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SPA Reg. 16

NOV. 16, 1945

SURPLUS PROPERTY ADMINISTRATION

[SPA Reg. 16]

PART 8316—SURPLUS AIRPORT PROPERTY

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AUTHORITY: §§ 8316.1 to 8316.24, inclusive, issued under Surplus Property Act of 1944, 58 Stat. 765, 50 U. S. C. App. Sup. 1611, and under Pub. Law 181, 79th Cong., 1st Sess.

§ 8316.1 *Definitions*—(a) *Terms defined in act.* Terms not defined in paragraph (b) of this section which are defined in the Surplus Property Act of 1944 shall in this part have the meaning given to them in the act.

(b) *Other terms.* (1) "Airport property" means the entire interest owned by the Government in any airport.

(2) "Airport" means any area of land or water and the improvements thereon primarily used, intended to be used, or determined by the Administrator to be suitable for use for or in connection with the landing and take-off or navigation of aircraft. The term includes "landing areas", "building areas", "airport facilities", and "non-aviation facilities".

(3) "Airport facilities" means any buildings, structures, improvements, and operational equipment, other than non-aviation facilities, which are used and necessary for or in connection with the operation and maintenance of an airport.

(4) "Building area" means any land, other than a landing area, used or necessary for or in connection with the operation or maintenance of an airport.

(5) "Landing area" means any land, or combination of water and land, together with improvements thereon and necessary operational equipment used in connection therewith, which is used for landing, take-offs, and parking of aircraft. The term includes, but it is not limited to, runways, strips, taxiways, and parking aprons.

(6) "Non-aviation facilities" means any buildings, structures, improvements, and equipment, located in a building area and used in connection with but not required for the efficient operation and maintenance of the landing area or the airport facilities.

(7) "State or local government" means any State, territory, or possession of the United States, the District of Columbia, and any political subdivision or instrumentality thereof.

(8) "Surplus airport property" means any airport property which has been determined to be surplus to the further needs and responsibilities of the owning agency in accordance with the act.

§ 8316.2 *Scope.* This part applies to surplus airport property located within the continental United States, its territories and possessions.

§ 8316.3 *Declaration of policy.* It is hereby declared that the national interest requires the disposal of surplus airport property in such a manner and upon such terms and conditions as will encourage and foster the development of civil aviation and provide and preserve for civil aviation and national defense purposes a strong, efficient, and properly maintained nationwide system of public airports, and will insure competition and will not result in monopoly. It is further declared that in making such disposals of surplus airport property the benefits which the public and the Nation will derive therefrom must be the principal consideration and the financial return to the Government a secondary consideration. Airports which are surplus to the needs of owning agencies may be essential to the common defense of the Nation or valuable in the maintenance of an adequate and economical national transportation system. In such cases and in accordance with the rules established herein such airports may be disposed of to State or local governments for considerations other than cash. Where airports are not desired as such by Government agencies or State or local governments, they shall be classified as airports or otherwise according to their best use and any disposition hereunder shall be for a monetary consideration.

§ 8316.4 *Surplus airport disposal committee.* (a) Pursuant to arrangements made with other interested Government agencies, there is hereby established a Surplus Airport Disposal Committee which shall function as an advisory committee to the Surplus Property Administrator and shall consist of five members, one to be designated by the Secretary of War, one by the Secretary of the Navy, one by the Administrator of the Civil Aeronautics Administration, one by the disposal agency, and one by the Surplus Property Administrator who shall serve as Chairman of the Committee.

(b) It shall be the duty of the Surplus Airport Disposal Committee to advise the Surplus Property Administrator as to the manner in which and the con-

ditions upon which the disposal agency should be authorized to dispose of particular airport properties, and as to all other matters upon which advice may be requested by the Administrator.

§ 8316.5 *Declarations.* (a) Declarations of surplus airport property including leasehold interests under leases or similar rights of occupancy not canceled by the owning agency pursuant to § 8316.9 hereof, shall be filed with the Surplus Property Administrator as provided in Part 8301.¹ The Administrator will transmit two copies of the declaration to the appropriate disposal agency with directions, and will notify the owning agency thereof.

(b) The owning agency may give to the Surplus Airport Disposal Committee a pre-declaration notice accompanied by a tentative statement of the conditions, reservations, and restrictions which it may request, pursuant to § 8316.10 hereof, to be imposed on the disposal of the airport property.

§ 8316.6 *Communications after notice of transmittal.* After the owning agency receives notice of transmittal to a disposal agency of a declaration of surplus airport property, communications of the owning agency with respect to such airport property shall be addressed to the disposal agency, except where communication with the Administrator is required hereunder.

§ 8316.7 *Withdrawals.* If the owning agency wishes to withdraw surplus airport property before it has received notice of the transmittal of the declaration to the disposal agency, it may do so by filing Form SPB-5 with the Administrator. After the owning agency has received notice of such transmittal, it may withdraw such property by filing the form with the disposal agency. Such withdrawals may be made only with the consent of the Administrator if the property has not been assigned to a disposal agency or with the consent of the disposal agency thereafter, except as hereinafter provided.

§ 8316.8 *Permissive use by other Government agency.* When a Government agency utilizing Government-owned real property for or in connection with an airport, under some form of arrangement with the Government agency having primary jurisdiction over the property, no longer needs the property for airport purposes, such real property and any interest therein shall be returned to the agency having primary jurisdiction in accordance with the arrangement made between such agencies. Where, however, the property has been substantially improved while being so utilized, the agency utilizing the property shall make a report of the facts to the Administrator for his determination as to the disposition of the improvements; and such report shall be treated as a declaration of surplus as to such improvements.

¹ SPA Reg. 1 (10 F.R. 14064).

§ 8316.9 *Disposal of leasehold interests and improvements by owning agencies.*

(a) At any time after thirty (30) days prior notice to the Surplus Airport Disposal Committee, no objection thereto having been made by such committee, an owning agency may dispose of airport property in the manner provided in this section without declaring it surplus; provided that such property is held only under lease or other similar right of occupancy which is for the duration of the war or the national emergency and six months thereafter, or is for an unexpired period of not more than twelve months and has no renewal or purchase privilege.

(b) Any such leasehold interest or similar right of occupancy shall be terminated or cancelled by the owning agency and any Government-owned improvements disposed of by any one or more of the following methods:

(1) By transfer to the lessor or owner of the premises in full or partial satisfaction of any obligation to restore the premises, provided the lessor or owner shall pay for any excess value.

(2) By disposition in accordance with contractual commitments.

(3) By sale intact.

(4) By transfer to another Government agency intact.

(5) By disposal of all readily severable property in accordance with any other applicable regulations of the Administrator.

(6) By demolition contract let only on competitive bids whereby title to material not readily severable passes to the demolition contractor.

(7) By demolition of property not readily severable and disposal of surplus used building and construction materials by competitive bidding and of other resulting materials in accordance with any other applicable regulations of the Administrator. Any competitive bidding shall be conducted under rules and regulations prescribed by the owning agencies containing provisions, among others, requiring lots to be offered in such reasonable quantities as to permit all bidders, small as well as large, to compete on equal terms, requiring wide public notice concerning such sales and time intervals between notice and sale adequate to give all interested purchasers a fair opportunity to buy, and reserving the right to reject all bids.

(8) By abandonment if the owning agency has no obligation to remove such improvements and it finds in writing that such property is without commercial value or that the estimated cost of its care, handling, removal, and disposition would exceed the estimated proceeds of sale.

(c) Disposals of improvements by owning agencies hereunder shall be made at prices that are fair and reasonable under all the circumstances taking into account the limited sale value of the property in place and its special value, if any, to the purchaser. In all cases, prior to disposal a written estimate shall be made of both the value of the improvements for use in place and their salvage value. The disposal agencies for industrial and marine real property shall, upon request, furnish advice and assistance to the

owning agencies in the establishment of fair and reasonable prices hereunder.

(d) Where an airport consists of property a portion of which is owned by the Government and the balance of which is property under lease to the Government, such lease shall not be cancelled by the owning agency, but the leasehold interest as well as the Government-owned property shall be declared surplus.

§ 8316.10 *Restrictions on use and disposition.* When an owning agency declares airport property surplus, such owning agency, the Civil Aeronautics Administration, or the Surplus Airport Disposal Committee may submit to the Administrator a request that the disposal be made subject to any or all of the following reservations, restrictions, and conditions:

(a) *Use by the transferee.* (1) That the airport shall be used for public airport purposes on reasonable terms and without unjust discrimination and without grant or exercise of any exclusive right for use of the airport within the meaning of section 303 of the Civil Aeronautics Act of 1938.

(2) That the entire landing area and all improvements, facilities, and equipment of the airport shall be maintained at all times in good and serviceable condition to assure its efficient operation.

(3) That insofar as is within its powers and reasonably possible the transferee shall prevent any use of land either within or outside the boundaries of the airport, including the construction, erection, alteration, or growth, or any structure or other object thereon, which use would be a hazard to the landing, taking off, or maneuvering of aircraft at the airport, or otherwise limit its usefulness as an airport.

(4) That the building areas and non-aviation facilities shall be used, altered, modified, or improved only in a manner which does not interfere with the efficient operation of the landing area and of the airport facilities.

(b) *Use by the Government.* (1) That the Government shall at all times have the right to use the airport in common with others; *Provided, however,* That such use may be limited as may be determined at any time by the Civil Aeronautics Administration or the successor Government agency to be necessary to prevent interference with use by other authorized aircraft, so long as such limitation does not restrict Government use to less than twenty-five (25) per centum of capacity of the airport. Government use of the airport to this extent shall be without charge of any nature other than payment for damage caused by Government aircraft.

(2) That during the existence of any emergency declared by the President or the Congress, the Government shall have the right without charge except as indicated below to the full, unrestricted possession, control, and use of the landing area, building areas, and airport facilities or any part thereof, including any additions or improvements thereto made subsequently to the declaration of the airport property as surplus; *Provided, however,* That the Government shall be responsible during the period of such use

for the entire cost of maintaining all such areas, facilities, and improvements, or the portions used, and shall pay a fair rental for the use of any installations or structures which have been added thereto without Federal aid.

§ 8316.11 *Functions of the Civil Aeronautics Administration.* In the disposal of surplus airport property under this part, the disposal agency may avail itself of the services of representatives of the Civil Aeronautics Administration in all negotiations for the disposal of the property and shall consult with and obtain the recommendations of the Civil Aeronautics Administration as to all decisions pertaining to civil aviation. In addition the Civil Aeronautics Administration shall furnish such technical assistance as the Surplus Property Administrator or the disposal agency may request and the Civil Aeronautics Administration is in a position to provide.

§ 8316.12 *Classification of property by Administrator.* (a) Upon receipt of a declaration of surplus airport property, the Surplus Property Administrator shall consider any requests for reservations, restrictions, and conditions submitted by the owning agency, or by the War and Navy Departments, or by the Civil Aeronautics Administration, or by the Surplus Airport Disposal Committee, and shall determine the future uses for which the property is best adapted, how the property can best be disposed of to meet the objectives of the act, and whether any or all of the requests for reservations, restrictions and conditions should be imposed.

(b) If the Administrator classifies the property for disposal as an airport, it shall be disposed of under this part; if the Administrator classifies it for disposition otherwise than as airport property and the owning agency does not withdraw it as hereinafter provided, it shall be assigned to the appropriate disposal agency and disposed of under other applicable regulations of the Administrator. Where a landing area is used in connection with an industrial installation, the Administrator shall determine whether to classify such landing area and its airport facilities as airport properties for disposal under this part, or whether to classify the landing area otherwise and assign it for disposal by the appropriate disposal agency.

§ 8316.13 *Disposal as airport property subject to reservations, restrictions, and conditions.* (a) If the Administrator classifies the property for disposal as an airport, there shall be imposed on the disposal of the airport property a condition that there shall be no exclusive right for the use of any landing area or air navigation facilities upon which Federal funds have been expended; and there shall also be imposed any or all of the reservations, restrictions, and conditions requested pursuant to § 8316.10 hereof and approved by the Administrator; and the disposal agency shall immediately undertake to so dispose of it as such. Notice of availability shall be given to Government agencies listed in Exhibit A hereto; and to the State and political

subdivisions and any municipality in which it is situated and to all municipalities in the vicinity thereof; and to the general public.

(b) In the event (1) the Administrator does not classify the property for disposal as airport property when so requested, or (2) does not approve any or all of the requested reservations, restrictions, and conditions, or (3) the disposal agency finds that it is unable to dispose of the property with the reservations, restrictions, and conditions imposed under § 8316.10 or as an airport, the owning agency shall be notified, and the owning agency may, if it desires, withdraw such airport property from surplus on making reimbursement for the cost of care and handling, or recommend the elimination or modification of such reservations, restrictions, and conditions, or the disposal of the property otherwise than as an airport. In cases arising under subparagraph (3) above, the disposal agency shall also notify the Administrator.

(c) Where the owning agency has withdrawn the airport property from surplus pursuant to the provisions of paragraph (b), and later re-declares such property surplus, with or without requesting conditions for its disposition, the Administrator shall determine the terms and conditions upon which it shall be disposed of and the proper classification to be given and shall assign it to the appropriate disposal agency for disposal.

(d) The disposal agency shall widely publicize the airport property, giving information adequate to inform interested or prospective transferees as to the general nature of the property, and any reservations, restrictions, or conditions that have been imposed as to its future use. Such publicity shall be by public advertising, and may include press releases, direct circularization to potential transferees, and personal interviews. The disposal agency shall upon request supply to bona fide prospective transferees all available information. The disposal agency shall establish procedures so that all prospective transferees showing due diligence will be given full and complete opportunity to bid.

(e) All priority holders and any other persons interested in purchasing the airport property shall submit their proposals in writing, setting forth the details of their offers and their willingness to abide by the terms, conditions, and restrictions upon which the property is offered.

§ 8316.14 *Care and handling.* (a) (1) Until the disposal agency is prepared to assume responsibility for care and handling and accountability and so notifies the owning agency, the owning agency shall continue to be responsible therefor. The disposal agency shall have access to the property and the records of the owning agency with respect thereto.

(2) The agency then charged with the responsibility for care and handling shall make or cause to be made repairs necessary for the protection and maintenance of the property. It shall give careful consideration to what improvements or changes may be necessary for the completing, converting, or rehabilitating of the property in order best to attain the

applicable objectives of the act, and . . . make commitments and expenditures within its budgetary allotment for such purposes to effect such improvements or changes; *Provided, however,* That no commitments for more than \$10,000 of any such budgetary allotment shall be made by such agency for any such changes and improvements in connection with any one airport without prior approval of the Administrator in writing.

(3) The agency then charged with the responsibility for care and handling of surplus airport property shall submit to the Administrator for consideration and direction the renewal of leases or the exercise of options relating to surplus airport property, with the recommendations of such agency.

(4) The disposal agency shall pay the owning agency for the cost of care and handling surplus airport property subsequent to its declaration as such under Part 8301, including rental and taxes when due, until accountability and responsibility for such property is assumed by the disposal agency.

(b) *Transfer of title papers, documents, etc.* Upon request of the disposal agency, the owning agency shall immediately supply the disposal agency with the originals or true copies of all information and documents pertaining to the airport property which are in the possession of the owning agency and copies of which have not been filed with the declaration. These shall include appraisal reports, abstracts of title, maps, surveys, tax receipts, deeds, affidavits of title, copies of judgments, declarations of taking in condemnation proceedings, and all other title papers relating to the property. All such papers and documents which may still be needed by the owning agency shall be returned to it as soon as the needs of the disposal agency have been satisfied. The disposal agency may transfer to the purchaser of airport property, as part of the disposal transaction, any abstract of title or title guarantee which relates to the property being transferred and which is no longer needed either by the owning or by the disposal agency.

§ 8316.15 *Priorities.* (a) Government agencies shall be accorded first priority, and State and local governments, including any municipality in which the property is located and all municipalities in the vicinity thereof, second priority to acquire surplus airport properties. If the airport is offered for disposition subject to any or all of the conditions contained in § 8316.10, all priorities shall be exercised subject to such conditions.

(b) *Time and method of exercise.* The time for exercise of priorities by Government agencies or State or local governments shall be a period of thirty (30) days after the date of notices of availability given to them respectively, which notices may run concurrently; or such additional period as the disposal agency or the Administrator may allow when necessary or appropriate to complete proposals made, and in order to facilitate disposition of the property. Within such period the priority holder shall indicate his intention to exercise the priority by making an offer or by sub-

mitting to the disposal agency a written application requesting that the airport property be held for disposal to it. Such offer or application shall state the terms on which the applicant is willing to acquire the property, or state that a transfer without reimbursement or transfer of funds is authorized by law, and shall contain all pertinent facts pertaining to the applicant's need for the property. If the applicant requires time to acquire funds or to obtain authority to take the property, it shall so state and indicate the length of time needed for that purpose. Upon receipt of an offer or an application, with such a statement, the disposal agency shall review the application, determine what time, if any, shall be allowed the applicant to conclude the acquisition of the property, and advise the applicant of such determination. All priorities shall expire if not exercised within the priority period and such additional time as the disposal agency may allow.

(c) *Determination between claimants having same priority.* Whenever two or more Government agencies or two or more State or local governments, respectively, shall during the priority period make acceptable offers for the same property, the matter shall be determined on the basis of the relative needs of the claimants and the public interest to be served. If the matter cannot be determined by agreement between the claimants, disposal of such property shall not be made until the disposal agency shall have reported the matter in writing to the Administrator, setting forth its recommendations and all the facts, including the basis of the respective claims, together with any statements in writing that the claimants or any of them may wish to file with the Administrator. The Administrator will review the matter and report his determination to the disposal agency. The Administrator's determination shall be final for all purposes.

§ 8316.16 *Permits to operate or use.*

(a) Pending the disposition of surplus airport property by sale or lease, the owning agency, prior to the date accountability is assumed by the disposal agency, and the disposal agency thereafter, may (1) grant a revocable permit to maintain and operate the landing area and airport facilities included within any surplus airport property as a public airport to a Government agency or State or local government evincing an interest in acquiring the property with or without cash payment and on such terms as the accountable agency deems proper, or (2) grant a revocable permit for the landing area and airport facilities to be used for the landing, take-off, servicing, and operation of duly licensed aircraft.

(b) Permits or licenses to operate the property under subparagraph (1) or to use the facilities under subparagraph (2) shall be subject to the approval of the Administrator and to compliance by the licensees with all laws, ordinances, or other applicable regulations.

§ 8316.17 *Valuation.* (a) No appraisal need be made where transfer to a Government agency without reim-

bursement or transfer of funds or disposal to a State or local government without a cash payment is contemplated. If it is determined that the property will not be so transferred or disposed of, the disposal agency shall establish its estimate of the fair value of the property.

(b) The estimate of fair value shall represent the maximum price which a well-informed buyer, acting intelligently and voluntarily, would be warranted in paying if he were acquiring the property for long-term investment or for continued use in the light of the obligations to be assumed by the buyer.

(c) If at any time prior to the sale of an airport property conditions affecting its value change, the disposal agency shall modify its estimate accordingly.

(d) For the purpose of establishing its estimate of fair value of the property, the disposal agency may utilize the services of its own staff, the staff of another Federal agency or, where deemed necessary, independent appraisers, and shall maintain an adequate written record to support its estimate. Each such appraisal record or report shall contain the appraiser's certificate that he has no interest, direct or indirect, in the property or its sale. In cases where owning agencies submit appraisal reports which contain adequate and reliable information, the disposal agency may use such information in establishing its estimate of the fair value of the property.

§ 8316.18 *Prices.* (a) The disposal agency shall determine the price at which a disposal of an airport property shall be made.

(b) Sale of an airport property as an airport to a buyer entitled to a priority shall be at a price which is substantially the same as the estimate of fair value, except that (1) a transfer to another Government agency without reimbursement or transfer of funds may be made where authorized by law, or (2) upon the authorization of the Administrator the disposal agency shall dispose of airport

property to any State or local government without a cash payment in consideration of the acceptance by such State or local government of all reservations, restrictions, and conditions imposed by the Administrator.

(c) Sale of an airport property as an airport to any purchaser other than a buyer entitled to a priority shall be at a price approximating the estimate of fair value as established by the disposal agency and shall be made at the highest price obtainable, except that the applicable objectives of the act may be taken into consideration in rejecting offers regardless of their amounts or in selecting a buyer from among equal bidders. Sales under this paragraph shall be for a monetary consideration.

§ 8316.19 *Submission to Attorney General.* Whenever any disposal agency shall begin negotiations for the disposition to private interests of an airport property which cost the Government \$1,000,000 or more, the disposal agency shall promptly notify the Attorney General of the proposed disposition and the probable terms or conditions thereof, and of the extent and nature of the facilities installed or provided thereon.

§ 8316.20 *Form of transfer.* Deeds or instruments of transfer shall be in the form approved by the Attorney General. Transfers of title shall be by quit-claim deed where the airport property is transferred without a cash payment. If in other cases the disposal agency finds that a warranty deed is necessary to obtain a reasonable price for the property or to render the title marketable, such form of deed may be used where recommended and approved by the Attorney General as provided in the act.

§ 8316.21 *Conditions in instrument of transfer.* Any deed, lease, or other instrument executed to transfer airport property pursuant to any disposal made under this part, containing reservations, restrictions, or conditions as to the future

use or maintenance of the property, shall contain provisions in effect:

(1) That upon a breach of any of the reservations, restrictions, or conditions by the immediate or any subsequent transferee, the title, right of possession, or other right transferred shall at the option of the Government revert to the Government upon demand; and

(2) That any such airport property may be successively transferred only with the approval of the Civil Aeronautics Administration or the successor Government agency and with the proviso that any such transferee assumes all the obligations imposed by the disposal agency in the disposal to the original purchaser.

§ 8316.22 *Records and reports.* Owning and disposal agencies shall prepare and maintain such records as will show full compliance with the provisions of this part as to each disposal transaction. The information in such records shall be available at all reasonable times for public inspection. Reports shall be prepared and filed with the Surplus Property Administrator in such manner as may be specified by order issued under this part subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

§ 8316.23 *Regulations by agencies to be reported to the Administrator.* Each owning agency and each disposal agency shall file with the Administrator copies of all regulations, orders, and instructions of general applicability which they may issue in furtherance of the provisions, or any of them, of this part.

§ 8316.24 *Exceptions.* Exceptions to any portion of the procedure herein may be made by direction of the Administrator where such exception would not be in violation of the act.

This part shall become effective November 16, 1945.

W. STUART SYMINGTON,
Administrator.

NOVEMBER 16, 1945.