

§ 12a.6

the particular property, and other organizations, as appropriate, concerning suitable properties.

(g) Upon submission of a Report of Excess to GSA, GSA may screen the property for Federal use. In addition, GSA may screen State and local governmental units and eligible nonprofit organizations to determine interest in the property in accordance with current regulations. (See 41 CFR 101-47.203-5, 101-47.204-1 and 101-47.303-2.)

(h) The landholding agency will retain custody and accountability and will protect and maintain any property which is reported excess to GSA as provided in 41 CFR 101-47.402.

§ 12a.6 Suitability criteria.

(a) All properties, buildings and land will be determined suitable unless a property's characteristics include one or more of the following conditions:

(1) *National security concerns.* A property located in an area to which the general public is denied access in the interest of national security (e.g., where a special pass or security clearance is a condition of entry to the property) will be determined unsuitable. Where alternative access can be provided for the public without compromising national security, the property will not be determined unsuitable on this basis.

(2) *Property containing flammable or explosive materials.* A property located within 2000 feet of an industrial, commercial or Federal facility handling flammable or explosive material (excluding underground storage) will be determined unsuitable. Above ground containers with a capacity of 100 gallons or less, or larger containers which provide the heating or power source for the property, and which meet local safety, operation, and permitting standards, will not affect whether a particular property is determined suitable or unsuitable. Underground storage, gasoline stations and tank trucks are not included in this category and their presence will not be the basis of an unsuitability determination unless there is evidence of a threat to personal safety as provided in paragraph (a)(5) of this section.

(3) *Runway clear zone and military airfield clear zone.* A property located

45 CFR Subtitle A (10-1-03 Edition)

within an airport runway clear zone or military airfield clear zone will be determined unsuitable.

(4) *Floodway.* A property located in the floodway of a 100 year floodplain will be determined unsuitable. If the floodway has been contained or corrected, or if only an incidental portion of the property not affecting the use of the remainder of the property is in the floodway, the property will not be determined unsuitable.

(5) *Documented deficiencies.* A property with a documented and extensive condition(s) that represents a clear threat to personal physical safety will be determined unsuitable. Such conditions may include, but are not limited to, contamination, structural damage or extensive deterioration, friable asbestos, PCB's, or natural hazardous substances such as radon, periodic flooding, sinkholes or earth slides.

(6) *Inaccessible.* A property that is inaccessible will be determined unsuitable. An inaccessible property is one that is not accessible by road (including property on small off-shore islands) or is land locked (e.g., can be reached only by crossing private property and there is no established right or means of entry).

§ 12a.7 Determination of availability.

(a) Within 45 days after receipt of a letter from HUD pursuant to § 12a.4(a), each landholding agency must transmit to HUD a statement of one of the following:

(1) In the case of unutilized or underutilized property:

(i) An intention to declare the property excess,

(ii) An intention to make the property available for use to assist the homeless, or

(iii) The reasons why the property cannot be declared excess or made available for use to assist the homeless. The reasons given must be different than those listed as suitability criteria in § 12a.6.

(2) In the case of excess property which had previously been reported to GSA:

(i) A statement that there is no compelling Federal need for the property, and that, therefore, the property will be determined surplus; or