requirement.

Agencies will submit prospectus information required by GSA to OPPM for review and transmittal to the Administrator of GSA who will transmit it to Congress.

Subpart B—Acquisition by Lease

§102-73.45—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 met satisfactorily 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.
- (c) Federal agencies cannot provide for the completion of a new building within a reasonable time.

110-73.45-5000 USDA Policy on long-term leases of sites for permanent structures.

Permanent structures will not be located on other than Government owned land, except as prescribed by U.S.C. 2250a, 16 U.S.C. 571c, or other law.

(a) Long-term leases. Under 7 U.S.C. 2250a, and 16 U.S.C. 571c, structures may be located on leased land if the lease is for a term equal to estimated life of the structure or need for the structure and the lease includes the right to remove such structures within a reasonable time after termination of the use or right to the land. The authority in 16 U.S.C. 571c is limited to Forest Service projects. Agency heads or their designees may execute leases under the authority contained in 7 U.S.C. 2250a, subject to the following limitations:

(1) Lessors. Agencies may enter into long-term leases for building sites with State, County, or Municipal entities or nonprofit institutions where the estimated fair market value of the land is less than \$250,000. The approval of the Assistant Secretary for Administration is required when (a) executing leases with private corporations or individuals, or (b) the estimated market value of the land is \$250,000 or more, or (c) conditions of a rental rate of more than \$100 per annum as stated in 110-73.45-5000(a)(2) cannot be met.

(2) Rental rate. Long-term leases for building sites will normally be obtained at less than \$100 per annum. Leases at rental rates more than \$100 will not be executed unless the following conditions are met:

- (i) The land is determined to be the only suitable site;***
- (ii) Funds are not available for purchase; and***
- (iii) The lease contains an option for purchase of the land by the government at any time during the lease term at a price agreed upon which will be computed by crediting annual payments on principal which had been made before the option to purchase is exercised.***

In the event approval of such lease provisions cannot be obtained, the approval of the Assistant Secretary for Administration will be obtained prior to concluding negotiations for leasing building sites involving rental rates over \$100 per annum. (See 110-73.45-5000(a)(1)(c)).

(b) Obtaining approval. Requests for approval by the Assistant Secretary for Administration will be forwarded to OPPM. Such requests will contain the information prescribed by 110-73.255-

5005.3(b). The term of the lease and the proposed rental will be included, but an appraisal of the premises is not required for long-term leases at nominal rates.

(c) Public announcements. No public announcement will be made of proposed leases requiring approval of the Assistant Secretary for Administration until such approval has been obtained.

§102-73.50—Are Federal agencies that possess independent statutory authority to acquire leased space subject to requirements of this part?

No, Federal agencies possessing independent statutory authority to acquire leased space are not subject to GSA authority and, therefore, may not be subject to the requirements of this part. However, lease prospectus approval requirements of 40 U.S.C. Section 3307 may still apply appropriations to lease of space for public purposes under an agency's independent leasing authority.

§102-73.55—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.

§102-73.60—With whom may Federal agencies enter into lease agreements?

Federal agencies, upon approval from GSA, may enter into lease agreements with any person, partnership, corporation, or other public or private entity, provided that such lease agreements do not bind the Government for periods in excess of twenty years (40 U.S.C. 585(a)). Federal agencies may not enter into lease agreements with persons who are barred from contracting with the Federal Government (e.g., Members of Congress or debarred or suspended contractors).

§102-73.65—Are there any limitations on leasing certain types of space?

Yes, the limitations on leasing certain types of 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. 3307(f)(1)).

(b) However, Federal agencies may lease such space if the Administrator of General Services first determines that leasing such space is necessary to meet requirements that cannot be met in public buildings, and then submits such determination to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives in accordance with 40 U.S.C. 3307(f)(2).

§102-73.70—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, as amended (CICA) (41 U.S.C. 253(a)).

§102-73.75—What functions must Federal agencies perform with regard to leasing building space?

Federal agencies, upon approval from GSA, must perform all functions of leasing building space, and land incidental thereto, for their use except as provided in this subpart.

§102-73.80—Who is authorized to contact lessor, offerors, or potential offerors concerning space leased or to be leased?

No one, except the Contracting Officer or his or her designee, may contact lessors, offerors, or potential offerors concerning space leased or to be leased for the purpose of making oral or written representation or commitments or agreements with respect to the terms of occupancy of particular space, tenant improvements, alterations and repairs, or payment for overtime services.

110-73.80 Acquisition by GSA.

Agency personnel will not contact lessors, offerors or potential offerors when GSA is acquiring space unless authorized to do so by the Director of the Real Estate Division in the responsible GSA regional office.

§102-73.85—Can agencies with independent statutory authority to lease space have GSA perform the leasing functions?

Yes, upon request, GSA may perform, on a reimbursable basis, all functions of leasing building space, and land incidental thereto, for Federal agencies possessing independent statutory authority to lease space. However, GSA reserves the right to accept or reject reimbursable leasing service requests on a case-by-case basis.

§102-73.90—What contingent fee policy must Federal agencies apply to the acquisition of real property by lease?

Federal agencies must apply the contingent fee policies in 48 CFR 3.4 to all negotiated and sealed bid contracts for the acquisition of real property by lease. Federal agencies must appropriately adapt the representations and covenants required by that subpart for use in leases of real property for Government use.

§102-73.95—How are Federal agencies required to assist GSA?

The heads of Federal agencies must—

(a) Cooperate with and assist the Administrator of General Services in carrying out his responsibilities respecting office buildings and space;

- (b) Take measures to give GSA early notice of new or changing space requirements;
- (c) Seek to economize their requirements for space; and
- (d) Continuously review their needs for space in and near the District of Columbia, taking into account the feasibility of decentralizing services or activities that can be carried on elsewhere without excessive costs or significant loss of efficiency.

Competition in Contracting Act of 1984

§102-73.100—Is the Competition in Contracting Act of 1984, as amended (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, 41 U.S.C. 253.

National Environmental Policy Act of 1969 (NEPA)

§102-73.105—What policies must Federal agencies follow to implement the requirements of NEPA when acquiring real property by lease?

Federal agencies must follow the NEPA policies identified in §§102-76.40 and 102-76.45 of this chapter.

Lease Construction

§102-73.110—What rules must Executive agencies follow when acquiring leasehold interests in buildings constructed for Federal Government use?

When acquiring leasehold interests in buildings to be constructed for Federal Government use, Executive agencies must—

- (a) Establish detailed building specifications before agreeing to a contract that will result in the construction of a building;
- (b) Use competitive procedures;
- (c) Inspect every building during construction to ensure that the building complies with the Government's specifications;
- (d) Evaluate every building after completion of construction to determine that the building complies with the Government's specifications; and
- (e) Ensure that any contract that will result in the construction of a building contains provisions permitting the Government to reduce the rent during any period when the building does not comply with the Government's specifications.

Price Preference for Historic Properties

§102-73.115—Must Federal agencies offer a price preference to space in historic properties when acquiring leased space?

Yes, Federal agencies must give a price preference to space in historic properties when acquiring leased space using either the lowest price technically acceptable or the best value tradeoff source selection processes.

§102-73.120—How much of a price preference must Federal agencies give when acquiring leased space using the lowest price technically acceptable source selection process?

Federal agencies must give a price evaluation preference to space in historic properties as follows:

(a) First to suitable historic properties within historic districts, a 10 percent price preference.

(b) If no suitable historic property within an historic district is offered, or the 10 percent preference does not result in such property being the lowest price technically acceptable offer, the Government will give a 2.5 percent price preference to suitable non-historic developed or undeveloped sites within historic districts.

(c) If no suitable non-historic developed or undeveloped site within an historic district is offered, or the 2.5 percent preference does not result in such property being the lowest price technically acceptable offer, the Government will give a 10 percent price preference to suitable historic properties outside of historic districts.

(d) Finally, if no suitable historic property outside of historic districts is offered, no historic price preference will be given to any property offered.

§102-73.125—How much of a price preference must Federal agencies give when acquiring leased space using the best value tradeoff source selection process?

When award will be based on the best value tradeoff source selection process, which permits tradeoffs among price and non-price factors, the Government will give a price evaluation preference to historic properties as follows:

(a) First to suitable historic properties within historic districts, a 10 percent price preference.

(b) If no suitable historic property within an historic district is offered or remains in the competition, the Government will give a 2.5 percent price preference to suitable non-historic developed or undeveloped sites within historic districts.

(c) If no suitable non-historic developed or undeveloped site within an historic district is offered or remains in the competition, the Government will give a 10 percent price preference to suitable historic properties outside of historic districts.

(d) Finally, if no suitable historic property outside of historic districts is offered, no historic price preference will be given to any property offered.

Leases with Purchase Options

§102-73.130—When may Federal agencies consider acquiring leases with purchase options?

Agencies may consider leasing with a purchase option at or below fair market value, consistent with the lease-purchase scoring rules, 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.
- (c) Leasing with a purchase option is otherwise in the best interest of the Government.

Scoring Rules

§102-73.135—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.)

Delegations of Leasing Authority

§102-73.140—When may agencies that do not possess independent leasing authority lease space?

Federal agencies may perform for themselves all functions necessary to acquire leased space in buildings and land incidental thereto when—

- (a) The authority may be delegated (see 102-72.30) on the different types of delegations related to real estate leasing);
- (b) The space may be leased for no rental, or for a nominal consideration of \$1 per annum, and is limited to terms not to exceed 1 year;
- (c) Authority has been requested by an Executive agency and a specific delegation has been granted by the Administrator of General Services;
- (d) A categorical delegation has been granted by the Administrator of General Services for space to accommodate particular types of agency activities, such as military recruiting offices or space for certain county level agricultural activities (see 102-73.155 for a listing of categorical delegations); or
- (e) The required space is found by the Administrator of General Services to be wholly or predominantly utilized for the special purposes of the agency to occupy such space and is not generally suitable for use by other agencies. Federal agencies must obtain prior approval from the GSA regional office having jurisdiction for the proposed leasing action, before initiating a leasing action involving 2,500 or more square feet of such special purpose space. GSA's approval must be based upon a finding that there is no vacant Government-owned or leased space available that will meet the agency's requirements. Agency

special purpose space delegations can be found in §§102-73.170 through 102-73.225.

Categorical Space Delegations

§102-73.145—What is a categorical space delegation?

A categorical space delegation is a standing delegation of authority from the Administrator of General Services to a Federal agency to acquire a type of space identified in 102-73.155, subject to limitations in this part.

§102-73.150—What is the policy for categorical space delegations?

Subject to the limitations cited in §§102-73.230 through 102-73.240, all Federal agencies are authorized to acquire the types of space listed in 102-73.155 and, except where otherwise noted, may lease space for terms, including all options, of up to 20 years.

§102-73.155—What types of space can Federal agencies acquire with a categorical space delegation?

- Federal agencies can use categorical space delegations to acquire—
- (a) Space to house antennas, repeaters, or transmission equipment;
 - (b) Depots, including, but not limited to, stockpiling depots and torpedo net depots;
 - (c) Docks, piers, and mooring facilities (including closed storage space required in combination with such facilities);
 - (d) Fumigation areas;
 - (e) Garage space (may be leased only on a fiscal year basis);
 - (f) Greenhouses;
 - (g) Hangars and other airport operating facilities including, but not limited to, flight preparation space, aircraft storage areas, and repair shops;
 - (h) Hospitals, including medical clinics;
 - (i) Housing (temporary), including hotels (does not include quarters obtained pursuant to temporary duty travel or employee relocation);
 - (j) Laundries;
 - (k) Quarantine facilities for plants, birds, and other animals;
 - (l) Ranger stations, i.e., facilities that typically include small offices staffed by one or more uniformed employees, and may include sleeping/family quarters, parking areas, garages, and storage space. Office space within ranger stations is minimal and does not comprise a majority of the space. (May also be referred to as guard stations, information centers, or kiosks);
 - (m) Recruiting space for the armed forces (lease terms, including all options, limited to 5 years);
 - (n) Schools directly related to the special purpose function(s) of an agency;
 - (o) Specialized storage/depot facilities, such as cold storage; self-storage units; and lumber, oil, gasoline, shipbuilding materials, and pesticide

materials/equipment storage (general purpose warehouse type storage facilities not included); and

(p) Space for short-term use (such as conferences and meetings, judicial proceedings, and emergency situations).

Special Purpose Space Delegations

§102-73.160—What is an agency special purpose space delegation?

An agency special purpose space delegation is a standing delegation of authority from the Administrator of General Services to specific Federal agencies to lease their own special purpose space (identified in §§102-73.170 through 102-73.225), subject to limitations in this part.

§102-73.165—What is the policy for agency special purpose space delegations?

Subject to the limitations on annual rental amounts, lease terms, and leases on parking spaces cited in §§102-73.230 through 102-73.240, the agencies listed below are authorized to acquire special purpose space associated with that agency and, except where otherwise noted, may lease such space for terms, including all options, of up to 20 years. The agencies and types of space subject to special purpose space delegations are specified in §§102-73.170 through 102-73.225.

§102-73.170—What types of special purpose space may the Department of Agriculture lease?

The Department of Agriculture is delegated the authority to lease the following types of special purpose space:

(a) Cotton classing laboratories (lease terms, including all options, limited to 5 years).

(b) Land (if unimproved, may be leased only on a fiscal year basis).

(c) Miscellaneous storage by cubic foot or weight basis.

(d) Office space when required to be located in or adjacent to stockyards, produce markets, produce terminals, airports, and other ports (lease terms, including all options, limited to 5 years).

(e) Space for agricultural commodities stored in licensed warehouses and utilized under warehouse contracts.

(f) Space utilized in cooperation with State and local governments or their instrumentalities (extension services) where the cooperating State or local government occupies a portion of the space and pays a portion of the rent.

§102-73.175—What types of special purpose space may the Department of Commerce lease?

The Department of Commerce is delegated authority to lease the following types of special purpose space:

(a) Space required by the Census Bureau in connection with conducting the decennial census (lease terms, including all options, limited to 5 years).

(b) Laboratories for testing materials, classified or ordnance devices, calibration of instruments, and atmospheric and oceanic research (lease terms, including all options, limited to 5 years).

(c) Maritime training stations.

(d) Radio stations.

(e) Land (if unimproved, may be leased only on a fiscal year basis).

(f) National Weather Service meteorological facilities.

§102-73.180—What types of special purpose space may the Department of Defense lease?

The Department of Defense is delegated authority to lease the following types of special purpose space:

(a) Air Force—Civil Air Patrol Liaison Offices and land incidental thereto when required for use incidental to, in conjunction with, and in close proximity to airports, including aircraft and warning stations (if unimproved, land may be leased only on a fiscal year basis; for space, lease terms, including all options, limited to 5 years).

(b) Armories.

(c) Film library in the vicinity of Washington, DC.

(d) Mess halls.

(e) Ports of embarkation and debarkation.

(f) Post exchanges.

(g) Postal Concentration Center, Long Island City, NY.

(h) Recreation centers.

(i) Reserve training space.

(j) Service clubs.

(k) Testing laboratories (lease terms, including all options, limited to 5 years).

§102-73.185—What types of special purpose space may the Department of Energy lease?

The Department of Energy, as the successor to the Atomic Energy Commission, is delegated authority to lease facilities housing the special purpose or special location activities of the old Atomic Energy Commission.

§102-73.190—What types of special purpose space may the Federal Communications Commission lease?

The Federal Communications Commission is delegated authority to lease monitoring station sites.

§102-73.195—What types of special purpose space may the Department of Health and Human Services lease?

The Department of Health and Human Services is delegated authority to lease laboratories (lease terms, including all options, limited to 5 years).

§102-73.196—What types of special purpose space may the Department of Homeland Security lease?

The Department of Homeland Security is delegated authority to lease whatever space its organizational units or components had authority to lease prior to the creation of the Department of Homeland Security, including—

- (a) Border patrol offices similar in character and utilization to police stations, involving the handling of prisoners, firearms, and motor vehicles, regardless of location (lease terms, including all options limited to 5 years);
- (b) Space for the U.S. Coast Guard oceanic unit, Woods Hole, MA; and
- (c) Space for the U.S. Coast Guard port security activities.

§102-73.200—What types of special purpose space may the Department of the Interior lease?

The Department of the Interior is delegated authority to lease the following types of special purpose space:

- (a) Space in buildings and land incidental thereto used by field crews of the Bureau of Reclamation, Bureau of Land Management, and the Geological Survey in areas where no other Government agencies are quartered (unimproved land may be leased only on a fiscal year basis).
- (b) National Parks/Monuments Visitors Centers consisting primarily of special purpose space (e.g., visitor reception, information, and rest room facilities) and not general office or administrative space.

§102-73.205—What types of special purpose space may the Department of Justice lease?

The Department of the Justice is delegated authority to lease the following types of special purpose space:

- (a) U.S. marshals office in any Alaska location (lease terms, including all options, limited to 5 years).
- (b) Space used for storage and maintenance of surveillance vehicles and seized property (lease terms, including all options, limited to 5 years).
- (c) Space used for review and custody of records and other evidentiary materials (lease terms, including all options, limited to 5 years).
- (d) Space used for trial preparation where space is not available in Federal buildings, Federal courthouses, USPS facilities, or GSA-leased buildings (lease terms limited to not more than 1 year).

§102-73.210—What types of special purpose space may the Office of Thrift Supervision lease?

The Office of Thrift Supervision is delegated authority to lease space for field offices of Examining Divisions required to be located within Office of Thrift Supervision buildings or immediately adjoining or adjacent to such buildings (lease terms, including all options, limited to 5 years).

§102-73.215—What types of special purpose space may the Department of Transportation lease?

The Department of Transportation is delegated authority to lease the following types of special purpose space (or real property):

- (a) Land for the Federal Aviation Administration (FAA) at airports (unimproved land may be leased only on a fiscal year basis).
- (b) General purpose office space not exceeding 10,000 square feet for the FAA at airports in buildings under the jurisdiction of public or private airport authorities (lease terms, including all options, limited to 5 years).

§102-73.220—What types of special purpose space may the Department of the Treasury lease?

The Department of the Treasury is delegated authority to lease the following types of special purpose space:

- (a) Space and land incidental thereto for the use of the Comptroller of the Currency, as well as the operation, maintenance and custody thereof (if unimproved, land may be leased only on a fiscal year basis; lease term for space, including all options, limited to 5 years).
- (b) Aerostat radar facilities necessary for U.S. Custom Service mission activities.

§102-73.225—What types of special purpose space may the Department of Veterans Affairs lease?

The Department of Veterans Affairs is delegated authority to lease the following types of special purpose space:

- (a) Guidance and training centers located at schools and colleges.
- (b) Space used for veterans hospitals, including outpatient and medical-related clinics, such as drug, mental health, and alcohol.

Limitations on the Use of Delegated Authority

§102-73.230—When must Federal agencies submit a prospectus to lease real property?

In accordance with 40 U.S.C. 3307, Federal agencies must submit a prospectus to the Administrator of General Services for leases involving a net annual rental, excluding services and utilities, in excess of the prospectus threshold provided in 40 U.S.C. 3307. Agencies must be aware that prospectus thresholds are indexed and change each year.

§102-73.235—What is the maximum lease term that a Federal agency may agree to when it has been delegated lease acquisition authority from GSA?

Pursuant to GSA's authority to enter into lease agreements contained in 40 U.S.C. 585(a)(2), agencies delegated the authorities outlined herein may enter into leases for the term specified in the delegation. In those cases where agency

special purposes space delegations include the authority to acquire unimproved land, the land may be leased only on a fiscal year basis.

§102-73.240—What policy must Federal agencies follow to acquire official parking spaces?

Federal agencies that need parking must utilize available Government-owned or leased facilities. Federal agencies must make inquiries regarding availability of such Government-controlled space to GSA regional offices and document such inquiries. If no suitable Government-controlled facilities are available, an agency may use its own procurement authority to acquire parking by service contract.

Subpart C—Acquisition by Purchase or Condemnation

Buildings

§102-73.245—When may Federal agencies consider purchase of buildings?

A Federal agency may consider purchase of buildings on a case-by-case basis if it has landholding authority and 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.
- (d) When otherwise in the best interests of the Government.

§102-73.250—Are agencies required to adhere to the policies for locating Federal facilities when purchasing buildings?

Yes, when purchasing buildings, agencies must comply with the location policies in this part and Part 102-83 of this chapter.

§102-73.255—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 Order 12072 (August 16, 1978, 43 FR 36869) and Executive Order 13006 (40 U.S.C. 3306 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 102-75, subpart B, of this chapter.

(b) A site adjacent to or in the proximity of an existing Federal building that 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 “Brownfields” program).

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

(e) All applicable location policies in this part and Part 102-83 of this chapter.

USDA Acquisition by Purchase or Exchange

110-73.255-5005 Scope of part.

This part describes the authorities and policies of the Department regarding acquisition of real property by purchase and exchange.

110-73.255-5005.1 Authorities.

(a) The Department may acquire title to real property, either by purchase or exchange, only where legislative authority for the acquisition has been provided, and when funds for the acquisition have been specifically appropriated. (41 U.S.C. 14).

(b) 7 U.S.C. 428a authorizes the Department of Agriculture to acquire land, or interest therein, for which funds have been appropriated. It also provides that the expenditure of appropriations that are available for the purchase of land may be expended for options to purchase the land, such payment not to exceed \$1 in the absence of a specific appropriation.

Agency heads (or their designees) may acquire real property under this authority if provision is made in an appropriation or other law.

(c) 7 U.S.C. 2269, 92 Stat. 1065, authorizes the Secretary of Agriculture to accept, receive, hold, utilize and administer gifts, bequests or devices of real and personal property for benefit of the Department or for carrying out its functions. (See [DR 5200-3](#)).

(d) These provisions do not preclude assignments of custody within the Department or obtaining transfer from other Government agencies through excess property channels or other transfer authorities.

110-73.255-5005.2 Acquisition standards.

Acquisitions under this subpart will be consistent with standards established by the Department of Justice. Advice and guidance of the Department's Office of the General Counsel should be sought to ensure compliance with the standards.

110-73.255-5005.3 Acquisitions requiring Secretarial approval.

(a) Approval of the Assistant Secretary for Administration will be obtained prior to starting any action (except an appraisal where required) or making any public announcement on the purchase, exchange, or acceptance of a gift (see [DR 5200-3](#)) of real property when the total estimated fair market value of the site (land only) is \$50,000 or more, or the site contains a completed building having an estimated cost of \$500,000 or more. Approvals are applicable only to acquisitions of real property that are not specifically identified in appropriation authorities (in statute or report language) or authorized by specific administrative site exchange or sales laws.

(b) Requests for approval will be submitted to OPPM, and will contain the following information (in the event of an exchange, data will be submitted for all properties involved):

(1) The appraised fair market value (AFMV) of land and improvements as determined by a qualified appraiser made pursuant to the Uniform Appraisal Standards for Federal Land Acquisitions published by the Interagency Land Acquisition Conference. If the AFMV is not available at the time the request for Departmental approval is made, the estimated fair market value (EFMV) of the property will be submitted, and the AFMV will be submitted as soon as it has been established.

For gifts of real property as defined in DR 5200-003, an appraisal is not required; however, for real property inventory and accounting purposes an estimated value should be determined. This estimated value for inventory and accounting purposes may be determined from sources such as tax assessment records or consultations with local real estate professionals.

(2) Legal description of land and explanation of improvements, if any.

(3) The estimated cost.

(4) Explain the specific use to be made of the property and describe the program for which it is to be used.

(5) The source of funds to be used and the legal authority thereof.

(6) The relationship of the property to other facilities of the agency in the immediate vicinity; the State or general locality; or the region,

where applicable.

(7) A brief description of the real property owned or controlled in the immediate vicinity by other agencies of this Department.

(8) Certification that there are no other properties in Government ownership suitable for the purpose.

110-73.255-5005.4 Acquisition of subsurface rights.

(a) The subsurface rights will be acquired or subordinated to the rights of the United States where the land to be acquired will be improved.

(b) The following clause will be included in all purchase contracts involving the acquisition of subsurface rights: "The vendor further agrees not to do, or suffer others to do, any act by which the value or title to said lands may be diminished or encumbered. It is further agreed that any loss or damage to the property occurring prior to the vesting of satisfactory title in the United States of America by reason of the unauthorized cutting or removal of products or the removal of minerals or other natural resources therefrom, or because of fire, or act of God, will be borne by the vendor; and that, in the event any such loss or damage occurs, the United States may refuse, without liability, to accept conveyance of said land, or it may elect to accept conveyance upon an equitable adjustment of the purchase price."

Land

§102-73.260—What land acquisition policy must Federal agencies follow?

Federal agencies must follow the land acquisition policy in the Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended, 42 U.S.C. 4651-4655, which—

- (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.

§102-73.265—What actions must Federal agencies take to facilitate land acquisition?

To facilitate land acquisition, Federal agencies must, among other things—

- (a) Appraise the real property before starting negotiations and give the owner (or the owner's representative) the opportunity to accompany the appraiser during the inspection;

- (b) Establish an amount estimated to be the just compensation before starting negotiations and promptly offer to acquire the property for this full amount;
- (c) Try to negotiate with owners on the price;
- (d) Pay the agreed purchase price to the property owner, or in the case of a condemnation, deposit payment in the registry of the court, for the benefit of the owner, before requiring the owner to surrender the property; and
- (e) Provide property owners (and occupants) at least 90 days' notice of displacement before requiring anyone to move. If a Federal agency permits the owner to keep possession for a short time after acquiring the owner's property, Federal agencies must not charge rent in excess of the property's fair rental value to a short-term occupier.

Just Compensation

§102-73.270—Are Federal agencies required to provide the owner with a written statement of the amount established as just compensation?

Yes, Federal agencies must provide the owner with a written statement of this amount and summarize the basis for it. When it is appropriate, Federal agencies must separately state the just compensation for the property to be acquired and damages to the remaining real property.

§102-73.275—What specific information must be included in the summary statement for the owner that explains the basis for just compensation?

The summary statement must—

- (a) Identify the real property and the estate or interest the Federal agency is acquiring;
- (b) Identify the buildings, structures, and other improvements the Federal agency considers part of the real property for which just compensation is being offered;
- (c) State that the Federal agency based the estimate of just compensation on the Government's estimate of the property's fair market value. If only part of a property or less than a full interest is being acquired, Federal agencies must explain how they determined the just compensation for it; and
- (d) State that the Government's estimate of just compensation is at least as much as the property's approved appraisal value.

§102-73.280—Where can Federal agencies find guidance on how to appraise the value of properties being acquired by the Federal Government?

The Interagency Land Acquisition Conference has developed, promulgated, and adopted the Uniform Appraisal Standards for Federal Land Acquisitions, sometimes referred to as the "Yellow Book." The Interagency Land Acquisition Conference, established on November 27, 1968, by invitation of the Attorney General, is a voluntary organization composed of the many Federal agencies engaged in the acquisition of real estate for public uses. The "Yellow Book" is published by the Appraisal Institute in cooperation with the U.S. Department of

Justice and is available in hard copy or on the Department of Justice's internet Web site at <http://www.usdoj.gov/enrd/land-ack/>.

§102-73.285—[Reserved]

§102-73.290—Are there any prohibitions when a Federal agency pays “just compensation” to a tenant?

Yes, Federal agencies must not—

- (a) Duplicate any payment to the tenant otherwise authorized by law; and
- (b) Pay a tenant unless the landowner disclaims all interests in the tenant's improvements. In consideration for any such payment, the tenant must assign, transfer, and release to the Federal agency all of its right, title, and interest in the improvements. The tenant may reject such payment under this subpart and obtain payment for its property interests according to other sections of applicable law.

Expenses Incidental to Property Transfer

§102-73.295—What property transfer expenses must Federal agencies cover when acquiring real property?

Federal agencies must—

- (a) Reimburse property owners for all reasonable expenses actually incurred for recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses needed to convey the property to the Federal Government;
- (b) Reimburse property owners for all reasonable expenses actually incurred for penalty costs and other charges to prepay any existing, recorded mortgage that a property owner entered into in good faith and that encumbers the real property;
- (c) Reimburse property owners for all reasonable expenses actually incurred for the prorated part of any prepaid real property taxes that cover the period after the Federal Government gets title to the property or effective possession of it, whichever is earlier; and
- (d) Whenever possible, directly pay the costs identified in this section, so property owners will not have to pay them and then seek reimbursement from the Government.

Litigation Expenses

§102-73.300—Are Federal agencies required to pay for litigation expenses incurred by a property owner because of a condemnation proceeding?

Federal agencies must pay reasonable expenses for attorneys, appraisals, and engineering fees that a property owner incurs because of a condemnation proceeding, if any of the following are true:

- (a) The court's final judgment is that the Federal agency cannot acquire the real property by condemnation.

(b) The Federal agency abandons the condemnation proceeding other than under an agreed-on settlement.

(c) The court renders a judgment in the property owner's favor in an inverse condemnation proceeding or the Federal agency agrees to settle such proceeding.

Relocation Assistance Policy

§102-73.305—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, as amended, 42 U.S.C. 4651-4655, to eligible owners and tenants of property purchased for use by Federal agencies in accordance with the implementing regulations found in 49 CFR part 24. Appropriate relocation assistance means that the Federal agency must pay the displaced person for actual—

- (a) Reasonable moving expenses (in moving himself, his family, and business);
- (b) Direct losses of tangible personal property as a result of moving or discontinuing a business;
- (c) Reasonable expenses in searching for a replacement business or farm; and
- (d) Reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, but not to exceed \$10,000.