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10.0 Purpose and Scope

This Chapter covers the department-wide policy and procedures governing the utilization and disposal of excess and surplus real property and related personal property.

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### 10.1 Authority for Chapter

This Chapter implements the applicable provisions of the Federal Property and Administrative Services Act of 1949, (41 U.S.C. 251 et seq.) as amended; the Federal Management Regulation (41 CFR 102-75) and Executive Order 12512 dated April 29, 1985.

### 10.2 Definitions

The following definitions are established for terms used in this Chapter:

- (a) Management - The safeguarding of the Government's interest in property, in an efficient and economical manner consistent with the best business practices.
- (b) Real Property - As used in this Chapter, it shall mean any interest in land, together with the improvements, structures and fixtures located thereon (including prefabricated movable structures, such as Butler-type storage warehouses and quonset huts, and house trailers with or without undercarriages), and appurtenances thereto, under the control of DOC, excepting the public domain, crops, timber and minerals as described in 41 CFR 102-75.
- (c) Not Being Put to Optimum Use - Real property which, even though utilized for current program purposes, could be utilized for a different, significantly higher and better purpose or, which because of its high cost of occupying, could be replaced by other suitable properties with total net savings to the Government after consideration of property values, costs of moving, occupancy, efficiency of operations, environmental effects, regional planning, and employee morale.
- (d) Not Utilized - Real property not utilized for current program purposes of the accountable Federal agency, or occupied in caretaker status only.
- (e) Related Personal Property - Any personal property which is an integral part of the real property or is related to, designed for, or specially adapted to the functional or productive capacity of the real property, or which is determined by GSA to be related to real property.

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- (f) Underutilized - Real property which is used only irregularly or intermittently by the accountable Federal agency for current program purposes, or which is used for current program purposes that can be satisfied with only a portion of the property.

### 10.3 DOC Policy on Utilization and Disposal of Real Property

It is the policy of DOC that:

- (a) The Department maintain a continuing review of its real property holdings with the purpose of identifying and eliminating as promptly as possible all real property, owned or leased, which no longer serves any useful purpose in the conduct of operations.
- (b) No real property will be acquired nor permanent improvements made thereon unless such actions can be adequately justified as being essential for the conduct of new or expanded programs or for increased efficiency or economy of operations. In addition, no actions shall be initiated for fee acquisition without prior approval of the Chief Financial Officer/Assistant Secretary for Administration, or his/her designee. (See Chapter 5 of this Manual).
- (c) As provided in Chapter 11 of this Manual, OREPMP, in coordination with the Real Property Operations Offices and the Operating Units, shall maintain the Real Property Information Systems in such a way as to maximize real property accountability and ensure that DOC's real property resources are treated as national assets.
- (d) CFR 102-75 Real Property Disposal are applicable department-wide and made part of this Chapter by reference.  
<http://rc.gsa.gov/ResourceCenter/Laws Regs All/main1.htm>
- (e) All Department activity related to the utilization and disposal of real property shall be performed in accordance with 41 CFR 102.75.
- (f) Permanent improvements will not be added to DOC-controlled real property unless it can be clearly demonstrated that no other property within the same

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area that would serve the same purpose more economically, is available by lease, purchase or other accepted means of transfer.

- (g) All DOC property which has been determined to be excess to the Department's needs should be promptly reported to GSA as excess.

### 10.4 Roles and Responsibilities

- (a) The Operating Units and other Departmental elements are responsible for ensuring, in their respective areas, maximum utilization of real property holdings and for the disposing of holdings excess to current or foreseeable needs. In cases where excess real property under their control is identified, these Departmental elements are responsible for notifying in writing the appropriate Real Property Operations Office that the necessary excessing action be initiated. This request should include sufficient data on the property to enable the Real Property Operations Office to complete a Standard Form 118, Report of Excess Real Property, with its requisite attachments. (See Section 10.9).
- (b) The Real Property Operations Offices are responsible for recommending that Departmental elements excess real property; for conducting real property utilization surveys in accordance with current GSA standards; for screening excess real property through the Departmental elements to determine any potential need; and for completing the necessary excessing forms and otherwise coordinating the reassignment, transfer or disposal of unneeded real property.
- (c) OREPMP is responsible for reviewing and coordinating the submission to GSA of all requests for disposing of DOC excess real property and for assisting the Departmental elements and Real Property Operations Office in executing the excessing action. All DOC excessing actions must be forwarded to OREPMP who will, in turn, review and submit them to GSA Headquarters and to the appropriate GSA Regional Office for further action.

### 10.5 Identification of Unneeded Real Property

#### 10.5.1 Standards for Determining Excess

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In considering whether to declare any real property as excess, the Departmental element should consider the following factors as evidence in support of excessing:

- (a) The real property is not being used and there are no approved plans for future use;
- (b) Substantial net savings to the Government would result if properties used for essential purposes were sold at their current market values and other suitable properties of substantially lower current values were substituted for them;
- (c) The cost of operation and maintenance are substantially higher than for other suitable properties of equal or less value which can be made available by purchase, lease or other method of transfer;
- (d) The real property is being leased to the private sector but could be sold under the provisions of the lease in accordance with existing laws, if the Government's requirements for goods or services produced on such properties can be met satisfactorily with the properties in private ownership;
- (e) The real property is being used by the Government to produce goods or services which are available from the private sector, except in instances when it can be clearly demonstrated that it is not in the public interest to obtain such goods and services from the private sector.

### 10.6 Real Property Utilization Surveys

At the time this Manual was being updated and revised, GSA was in the process of revising the policies and requirements associated with Real Property Utilization Surveys.

Pursuant to Executive Order 12512 and by GSA letter dated September 19, 1985, all Federal agencies were advised that this notification superseded the requirement for Executive Agency Annual Reviews.

In accordance with GSA's September 19, 1985 letter, DOC is required to review its owned real property holdings on a five-year cycle to determine if any property is not utilized, underutilized, or not being put to its optimum use. DOC's survey

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schedule for any forthcoming fiscal year must be provided to GSA by September 1 of the preceding fiscal year. OREPMP is responsible for coordinating the development of the survey schedule within DOC.

Pursuant to Section 2 of Executive Order 12512, DOC and GSA Central Office and/or regional offices of GSA will conduct surveys of DOC's real property holdings. DOC and the Real Property Operations Office responsible for the facility will be notified in advance of the scheduled survey and furnish at that time information and materials in accordance with 41 CFR 102-75.

### 10.7 Annual Real Property Management Improvement Plan

The GSA letter dated September 19, 1985, requires that all Federal agencies prepare annual real property improvement plans. Accordingly, each Real Property Operations Office shall, after GSA conducts and reports on each of its real property utilization surveys for a fiscal year, prepare a memo noting ways of making more economic and efficient use of any DOC real property holdings under its jurisdiction. The memo shall be sent to the appropriate Departmental element for review, concurrence and, if appropriate, implementation. The Departmental element shall provide the Real Property Operations Office with documentation of any plans or actions resulting from the memo recommendation. A copy of the memo, together with the documentation of any Departmental element plans or action resulting from it, shall be filed at the appropriate Real Property Operations Office. A copy shall be forwarded to OREPMP.

### 10.8 Maintaining Federal Real Property System Data

In order to ensure that the records used in accounting for the utilization of DOC real property holdings are accurate and up-to-date, the Real Property Operations Office, in coordination with the Operating Units and other Departmental elements, shall take all necessary action to keep the Federal Real Property Management System data base current. Monthly updates should be made in coordination with OREPMP, which is the Department's data base manager.

### 10.9 Reporting of Excess Real Property

#### 10.9.1 Reporting Requirements

DOC shall report to GSA all excess real property, except as

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provided in 41 CFR 102-75. Reports of excess real property shall be based on DOC's official real property records and accounts. All excess related personal property shall be reported as a part of the same report covering the excess real property.

### 10.9.2 Report Forms

- (a) Reports of excess real property and related personal property shall be prepared on Standard Form 118, Report of Excess Real Property and accompanying Standard Form 118a, Buildings Structures, Utilities, and Miscellaneous Facilities, Schedule A; Standard Form 118b, Land, Schedule B; and Standard Form 118c, Related Personal Property, Schedule C.
- (b) GSA requires that, when DOC submits a Standard Form 118 to excess real property, the following attachments be included:
  - (1) A report prepared by the DOC realty specialist in charge of the action on the nature of the Government's title to the property based on a review of the records of the Department. This report should recite the ten (10) elements described in 41 CFR 102-75. In developing this report, the realty specialist should work in coordination with a DOC facilities/engineering specialist who is familiar with the site and, if necessary, contract for the assistance of a title attorney to pass judgement on the quality of title.
  - (2) A legible, reproducible copy of all instruments in possession of DOC which affect the right, title, or interest of the United States in the property reported. If it is considered impractical to transmit abstracts of title and related title evidence, such documents need not be transmitted. However, the name and address of the custodian of such documents shall be stated in the title report.
  - (3) Any appraisal reports in the possession of the holding agency of the fair market value or the fair annual rental of the property reported.

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- (4) A certification by a responsible person that the property does or does not contain polychlorinated biphenyl (PCB) transformers or other equipment regulated by the Environmental Protection Agency under 40 CFR 761.

### 10.9.3 Submission of Reports

Reports of excess shall be filed with the Regional Office of GSA for the region in which the excess property is located. Government-owned excess property should be filed 90 days in advance of the date it becomes available for transfer, or as far in advance as possible under the circumstances. Leasehold interests in excess real property shall be reported at least 60-calendar days prior to the date on which notice of termination or cancellation is required by the terms of the lease.

### 10.10 Miscellaneous

- (a) If the DOC Report of Excess involves real property withdrawn from the public domain, 41 CFR 102-75 shall be followed.
- (b) If the DOC Report of Excess involves contaminated real property, then 41 CFR 102-75 shall be followed.

### 10.11 Examination for Acceptance

Each Report of Excess shall be reviewed by GSA and within 15 calendar days of receipt, GSA shall notify DOC whether it is acceptable. 41 CFR 102-75 provides the details of this GSA determination.

### 10.12 Withdrawals of Reports of Excess

Subject to approval of GSA, Reports of Excess may be withdrawn in whole or in part by DOC any time prior to transfer to another Federal agency or disposal as surplus property. Requests for withdrawal should be sent to the GSA Regional Office where the Report of Excess was filed. Withdrawal requests should be initiated by the excessing Departmental element, processed by the Real Property Operations Office and submitted to OREPMP for submission to the GSA Regional Office.

### 10.13 Utilization of Excess Real Property

#### 10.13.1 Reassignment of Real Property

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All Departmental elements shall, as far as practicable and consistent with 41 CFR 102-75, make reassignments of real property and related personal property under their control and jurisdiction among activities within the Department instead of acquiring such property from other sources.

### 10.13.2 Transfer Utilization

All Departmental elements shall, as far as practicable and consistent with 41 CFR 102-75, transfer excess real property under their control to other Federal agencies and to organizations specified in 41 CFR 102-75, and shall fulfill their requirements for real property by obtaining excess real property from other Federal agencies.

### 10.14 Notification of DOC Property Needs

The appropriate Real Property Operations Office, acting on behalf of a requesting Departmental element, shall notify the proper GSA Regional Office whenever real property is needed for an authorized program of the Department. The requirements of such notification are contained in 41 CFR 102-75.

### 10.15 Screening of Excess Real Property

Excess real property and related personal property reported by executive agencies shall generally be screened by GSA for utilization by Federal real property holding agencies such as DOC which may reasonably be expected to have use for the property. Details of this screening process are contained in 41 CFR 102-75. Similarly, within DOC, when a Departmental element requests that a Real Property Operations Office take the necessary actions to excess real property held by that Departmental element, the Real Property Operations Office is responsible for screening the other Departmental elements to determine whether they have any need for the real property in question.

### 10.16 Disposition of Related Personal Property

Prefabricated movable structures, fixtures, and related personal property may, at the discretion of GSA, be designated for disposition as personal property. Details of this classification process are contained in 41 CFR 102-75.

### 10.17 Transfers

Should DOC be interested in the transfer of excess real property

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and related personal property reported to GSA, the appropriate Real Property Operations Office should prepare and submit to the appropriate GSA Regional Office a GSA Form 1334, Request for Transfer of Excess Real and Related Personal Property. Upon a determination by GSA that a transfer is in the best interest of the Government, the transfer shall be processed in accordance with 41 CFR 102-75.

### 10.18 Temporary Utilization

The terms and conditions under which GSA will authorize a Federal agency to make temporary use of excess real property are set forth in 41 CFR 102-75.

### 10.19 Determination of Surplus

Any real property and related personal property reported as excess under 41 CFR 102-75 which has been screened for the needs of Federal agencies, or waived for such screening by GSA, shall be subject to determination as surplus property by GSA. Surplus property is then offered to State and local agencies and, in turn, to the general public. This process is controlled by GSA and is described in 41 CFR 102-75.

### 10.20 Protection and Maintenance of Excess Property

#### 10.20.1 Protection and Maintenance

After reporting real property as excess to its needs, the releasing Departmental element is responsible for retaining custody and accountability for excess and surplus real property, including related personal property, and shall protect and maintain such property pending its transfer to another Federal agency or its disposal. Guidelines for the protection and maintenance of excess and surplus property are contained in 41 CFR 101-75.

#### 10.20.2 Expense of Protection and Maintenance

Upon receipt of DOC's Report of Excess, GSA will promptly notify the Department of its date of receipt. The Departmental element that previously had custody of the excessed property is responsible for the expense of its protection and maintenance for a period of no more than 12 months beginning from the date of receipt. After this date, DOC will be reimbursed for such expenses, subject to the provisions of 41 CFR 102-75.

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### 10.21 Taxes and Other Obligations

Payments of taxes, rents, insurance premiums and other obligations during the 12 month period after reporting real property as excess is the responsibility of the Departmental element excessing the property.

### 10.22 Decontamination

The excessing Departmental element is responsible for all expense and supervision involved in the decontamination of any excess and surplus real property that has been contaminated with hazardous material of any sort.

### 10.23 Improvements or Alterations

GSA's policy concerning the making of improvements or alterations on excess or surplus property is contained in 41 CFR 102-75 and should be followed by DOC.

### 10.24 Interim Use and Occupancy

If the Real Property Operations Office in charge of disposing of the excess real property makes a revocable agreement to place excess or surplus real property in productive use, the releasing Departmental element is responsible for the servicing of the agreement.

### 10.25 Assistance in Disposition

DOC is expected to cooperate with the disposal agency in showing its excessed real property to prospective transferees or purchasers. Unless extraordinary expenses are incurred in showing the property, DOC shall absorb the entire cost of such actions.

### 10.26 Abandonment, Destruction or Donation of Excess Property

The rules governing the abandonment, destruction or donation to a public body of excess real property are provided in 41 CFR 102.75. These provisions should be following in any such action involving DOC excess real property.