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Air Force Base Conversion Agency  
***BRAC 95 Base Conversion Process***  
***Workshop***

**Property Conveyance Methods**



*Air Force Base Conversion Agency*

## Property Conveyance Methods [Block 6]

### OBJECTIVE

- **Provide attendees with a summary of available property conveyance methods including the underlying qualifications and application requirements for each conveyance**

### OUTCOME

- **Attendees will be familiar with conveyance methods and requirements including:**
  - > Federal Agency Transfers
  - > Sponsored public benefit conveyances for public health, parkland or recreation, education, or port facilities
  - > Other public-purpose conveyances
  - > Public airport conveyance
  - > Homeless assistance conveyances
  - > Depository institutions
  - > Negotiated and public bid sales
  - > [Conveyance for cost of environmental restoration]
  - > Conveyance for construction or provision of military family housing



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### Quiz—Property Conveyance Methods

1. What are the principal differences between a negotiated sale and an Economic Development Conveyance (EDC)?
2. When can Federal Agencies request BRAC property?
3. What law provides the authority for public airport conveyances?
4. What is the difference between a sponsoring agency and an approving agency?
5. What is the reimbursement (to the Air Force) required for each of the following:
  - a) Negotiated sales?
  - b) Economic Development Conveyances?
  - c) Public airports?
  - d) Depository institutions?
  - e) Homeless assistance conveyances?
  - f) Public benefit conveyances for educational purposes?
  - g) Federal Agency transfers?
6. To whom are homeless assistance conveyances made?
7. Can a private-sector property developer obtain a negotiated sale? An EDC?
8. True or false: A negotiated sale may occur under any terms that are mutually agreeable to the Air Force and a party with the necessary financial resources.

## Property Conveyance Methods

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- **Within the Federal Government**
- **Outside the Federal Government**
  - **Approved or sponsored public-purpose conveyances**
  - **Homeless assistance conveyances**
  - **Sales (negotiated and public bid)**
  - **Depository institution facilities**
  - **Economic Development Conveyances [*next block*]**
  - **[Conveyance for cost of environmental remediation]**
  - **Conveyance for construction or provision of military family housing**
- **Other property conveyance issues**

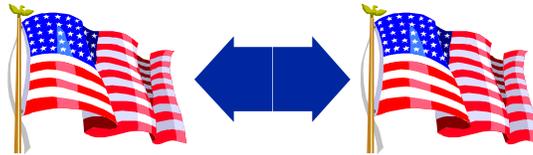


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*Reference: Base Reuse Implementation Manual, Appendix A and other appendices*

## Federal Agency Transfers

- **Non-DoD Federal agencies may request assignment of property from DoD (Form 1334)**
- **Reimbursement of full fair market value required, unless:**
  - > **OMB grants a waiver**
  - > **Transfer is legally exempted from reimbursement**



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### **41 CFR Sec. 101-47.203-7 Transfers.** [excerpted]

(a) The agency requesting transfer of excess real property and related personal property reported to GSA shall prepare and submit to the proper GSA regional office GSA Form 1334, Request for Transfer of Excess Real and Related Personal Property (Sec. 101-47.4904). Instructions for the preparation of GSA Form 1334 are set forth in Sec. 101-47.4904-1.

(b) Upon determination by GSA that a transfer of the property requested is in the best interest of the Government and that the requesting agency is the appropriate agency to hold the property, the transfer may be made among Federal agencies, to mixed-ownership Government corporations, and to the municipal government of the District of Columbia.

...

(f) Pursuant to an agreement between the Director, Office of Management and Budget, and the Administrator of General Services, reimbursement for transfers of excess real property is prescribed as follows:

(1) Where the transferor agency has requested the net proceeds of the transfer pursuant to section 204 (c) of the Act, or where either the transferor or transferee agency (or organizational unit affected) is subject to the Government Corporation Control Act (31 U.S.C. 841) or is a mixed-ownership Government corporation, or the municipal government of the District of Columbia, reimbursement for the transfer shall be in an amount equal to the estimated fair market value of the property requested as determined by the Administrator: Provided, That where the transferor agency is a wholly owned Government corporation, the reimbursement shall be either in an amount equal to the estimated fair market value of the property requested, or the corporation's book value thereof, as may be agreed upon by GSA and the corporation.

(2) Reimbursement for all other transfers of excess real property shall be:

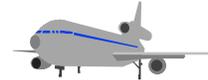
(i) In an amount equal to 100 percent of the estimated fair market value of the property requested, as determined by the Administrator, or if the transfer is for the purpose of upgrading facilities (i.e., for the purpose of replacing other property of the transferee agency which because of the location, nature, or condition thereof, is less efficient for use), the reimbursement shall be in an amount equal to the difference between the estimated fair market value of the property to be replaced and the estimated fair market value of the property requested, as determined by the Administrator.

(ii) Without reimbursement when the transfer is to be made under either of the following conditions:

- (A) Congress has specifically authorized the transfer without reimbursement, or
- (B) The Administrator with the approval of the Director, Office of Management and Budget, has approved a request for an exception from the 100 percent reimbursement requirement.

## Public Airport Conveyances

- **Authority:** 49 U.S.C. 47151–47153
- **Type of Property:** Property suitable and desirable for public airport (as determined by FAA)
  - National Plan of Integrated Airport Systems (NPIAS)
  - Multiple airport categories
  - Can include non-aviation revenue-generating property
  - Application to Air Force
  - FAA-reviewed plan of reuse (Airport Master Plan)
- **Eligible Agencies:** States, political subdivisions, municipalities (Airport Authorities)
- **Discount:** No cost
- **Use Restrictions:** Public airport; no net revenue generation
- **Period of Restrictions:** Perpetuity; FAA may release



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- The NPIAS includes three airport categories:
  - Commercial Service Airports (primary and other)
  - General Aviation Reliever Airports
  - General Aviation Airports
- FAA accepts applications for planning grants, which are usually made to the local planning organization or airport sponsor (not necessarily the LRA). The grantee then usually contracts for the necessary study (feasibility study or airport master plan).
- An eligible public agency submits its plan of use and application to the Air Force and to the FAA. The FAA reviews the plan and application and makes its recommendation to the Air Force. FAA will approve nonaviation revenue-producing properties only if the anticipated proceeds do not exceed the operational requirements of the aviation area. FAA's decision is subject to environmental impact analysis and FAA will commonly join the Air Force's environmental impact analysis as a cooperating agency. FAA will issue a separate Record of Decision.
- The Air Force will execute the conveyance of the property, but FAA has responsibility for enforcing compliance with the terms and conditions of the conveyance.

References: *Surplus Property Act of 1944, § 13(g) (49 U.S.C. 47151–47153); 41 CFR § 101-47.308-2*

## Historic Monument Conveyances

- **Authority:** 40 U.S.C. 484(k)(3)
- **Type of Property:** Real and related personal property determined by the Secretary of Interior (National Park Service) to be suitable and desirable
- **Eligible Agencies:** State/territory/possession or instrumentality/political subdivision
- **Discount:** No cost
- **Use Restrictions:** Public benefit and compatible revenue-producing activities
- **Period of Restrictions:** Perpetuity; SHPO/ACHP may grant release



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### 41 CFR Sec. 101-47.308-3 Property for use as historic monuments.

(a) Under section 203(k)(3) of the act, the disposal agency may, in its discretion, convey, without monetary consideration, to any State, political subdivision, instrumentalities thereof, or municipality, surplus real and related personal property for use as a historic monument for the benefit of the public provided the Secretary of the Interior has determined that the property is suitable and desirable for such use. No property shall be determined to be suitable or desirable for use as a historic monument except in conformity with the recommendation of the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments. In addition, the disposal agency may authorize the use of property conveyed under subsection 203(k)(3) of the act or the Surplus Property Act of 1944, as amended, for revenue-producing activities if the Secretary of the Interior:

(1) Determines that such activities, as described in the applicant's proposed program of utilization, are compatible with the use of the property for historic monument purposes;

(2) Approves the grantee's plan for repair, rehabilitation, restoration, and maintenance of the property;

(3) Approves the grantee's plan for financing the repair, rehabilitation, restoration, and maintenance of the property. The plan shall not be approved unless it provides that all incomes in excess of costs of repair, rehabilitation, restoration, maintenance and a specified reasonable profit or payment that may accrue to a lessor, sublessor, or developer in connection with the management, operation, or development of the property for revenue producing activities shall be used by the grantee, lessor, sublessor, or developer, only for public historic preservation, park, or recreational purposes; and

(4) Examines and approves the grantee's accounting and financial procedures for recording and reporting on revenue-producing activities.

(b) The disposal agency shall notify State and areawide clearinghouses and eligible public agencies, in accordance with the provisions of Sec. 101-47.303-2, that property which may be disposed of for use as a historic monument has been determined to be surplus. A copy of the holding agency's Standard Form 118, Report of Excess Real Property, with accompanying schedules shall be transmitted with the copy of each such notice when it is sent to the proper regional office of the Bureau of Outdoor Recreation as provided in Sec. 101-47.303-2(d).

(c) Upon request, the disposal agency shall furnish eligible public agencies with an application form to acquire real property for permanent use as a historic monument and advise the potential applicant that it should consult with the appropriate Bureau of Outdoor Recreation Regional Office early in the process of developing the application.

(d) Eligible public agencies shall submit the original and two copies of the completed application to acquire real property for use as a historic monument in accordance with the provisions of Sec. 101-47.303-2 to the appropriate Bureau of Outdoor Recreation Regional Office which will forward one copy of the application to the appropriate regional office of the disposal agency. After consultation with the National Park Service, the Bureau of Outdoor Recreation shall promptly submit to the disposal agency the determination required of the Secretary of the Interior under section 203(k)(3) of the act for disposal of the property for a historic monument and compatible revenue-producing activities or shall inform the disposal agency that no such recommendation will be submitted.

(e) Upon receipt of the determination, the disposal agency may with the approval of the head of the disposal agency or his designee convey to an eligible public agency property determined by the Secretary of the Interior to be suitable and desirable for use as a historic monument for the benefit of the public and for compatible revenue-producing activities subject to the provisions of section 203(k)(3) of the Act.

(f) The Secretary of the Interior has the responsibility for enforcing compliance with the terms and conditions of disposals; the reformation, correction, or amendment of any disposal instrument; the granting of releases; and any action necessary for recapturing such property in accordance with the provisions of section 203(k)(4) of the act. Any such action shall be subject to the disapproval of the head of the disposal agency.

(g) The Department of the Interior shall notify the appropriate GSA regional Real Property Division, Public Buildings Service, immediately by letter when title to such historic property is to be revested in the United States for noncompliance with the terms and conditions of disposal or for other cause. The notification shall cite the legal and administrative actions that the Department must take to obtain full title and possession of the property. In addition, it shall include an adequate description of the property, including any improvements constructed thereon since the original conveyance to the grantee. Upon receipt of a statement from the Department that title to the property has been revested, GSA will assume custody and accountability of the property. However, the grantee shall be required to provide protection and maintenance of the property until such time as the title reverts to the Federal Government, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed in Sec. 101-47.4913.

# Education and Public Health Conveyances

- **Authority:** 40 U.S.C. 484(k)(1)
- **Type of Property:** Real and personal property recommended by Secretary of Education or HHS as required
- **Eligible Agencies:** Public agencies and nonprofit institutions
- **Discount:** Up to 100%
- **Use Restrictions:** In accordance with approved purpose
- **Period of Restrictions:** 30 years (public health); up to 30 years (education); HHS/DoEd may grant release



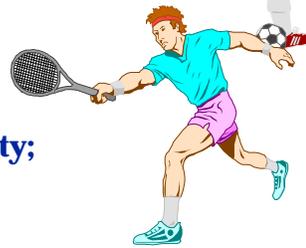
Air Force Base Conversion Agency

#### 41 CFR Sec. 101-47.308-4 Property for educational and public health purposes.

- (a) The head of the disposal agency or his designee is authorized, at his discretion: (1) To assign to the Secretary of the Department of Education (ED) for disposal under section 203(k)(1) of the Act such surplus real property, including buildings, fixtures, and equipment situated thereon, as is recommended by the Secretary as being needed for school, classroom, or other educational use, or (2) to assign to the Secretary of Health and Human Services (HHS) for disposal under section 203(k)(1) of the Act such surplus real property, including buildings, fixtures, and equipment situated thereon, as is recommended by the Secretary as being needed for use in the protection of public health, including research.
- (b) With respect to real property and related personal property which may be made available for assignment to ED or HHS for disposal under section 203(k)(1) of the Act for educational or public health purposes, the disposal agency shall notify eligible public agencies, in accordance with the provisions of Sec. 101-47.303-2, that such property has been determined to be surplus. Such notice to eligible public agencies shall state that any planning for an educational or public health use, involved in the development of the comprehensive and coordinated plan of use and procurement for the property, must be coordinated with ED or HHS, as appropriate, and that an application form for such use of the property and instructions for the preparation and submission of an application may be obtained from ED or HHS. The requirement for educational or public health use of the property by an eligible public agency will be contingent upon the disposal agency's approval under (i), below, of a recommendation for assignment of Federal surplus real property received from ED or HHS and any subsequent transfer shall be subject to the disapproval of the head of the disposal agency as stipulated under section 203(k)(1)(A) or (B) of the Act and referenced in paragraph (j) of this section.
- (c) With respect to surplus real property and related personal property which may be made available for assignment to either Secretary for disposal under section 203(k)(1) of the Act for educational or public health purposes to nonprofit institutions which have been held exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)), ED or HHS may notify eligible nonprofit institutions, in accordance with the provisions of Sec. 101-47.303-2(e), that such property has been determined to be surplus. Any such notice to eligible nonprofit institutions shall state that any requirement for educational or public health use of the property should be coordinated with the public agency declaring to the disposal agency an intent to develop and submit a comprehensive and coordinated plan of use and procurement for the property. The requirement for educational or public health use of the property by an eligible nonprofit institution will be contingent upon the disposal agency's approval, under paragraph (i) of this section, of an assignment recommendation received from ED or HHS and any subsequent transfer shall be subject to the disapproval of the head of the disposal agency as stipulated under section 203(k)(1) (A) or (B) of the Act and referenced in (j) below.
- (d) ED and HHS shall notify the disposal agency within 20-calendar days after the date of the notice of determination of surplus if it has an eligible applicant interested in acquiring the property. Whenever ED or HHS has notified the disposal agency within the said 20-calendar day period of a potential educational or public health requirement for the property, ED or HHS shall submit to the disposal agency within 25-calendar days after the expiration of the 20-calendar day period, a recommendation for assignment of the property, or shall inform the disposal agency, within the 25-calendar day period, that a recommendation will not be made for assignment of the property.
- (e) Whenever an eligible public agency has submitted a plan of use for property for an educational or public health requirement, in accordance with the provisions of Sec. 101-47.303-2, the disposal agency shall transmit two copies of the plan to the regional office of ED or HHS as appropriate. ED or HHS shall submit to the disposal agency, within 25-calendar days after the date the plan is transmitted, a recommendation for assignment of the property to the Secretary of ED or HHS, or shall inform the disposal agency, within the 25-calendar day period, that a recommendation will not be made for assignment of the property to ED or HHS as appropriate.
- (f) Any assignment recommendation submitted to the disposal agency by ED or HHS shall set forth complete information concerning the educational or public health use, including: (1) Identification of the property, (2) the name of the applicant and the size and nature of its program, (3) the specific use planned, (4) the intended public benefit allowance, (5) the estimate of the value upon which such proposed allowance is based, and, (6) if the acreage or value of the property exceeds the standards established by the Secretary, an explanation therefor. ED or HHS shall furnish to the holding agency a copy of the recommendation, unless the holding agency is also the disposal agency.
- (g) Holding agencies shall cooperate to the fullest extent possible with representatives of ED or HHS in their inspection of such property and in furnishing information relating thereto.
- (h) In the absence of an assignment recommendation from ED or HHS submitted pursuant to Sec. 101-47.308-4(d) or (e), and received within the 25-calendar day time limit specified therein, the disposal agency shall proceed with other disposal action.
- (i) If, after considering other uses for the property, the disposal agency approves the assignment recommendation from ED or HHS, it shall assign the property by letter or other document to the Secretary of ED or HHS as appropriate. If the recommendation is disapproved, the disposal agency shall likewise notify the appropriate Department. The disposal agency shall furnish to the holding agency a copy of the assignment, unless the holding agency is also the disposal agency.
- (j) Subsequent to the receipt of the disposal agency's letter of assignment, ED or HHS shall furnish to the disposal agency a Notice of Proposed Transfer in accordance with section 203(k)(1) (A) or (B) of the Act. If the disposal agency has not disapproved the proposed transfer within 30- calendar days of the receipt of the Notice of Proposed Transfer, ED or HHS may proceed with the transfer.
- (k) ED or HHS shall furnish the Notice of Proposed Transfer within 35- calendar days after the disposal agency's letter of assignment and shall prepare the transfer documents and take all necessary actions to accomplish the transfer within 15- calendar days after the expiration of the 30- calendar day period provided for the disposal agency to consider the notice. ED or HHS shall furnish the disposal agency two conformed copies of deeds, leases or other instruments conveying the property under section 203(k)(1) (A) or (B) of the Act and all related documents containing restrictions or conditions regulating the future use, maintenance or transfer of the property.
- (l) ED or HHS, as appropriate, has the responsibility for enforcing compliance with the terms and conditions of transfer; for the reformation, correction, or amendment of any transfer instrument; for the granting of releases; and for the taking of any necessary actions for recapturing such property in accordance with the provisions of section 203(k)(4) of the Act. Any such action shall be subject to the disapproval of the head of the disposal agency. Notice to the head of the disposal agency by ED or HHS of any action proposed to be taken shall identify the property affected, set forth in detail the proposed action, and state the reasons therefor.
- (m) In each case of repossession under a terminated lease or reversion of title by reason of noncompliance with the terms or conditions of sale or other cause, ED or HHS shall, at or prior to such repossession or reversion of title, provide the appropriate GSA regional office with an accurate description of the real and related personal property involved. Standard Form 118, Report of Excess Real Property, and the appropriate schedules shall be used for this purpose. Upon receipt of advice from ED or HHS that such property has been repossessed or title has reverted, GSA will assume custody of and accountability for the property. However, the grantee shall be required to provide protection and maintenance for the property until such time as the title reverts to the Federal Government, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed in Sec. 101-47.4913.

# Public Park or Recreation Conveyances

- **Authority:** 40 U.S.C. 484(k)(2)
- **Type of Property:** Real property recommended by Secretary of Interior as needed
- **Eligible Agencies:** States/political subdivisions/municipalities
- **Discount:** Up to 100%
- **Use Restrictions:** In accordance with approved purpose
- **Period of Restrictions:** Perpetuity; National Park Service enforces



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#### 41 CFR Sec. 101-47.308-7 Property for use as public park or recreation areas.

- (a) The head of the disposal agency or his designee is authorized, in his discretion, to assign to the Secretary of the Interior for disposal under section 203(k)(2) of the Act for public park or recreation purposes, such surplus real property, including buildings, fixtures, and equipment situated thereon, as is recommended by the Secretary as being needed for use as a public park or recreation area for disposal by the Secretary to a State, political subdivision, instrumentalities thereof, or municipality.
- (b) The disposal agency shall notify established State and regional or metropolitan clearinghouses and eligible public agencies, in accordance with the provisions of Sec. 101-47.303-2, that property which may be disposed of for use as a public park or recreation area has been determined to be surplus. There shall be transmitted with the copy of each such notice, when sent to the proper field office of the Bureau of Outdoor Recreation, a copy of the holding agency's Report of Excess Real Property (Standard Form 118, with accompanying schedules).
- (c) An application form to acquire property for permanent use as a public park or recreation area and instructions for the preparation of the application shall be furnished by the Department of the Interior upon request.
- (d) The Department of the Interior shall notify the disposal agency within 20 calendar days after the date of the notice of determination of surplus if it has an eligible applicant interested in acquiring the property under section 203(k)(2) of the Act.
- (e) Holding agencies shall cooperate to the fullest extent possible with representatives of the Department of the Interior in their inspection of such property and in furnishing information relating thereto.
- (f) The Department of the Interior shall advise the disposal agency and request assignment of the property for disposition under section 203(k)(2) of the Act, as amended, within 25 calendar days after the expiration of the 20- calendar-day period specified in paragraph (d) of this section.
- (g) Any recommendation submitted by the Department of the Interior pursuant to paragraph (f) of this section shall set forth complete information concerning the plans for use of the property as a public park or recreation area, including (1) identification of the property, (2) the name of the applicant, (3) the specific use planned, and (4) the intended public benefit allowance. A copy of the application together with any other pertinent documentation shall be submitted with the recommendation.
- (h) In the absence of a notice under paragraph (d) of this section or a request under paragraph (f) of this section, the disposal agency shall proceed with the appropriate disposal action.
- (i) If, after considering other uses for the property, the disposal agency approves the assignment recommendation from the Department of the Interior, it shall assign the property by letter or other document to the Secretary of the Interior. If the recommendation is disapproved, the disposal agency shall likewise notify the Secretary. The disposal agency shall furnish to the holding agency a copy of the assignment, unless the holding agency is also the disposal agency.
- (j) Subsequent to the receipt of the disposal agency's letter of assignment, the Secretary of the Interior shall furnish to the disposal agency a Notice of Proposed Transfer, in accordance with section 203(k)(2)(A) of the Act. If the disposal agency has not disapproved the proposed transfer within 30-calendar days of the receipt of the Notice of Proposed Transfer, the Secretary may proceed with the transfer.
- (k) The disposal agency may, where appropriate, make the assignment subject to the Department of the Interior requiring the applicant to bear the cost of any out-of-pocket expenses necessary to accomplish the transfer of the property, such as surveys, fencing, security of the remaining property or otherwise.
- (l) In the absence of the notice of disapproval by the disposal agency upon expiration of the 30-day period, or upon earlier advice from the disposal agency of no objection to the proposed transfer, the Department of the Interior may place the applicant in possession of the property as soon as practicable in order to minimize the Government's expense of protection and maintenance of the property. As of the date of assumption of possession of the property, or the date of conveyance, whichever occurs first, the applicant shall assume responsibility for care and handling and all risks of loss or damage to the property, and shall have all obligations and liabilities of ownership.
- (m) The Department of the Interior shall furnish the Notice of Proposed Transfer within 35-calendar days after the disposal agency's letter of assignment and shall take all necessary actions to accomplish the transfer within 15-calendar days after the expiration of the 30-calendar day period provided for the disposal agency to consider the notice.
- (n) The deed of conveyance of any surplus real property transferred under the provision of section 202(k)(2) of the Act shall provide that all such property be used and maintained for the purpose for which it was conveyed in perpetuity, and that in the event that such property ceases to be used or maintained for such purpose during such period, all or any portion of such property shall in its then existing condition, at the option of the United States, revert to the United States and may contain such additional terms, reservations, restrictions, and conditions as may be determined by the Secretary of the Interior to be necessary to safeguard the interest of the United States.
- (o) The Department of the Interior shall furnish the disposal agency two conformed copies of deeds, leases, or other instruments conveying property under section 203(k)(2) of the Act and related documents containing reservations, restrictions, or conditions regulating the future use, maintenance or transfer of the property.
- (p) The Secretary of the Interior has the responsibility for enforcing compliance with the terms and conditions of transfer; the reformation, correction, or amendment of any transfer instrument; the granting of releases; and any necessary actions for recapturing such property in accordance with the provisions of section 202(k)(4) of the Act. Any such action shall be subject to the disapproval of the head of the disposal agency. Notice to the head of the disposal agency by the Secretary of any action proposed to be taken shall identify the property affected, set forth in detail the proposed action, and state the reasons therefor.
- (q) The Department of the Interior shall notify the appropriate GSA regional office immediately by letter when title to property transferred for use as a public park or recreation area is to be revested in the United States for noncompliance with the terms or conditions of disposal or for other cause. The notification shall cite the legal and administrative actions that the Department must take to obtain full title and possession of the property. In addition, it shall include an adequate description of the property, including any improvements constructed thereon since the original conveyance to the grantee. Upon receipt of a statement from the Department that title to the property has revested, GSA will assume custody of and accountability for the property. However, the grantee shall be required to provide protection and maintenance for the property until such time as the title reverts to the Federal Government, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed in Sec. 101-47.4913.

# Correctional Facility Conveyances

- **Authority:** 40 U.S.C. 484(p)
- **Type of Property:** Real and related personal property determined by Attorney General to be required
- **Eligible Agencies:** States/political subdivisions/instrumentalities
- **Discount:** No cost
- **Use Restrictions:** Correctional facility use
- **Period of Restrictions:** Perpetuity; GSA may grant release



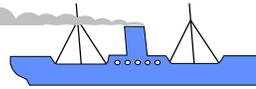
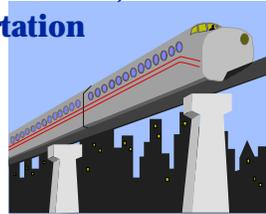
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#### 41 CFR Sec. 101-47.308-9 Property for correctional facility use.

- (a) Under section 203(p)(1) of the Act, the head of the disposal agency or designee may, in his/her discretion, convey, without monetary consideration, to any State, or to those governmental bodies named therein, or to any political subdivision or instrumentality thereof, surplus real and related personal property for correctional facility use, provided the Attorney General has determined that the property is required for correctional facility use and has approved an appropriate program or project for the care or rehabilitation of criminal offenders.
- (b) The disposal agency shall provide prompt notification to the Office of Justice Programs (OJP), Department of Justice (DOJ) of the availability of surplus properties. Included in the notification to OJP will be a copy of the holding agency's Standard Form 118, Report of Excess Real Property, with accompanying schedules.
- (c) With respect to real property and related personal property which may be made available for disposal under section 203(p)(1) of the Act for correctional facility purposes, OJP shall convey notices of availability of properties to the appropriate State and local public agencies. Such notice shall state that any planning for correctional facility use involved in the development of a comprehensive and coordinated plan of use and procurement for the property must be coordinated and approved by the OJP and that an application form for such use of the property and instructions for the preparation and submission of an application may be obtained from OJP. The requirement for correctional facility use of the property by an eligible public agency will be contingent upon the disposal agency's approval under paragraph (g) of this section of a determination by DOJ that identifies surplus property required for correctional facility use under an appropriate program or project for the care or rehabilitation of criminal offenders.
- (d) OJP shall notify the disposal agency within 20 calendar days after the date of the notice of determination of surplus if there is an eligible applicant interested in acquiring the property. Whenever OJP has notified the disposal agency within the said 20 calendar-day period of a potential correctional facility requirement for the property, OJP shall submit to the disposal agency within 25 calendar days after the expiration of the 20 calendar-day period, a determination indicating a requirement for the property and approving an appropriate program or project for the care or rehabilitation of criminal offenders, or shall inform the disposal agency, within the 25 calendar-day period, that the property will not be required for correctional facility use.
- (e) Any determination submitted to the disposal agency by DOJ shall set forth complete information concerning the correctional facility use, including:
- (1) Identification of the property.
  - (2) Certification that the property is required for correctional facility use.
  - (3) A copy of the approved application which defines the proposed plan of use, and
  - (4) The environmental impact of the proposed correctional facility.
- (f) Both holding and disposal agencies shall cooperate to the fullest extent possible with Federal and State agency representatives in their inspection of such property and in furnishing information relating thereto.
- (g) If, after considering other uses for the property, the disposal agency approves the determination by DOJ, it shall convey the property to the appropriate grantee. If the determination is disapproved, or in the absence of a determination from DOJ submitted pursuant to Sec. 101-47.308-9(d), and received within the 25 calendar-day time limit specified therein, the disposal agency shall proceed with other disposal action. The disposal agency shall notify OJP 10 days prior to any announcement of a determination to either approve or disapprove an application for correctional purposes and shall furnish to OJP a copy of the conveyance documents.
- (h) The deed of conveyance of any surplus real property transferred under the provisions of section 203(p)(1) of the Act shall provide that all such property be used and maintained for the purpose for which it was conveyed in perpetuity and that in the event such property ceases to be used or maintained for such purpose during such period, all or any portion of such property shall in its then existing condition, at the option of the United States, revert to the United States and may contain such additional terms, reservations, restrictions, and conditions as may be determined by the Administrator of General Services to be necessary to safeguard the interest of the United States.
- (i) The Administrator of General Services has the responsibility for enforcing compliance with the terms and conditions of disposals; the reformation, correction, or amendment of any disposal instrument; the granting of releases; and any action necessary for recapturing such property in accordance with the provisions of section 203(p)(3) of the Act.
- (j) The OJP will notify GSA upon discovery of any information indicating a change in use and, upon request, make a redetermination of continued appropriateness of the use of a transferred property.
- (k) In each case of repossession under a reversion of title by reason of noncompliance with the terms of the conveyance documents, GSA will assume custody of and accountability for the property. However, the grantee shall be required to provide protection and maintenance for the property until such time as the title reverts to the Federal Government, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed in Sec. 101-47.4913.

# Port Facility Conveyances

- **Authority:** 40 U.S.C. 484(q)
- **Type of Property:** Waterfront or inland property for developing/assisting maritime commerce and water-dependent industries, approved by Secretary of Transportation (with Labor and Commerce)
- **Eligible Agencies:** States/political subdivisions/instrumentalities
- **Discount:** No cost
- **Use Restrictions:** Public use and benefit
- **Period of Restrictions:** Perpetuity; DOT may grant release



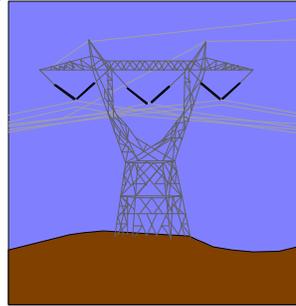
Air Force Base Conversion Agency

#### 41 CFR Sec. 101-47.308-10 Property for port facility use.

- (a) Under section 203(q)(1) of the Act, in his/her discretion, the Administrator, the Secretary of the Department of Defense (DOD) in the case of property located at a military installation closed or realigned pursuant to a base closure law, or the designee of either of them, may, as the disposal agency, assign to the Secretary of the Department of Transportation (DOT) for conveyance, without monetary consideration, to any State, or to those governmental bodies named therein, or to any political subdivision, municipality, or instrumentality thereof, such surplus real and related personal property, including buildings, fixtures, and equipment situated thereon, as is recommended by DOT as being needed for the development or operation of a port facility.
- (b) The disposal agency shall notify established State and regional or metropolitan clearinghouses and eligible public agencies, in accordance with the provisions of Sec. 101-47.303-2, that property which may be disposed of for use in the development or operation of a port facility has been determined to be surplus. A copy of such notice shall be transmitted to DOT accompanied by a copy of the holding agency's Report of Excess Real Property (Standard Form 118 and supporting schedules).
- (c) The notice to eligible public agencies shall state:
- (1) that any planning for the development or operation of a port facility, involved in the development of the comprehensive and coordinated plan of use and procurement for the property, must be coordinated with DOT;
  - (2) that any party interested in acquiring the property for use as a port facility must contact the Department of Transportation, Maritime Administration, for instructions concerning submission of an application; and
  - (3) that the requirement for use of the property in the development or operation of a port facility will be contingent upon approval by the disposal agency, under paragraph (f) of this section, of a recommendation from DOT for assignment of the property to DOT and that any subsequent conveyance shall be subject to the disapproval of the head of the disposal agency as stipulated under section 203(q)(2) of the Act and referenced in paragraph (j) of this subsection.
- (d) DOT shall notify the disposal agency within 20 calendar-days after the date of the notice of determination of surplus if there is an eligible applicant interested in acquiring the property. Whenever the disposal agency, has been so notified of a potential port facility requirement for the property, DOT shall submit to the disposal agency, within 25 calendar-days after the expiration of the 20-calendar-day notification period, either a recommendation for assignment of the property or a statement that a recommendation will not be submitted.
- (e) Whenever an eligible public agency has submitted a plan of use for property for a port facility requirement, in accordance with the provisions of Sec. 101-47.303-2, the disposal agency shall transmit two copies of the plan to DOT. DOT shall either submit to the disposal agency, within 25 calendar-days after the date the plan is transmitted, a recommendation for assignment of the property to DOT, or inform the disposal agency, within the 25-calendar-day period, that a recommendation will not be made for assignment of the property to DOT.
- (f) Any assignment recommendation submitted to the disposal agency by DOT shall be accompanied by a copy of the explanatory statement required under section 203(q)(3)(C) of the Act and shall set forth complete information concerning the contemplated port facility use, including:
- (1) an identification of the property;
  - (2) an identification of the applicant;
  - (3) a copy of the approved application, which defines the proposed plan of use of the property;
  - (4) a statement that DOT's determination that the property is located in an area of serious economic disruption was made in consultation with the Secretary of Labor; and
  - (5) a statement that DOT's approval of the economic development plan associated with the plan of use of the property was made in consultation with the Secretary of Commerce.
- (g) Holding agencies shall cooperate to the fullest extent possible with representatives of DOT and the Secretary of Commerce in their inspection of such property, and of the Secretary of Labor in affirming that the property is in an area of serious economic disruption, and in furnishing any information relating thereto.
- (h) In the absence of an assignment recommendation from DOT submitted pursuant to paragraph (d) or (e) of this section, and received within the 25- calendar-day time limit specified therein, the disposal agency shall proceed with other disposal action.
- (i) If, after considering other uses for the property, the disposal agency approves the assignment recommendation from DOT, it shall assign the property by letter or other document to DOT. If the recommendation is disapproved, the disposal agency shall likewise notify DOT. The disposal agency shall furnish to the holding agency a copy of the assignment, unless the holding agency is also the disposal agency.
- (j) Subsequent to the receipt of the letter of assignment from the disposal agency, DOT shall furnish to the disposal agency, a Notice of Proposed Conveyance in accordance with section 203(q)(2) of the Act. If the disposal agency has not disapproved the proposed transfer within 35 calendar-days of the receipt of the Notice of Proposed Conveyance, DOT may proceed with the conveyance.
- (k) DOT shall furnish the Notice of Proposed Conveyance within 35 calendar- days after the date of the letter of assignment from the disposal agency, prepare the conveyance documents, and take all necessary actions to accomplish the conveyance within 15 calendar-days after the expiration of the 30-calendar-day period provided for the disposal agency to consider the notice. DOT shall furnish the disposal agency two conformed copies of the instruments conveying property under subsection 203(q) of the Act and all related documents containing restrictions or conditions regulating the future use, maintenance, or transfer of the property.
- (l) DOT has the responsibility for enforcing compliance with the terms and conditions of conveyance; for reformation, correction, or amendment of any instrument of conveyance; for the granting of release; and for the taking of any necessary actions for recapturing such property in accordance with the provisions of subsection 203(q)(4) of the Act. Any such action shall be subject to the disapproval of the head of the disposal agency. Notice to the head of the disposal agency, by DOT, of any action proposed to be taken shall identify the property affected, set forth in detail the proposed action, and state the reasons therefor.
- (m) In each case of repossession under a reversion of title by reason of noncompliance with the terms or conditions of conveyance or other cause, DOT shall, at or prior to such reversion of title, provide the appropriate GSA regional office, with an accurate description of the real and related personal property involved, Standard Form 118, Report of Excess Real Property, and appropriate accompanying schedules shall be used for this purpose. Upon receipt of advice from DOT that such property has been repossessed, GSA will review and act upon the Standard Form 118. However, the grantee shall be required to provide protection and maintenance for the property until such time as the title reverts to the Federal Government, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed in Sec. 101-47.4913.

## Power Transmission Line Conveyances

- **Authority:** 50 U.S.C. App. 1622(d)
- **Type of Property:** Power lines (electric or gas) and rights-of-way certified by State/government agency to be necessary for public/cooperative power project
- **Eligible Agencies:** States/political subdivisions/instrumentalities
- **Discount:** None (negotiated sale)
- **Use Restrictions:** None
- **Period of Restrictions:** None



Air Force Base Conversion Agency

### **41 CFR Sec. 101-47.308-1 Power transmission lines.**

(a) Pursuant and subject to the provisions of section 13(d) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(d)), which is continued in effect by section 602(a) of the Federal Property and Administrative Services Act of 1949, any State or political subdivision thereof, or any State or Government agency or instrumentality may certify to the disposal agency that a surplus power transmission line and the right-of-way acquired for its construction is needful for or adaptable to the requirements of a public or cooperative power project. Disposal agencies shall notify such State entities and Government agencies of the availability of such property in accordance with Sec. 101- 47.303-2.

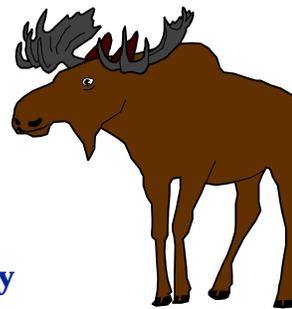
(b) Notwithstanding any other provisions of this subpart, whenever a State or political subdivision thereof, or a State or Government agency or instrumentality certifies that such property is needful for or adaptable to the requirements of a public or cooperative power project, the property may be sold for such utilization at the fair market value thereof.

(c) In the event a sale cannot be accomplished by reason of the price to be charged or otherwise and the certification is not withdrawn, the disposal agency shall report the facts involved to the Administrator of General Services, for a determination by him as to the further action to be taken to dispose of the property.

(d) Any power transmission line and right-of-way not disposed of pursuant to the provisions of this section shall be disposed of in accordance with other applicable provisions of this subpart, including, if appropriate, reclassification by the disposal agency.

## Wildlife Conservation Conveyances

- **Authority:** 16 U.S.C. 667b–d
- **Type of Property:** Real property usable for conservation of wildlife other than migratory birds, recommended by Department of Interior
- **Eligible Agencies:** State wildlife conservation agency
- **Discount:** No cost
- **Use Restrictions:** Wildlife conservation
- **Period of Restrictions:** Perpetuity



Air Force Base Conversion Agency

### **Title 16, U.S. Code:**

#### **§ 667b. Transfer of certain real property for wildlife conservation purposes; reservation of rights**

Upon request, real property which is under the jurisdiction or control of a Federal agency and no longer required by such agency,

(1) can be utilized for wildlife conservation purposes by the agency of the State exercising administration over the wildlife resources of the State wherein the real property lies or by the Secretary of the Interior; and (2) is valuable for use for any such purpose, and which, in the determination of the Administrator of General Services, is available for such use may, notwithstanding any other provisions of law, be transferred without reimbursement or transfer of funds (with or without improvements as determined by said Administrator) by the Federal agency having jurisdiction or control of the property to (a) such State agency if the management thereof for the conservation of wildlife relates to other than migratory birds, or (b) to the Secretary of the Interior if the real property has particular value in carrying out the national migratory bird management program. Any such transfer to other than the United States shall be subject to the reservation by the United States of all oil, gas, and mineral rights, and to the condition that the property shall continue to be used for wildlife conservation or other of the above-stated purposes and in the event it is no longer used for such purposes or in the event it is needed for national defense purposes title thereto shall revert to the United States.

#### **§ 667c. Publication of designating order**

Whenever any real property is transferred pursuant to sections 667b to 667d of this title, the Administrator of General Services shall make and have published in the Federal Register an appropriate order, which may be revised from time to time in like manner, designating for which of the purposes specified in section 667b of this title the property so transferred shall be used.

#### **§ 667d. Reports to Congress**

A statement of the acreage and value of such property as may have been transferred pursuant to sections 667b to 667d of this title during the preceding fiscal year shall be annually prepared by the Administrator of General Services and shall be included in the annual budget transmitted to the Congress.

## Housing for Displaced Persons

- **Authority:** 42 U.S.C. 4601–4655
- **Type of Property:** Real property for housing for persons displaced by Federal projects, requested by Federal agency and determined by Air Force
- **Eligible Agencies:** State agencies
- **Discount:** Up to 100%
- **Use Restrictions:** Recovery of proceeds from sale/lease by State agency
- **Period of Restrictions:** Perpetuity



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### 41 CFR Sec. 101-47.308-8 Property for displaced persons.

- (a) Pursuant to section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the disposal agency is authorized to transfer surplus real property to a State agency, as hereinafter provided, for the purpose of providing replacement housing under title II of this Act for persons who are to be displaced by Federal or federally assisted projects.
- (b) Upon receipt of the notice of surplus determination (Sec. 101-47.204-1(a)), any Federal agency having a requirement for such property for housing for displaced persons may solicit applications from eligible State agencies.
- (c) Federal agencies shall notify the disposal agency within 20 calendar days after the date of the notice of determination of surplus if it is able to interest an eligible State agency in acquiring the property under section 218.
- (d) Both holding and disposal agencies shall cooperate, to the fullest extent possible, with Federal and State agency representatives in their inspection of such property and in furnishing information relating thereto.
- (e) The interested Federal agency shall advise the disposal agency and request transfer of the property to the selected State agency under section 218 within 25 calendar days after the expiration of the 20-calendar-day period specified in Sec. 101-47.308-8(c).
- (f) Any request submitted by a Federal agency pursuant to Sec. 101-47.308-8(e) shall be in the form of a letter addressed to the appropriate GSA regional office and shall set forth the following information:
- (1) Identification of the property by name, location, and control number;
  - (2) a request that the property be transferred to a specific State agency including the name and address and a copy of the State agency's application or proposal;
  - (3) a certification by the appropriate Federal agency official that the property is required for housing for displaced persons pursuant to section 218, that all other options authorized under title II of the Act have been explored and replacement housing cannot be found or made available through those channels, and that the Federal or federally assisted project cannot be accomplished unless the property is made available for replacement housing;
  - (4) any special terms and conditions that the Federal agency desires to include in conveyance instruments to insure that the property is used for the intended purpose;
  - (5) identification by name and proposed location of the Federal or federally assisted project which is creating the requirement;
  - (6) purpose of the project;
  - (7) citation of enabling legislation or authorization for the project when appropriate;
  - (8) a detailed outline of steps taken to obtain replacement housing for displaced persons as authorized under title II of the Act; and
  - (9) arrangements that have been made to construct replacement housing on the surplus property and to insure that displaced persons will be provided housing in the development.
- (g) In the absence of a notice under Sec. 101-47.308-8(c) or a request under Sec. 101-47.308-8(e), the disposal agency shall proceed with the appropriate disposal action.
- (h) If, after considering other uses for the property, the disposal agency determines that the property should be made available for replacement housing under section 218, it shall transfer the property to the designated State agency on such terms and conditions as will protect the interest of the United States, including the payment or the agreement to pay to the United States all amounts received by the State agency from any sale, lease, or other disposition of the property for such housing. The sale, lease, or other disposition of the property by the State agency shall be at the fair market value as approved by the disposal agency, unless a compelling justification is offered for disposal of the property at less than fair market value, in which event the disposal may be made at such other value as is approved by the disposal agency.
- (i) The State agency shall bear the costs of any out-of-pocket expenses necessary to accomplish the transfer of the property, such as costs of surveys, fencing, or security of the remaining property.
- (j) The disposal agency, if it approves the request, shall transfer the property to the designated State agency. If the request is disapproved, the disposal agency shall notify the Federal agency requesting the transfer. The disposal agency shall furnish the holding agency a copy of the transfer or notice of disapproval, and the Federal agency requesting the transfer a copy of the transfer when appropriate.

# Highway Conveyances

- **Authority:** 40 U.S.C. 345c; 23 U.S.C. 107, 317
- **Type of Property:** Real property for widening of highways/streets, determined by Air Force (345c); real property necessary for interstate right-of-way/access, determined by DOT (107/317)
- **Eligible Agencies:** States/political subdivisions
- **Discount:** Typically none (345c); no cost (107/317)
- **Use Restrictions:** Protection
- **Period of Restrictions:** None



Air Force Base Conversion Agency

#### 40 U.S.C. § 345c. Conveyance or transfer of Federal property to States or political subdivisions

(a) Widening of public highways, streets, or alleys; determination by executive agency head

Whenever a State or political subdivision of a State makes application therefor in connection with an authorized widening of a public highway, street, or alley, the head of the executive agency having control over the affected real property of the United States may convey or otherwise transfer, with or without consideration, to such State or political subdivision for such highway, street, or alley widening purposes, such interest in such real property as he determines will not be adverse to the interests of the United States, subject to such terms and conditions as he deems necessary to protect the interests of the United States.

(b) "Executive agency" defined

As used in this section the term "executive agency" means any executive department or independent establishment in the executive branch of the Government of the United States, including any wholly owned Government corporation.

(c) Highway purposes

Nothing in this section shall be deemed to authorize the conveyance or other transference of any interest in real property which can be transferred to a State or political subdivision of a State for highway purposes under title 23.

#### 23 U.S.C. § 107. Acquisition of rights-of-way - Interstate System

(a) In any case in which the Secretary is requested by a State to acquire lands or interests in lands (including within the term "interests in lands", the control of access thereto from adjoining lands) required by such State for right-of-way or other purposes in connection with the prosecution of any project for the construction, reconstruction, or improvement of any section of the Interstate System, the Secretary is authorized, in the name of the United States and prior to the approval of title by the Attorney General, to acquire, enter upon, and take possession of such lands or interests in lands by purchase, donation, condemnation, or otherwise in accordance with the laws of the United States (including the Act of February 26, 1931, 46 Stat. 1421), if -

(1) the Secretary has determined either that the State is unable to acquire necessary lands or interests in lands, or is unable to acquire such lands or interests in lands with sufficient promptness; and

(2) the State has agreed with the Secretary to pay, at such time as may be specified by the Secretary an amount equal to 10 per centum of the costs incurred by the Secretary, in acquiring such lands or interests in lands, or such lesser percentage which represents the State's pro rata share of project costs as determined in accordance with subsection (c) (FOOTNOTE 1) of section 120 of this title.

(FOOTNOTE 1) See References in Text note below. The authority granted by this section shall also apply to lands and interests in lands received as grants of land from the United States and owned or held by railroads or other corporations.

(b) The costs incurred by the Secretary in acquiring any such lands or interests in lands may include the cost of examination and abstract of title, certificate of title, advertising, and any fees incidental to such acquisition. All costs incurred by the Secretary in connection with the acquisition of any such lands or interests in lands shall be paid from the funds for construction, reconstruction, or improvement of the Interstate System apportioned to the State upon the request of which such lands or interests in lands are acquired, and any sums paid to the Secretary by such State as its share of the costs of acquisition of such lands or interests in lands shall be deposited in the Treasury to the credit of the appropriation for Federal-aid highways and shall be credited to the amount apportioned to such State as its apportionment of funds for construction, reconstruction, or improvement of the Interstate System, or shall be deducted from other moneys due the State for reimbursement from funds authorized to be appropriated under section 108(b) of the Federal-Aid Highway Act of 1956.

(c) The Secretary is further authorized and directed by proper deed, executed in the name of the United States, to convey any such lands or interests in lands acquired in any State under the provisions of this section, except the outside five feet of any such right-of-way in any State which does not provide control of access, to the State highway department of such State or such political subdivision thereof as its laws may provide, upon such terms and conditions as to such lands or interests in lands as may be agreed upon by the Secretary and the State highway department or political subdivisions to which the conveyance is to be made. Whenever the State makes provision for control of access satisfactory to the Secretary, the outside five feet then shall be conveyed to the State by the Secretary, as herein provided.

(d) Whenever rights-of-way, including control of access, on the Interstate System are required over lands or interests in lands owned by the United States, the Secretary may make such arrangements with the agency having jurisdiction over such lands as may be necessary to give the State or other person constructing the projects on such lands adequate rights-of-way and control of access thereto from adjoining lands, and any such agency is directed to cooperate with the Secretary in this connection.

#### 23 U.S.C. § 317. Appropriation for highway purposes of lands or interests in lands owned by the United States

(a) If the Secretary determines that any part of the lands or interests in lands owned by the United States is reasonably necessary for the right-of-way of any highway, or as a source of materials for the construction or maintenance of any such highway adjacent to such lands or interests in lands, the Secretary shall file with the Secretary of the Department supervising the administration of such lands or interests in lands a map showing the portion of such lands or interests in lands which it is desired to appropriate.

(b) If within a period of four months after such filing, the Secretary of such Department shall not have certified to the Secretary that the proposed appropriation of such land or material is contrary to the public interest or inconsistent with the purposes for which such land or materials have been reserved, or shall have agreed to the appropriation and transfer under conditions which he deems necessary for the adequate protection and utilization of the reserve, then such land and materials may be appropriated and transferred to the State highway department, or its nominee, for such purposes and subject to the conditions so specified.

(c) If at any time the need for any such lands or materials for such purposes shall no longer exist, notice of the fact shall be given by the State highway department to the Secretary and such lands or materials shall immediately revert to the control of the Secretary of the Department from which they had been appropriated.

(d) The provisions of this section shall apply only to projects constructed on a Federal-aid system or under the provisions of chapter 2 of this title.

## Approved or Sponsored Public-Purpose Conveyances

Type of Property, Purpose, or Method	Transfer Type	Federal Agency with Authority	Statutory and Regulatory Authority
PUBLIC AIRPORT CONVEYANCE	Approved	Federal Aviation Administration	49 U.S.C §§ 47151-47153, 41 CFR 101-47.308-2
<b>PUBLIC BENEFIT CONVEYANCE CATEGORIES</b>			
Historic Monument	Approved	Department of the Interior	FPASA § 203(k)(3), 41 CFR 101-47.308-3
Education	Sponsored	Department of Education	FPASA § 203(k)(1), 41 CFR 101-47.308-4
Public Health	Sponsored	Department of Health and Human Services	FPASA § 203(k)(1), 41 CFR 101-47.308-4
Public Park or Recreation	Sponsored	Department of the Interior	FPASA § 203(k)(2), 41 CFR 101-47.308-7
Non-Federal Correctional Facility	Approved	Department of Justice	FPASA § 203(p)(1), 41 CFR 101-47.308-9
Port Facility	Sponsored	Department of Transportation	FPASA § 203(q)(1), 41 CFR 101-47.308-10
Shrines, Memorials, or Religious Uses <small>(only as part of another public benefit conveyance)</small>	Sponsored	Department of Education or Department of Health and Human Services	41 CFR 101-47.308-5
Homeless Assistance [Public Health]	Sponsored	Department of Health and Human Services	42 U.S.C. § 11411, FPASA § 203(k)
<b>OTHER SPECIFIC CONVEYANCE CATEGORIES</b>			
Power Transmission Lines	Approved	Air Force	SPA § 13(d), 41 CFR 101-47.308-1
Housing for Displaced Persons	Requested	Air Force	URARPAPA § 218, 41 CFR 101-47.308-8
Wildlife Conservation	Approved	Department of the Interior	16 U.S.C. § 667b-d
Federal-Aid or Other Highways [to States]	Sponsored	Department of Transportation	23 U.S.C. §§ 107, 317
Widening of Public Highways or Streets	Approved	Air Force	40 U.S.C. § 345c



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An **approved transfer** is one in which the approving Federal agency, after review of an application, recommends to the disposal agent (Air Force) that the proposed public-purpose conveyance is suitable and desirable; conveyance of the property is directly from the Air Force to the applicant.

A **sponsored transfer** is one in which the sponsoring Federal agency, after review of an application, recommends to the Air Force assignment of the property to the sponsoring agency, which then transfers the property to the applicant.

The **requested transfer** is a special case in which another Federal agency may request that the Air Force convey property to a State agency (no application is involved).

The **Federal Agency with Authority** refers to the approving or sponsoring Federal agency that has been given statutory authority to review proposed public uses and to make recommendations regarding the proposal. The Federal Agency with Authority also has the responsibility for determining the appropriate amount of the **fair market value (FMV) discount** (see next page), where such discretion exists (in some cases, public-purpose conveyances are statutorily designated as no-cost transfers). In all cases, however, the Air Force retains final authority to act on another Federal agency's recommendation for conveyance, and the Air Force may elect to pursue an alternate conveyance. The Air Force may not grant a public-purpose conveyance without a positive recommendation from the appropriate Federal agency, however.

*References: See the statutory and regulatory authorities listed above*

## Approved or Sponsored Public-Purpose Conveyances (Concluded)

Type of Property, Purpose, or Method	Federal Agency with Authority	FMV Discount	Period of Use Restriction
PUBLIC AIRPORT CONVEYANCE	Federal Aviation Administration	100%	Perpetuity
PUBLIC BENEFIT CONVEYANCE CATEGORIES			
Historic Monument	Department of the Interior	100%	Perpetuity
Education	Department of Education	Up to 100%	Up to 30 years
Public Health	Department of Health and Human Services	Up to 100%	30 years
Public Park or Recreation	Department of the Interior	Up to 100%	Perpetuity
Non-Federal Correctional Facility	Department of Justice	100%	Perpetuity
Port Facility	Department of Transportation	100%	Perpetuity
Shrines, Memorials, or Religious Uses <small>(only as part of another public benefit conveyance)</small>	Department of Education or Department of Health and Human Services	Up to 100%	Useful life
Homeless Assistance [Public Health]	Department of Health and Human Services	Up to 100%	30 years
OTHER SPECIFIC CONVEYANCE CATEGORIES			
Power Transmission Lines	Air Force	None	None
Housing for Displaced Persons	Air Force	Up to 100%	None
Wildlife Conservation	Department of the Interior	100%	Perpetuity
Federal-Aid or Other Highways (to States)	Department of Transportation	100%	None
Widening of Public Highways or Streets	Air Force	Up to 100%	None



*Air Force Base Conversion Agency*

The above table indicates the range of discount available for each conveyance. Where discretion exists (i.e., where the conveyance has not been statutorily designated as no-cost), the Federal Agency with Authority has the responsibility for determining the appropriate discount.

Many of the public-purpose conveyances have associated **use restrictions** so that the property cannot be used for other purposes and cannot be used to generate profits. In most cases, these use restrictions are placed permanently on the property; however, in two cases (education and public health), the restrictions have a finite term. In the case of education conveyances, the period of use restriction may be established at the discretion of the Department of Education. In the event of non-compliance with the use restrictions, ownership of the property will revert to the Federal Government. The Federal Agency with Authority has responsibility for monitoring compliance with the use restrictions. In some cases, the property recipient may be granted a release from the restrictions, by paying the Federal Government the property's present fair market value.

The preceding pages describe in more detail the conditions associated with each of these public-purpose conveyances.

*References: See the statutory and regulatory authorities listed above*

## Homeless Assistance Conveyances

- **Established by the Base Closure Community Redevelopment and Homeless Assistance Act**
- **Made in accordance with HUD-approved homeless assistance provisions of redevelopment plan**
- **At no cost**
- **To the LRA or representative of the homeless**
- **LRA is responsible for monitoring implementation**
- **Property reverts to LRA**



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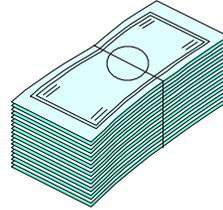
- LRA can obtain property and lease to homeless provider(s)
- LRA can obtain title and transfer to homeless providers, with reverter clause
- Air Force can make direct transfer to homeless providers, subject to legally binding agreements with LRA
- LRA and homeless providers should enter into legally binding agreements to cover reversion, municipal services and zoning
- Implementation of legally binding agreements is contingent upon approval of homeless assistance portions of redevelopment plan by HUD
- LRA is responsible for implementation of and compliance with the legally binding agreements
- No requirement for the LRA to take over services if provider leaves, although the LRA should take actions to secure, to the maximum extent practicable, utilization of the property by other homeless assistance providers

*References: DBCRA 90 § 2905(b)(7); 32 CFR § 91.7(a); 24 CFR Part 586 (interim); Base Reuse Implementation Manual, Chapter 3*

# Sales

## ■ Negotiated sales

- > To eligible public entities
- > For public purposes
- > At no less than fair market value
- > Subject to recovery of excess profits
- > Reviewed by Congress



## ■ Public bid sales

- > By public auction or sealed bid
- > To highest bidder, for at least fair market value
- > Reviewed by Attorney General if over \$3 million



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### **Negotiated Sales**

- Negotiated sales are allowed only when competition is not possible, or when a negotiated sale to a public body would result in a public benefit (FPASA, § 202(e)(3)(H)). The Air Force must document its decision to enter into negotiations.
- Fair market value must be recovered
- Explanations of the decision to negotiate must be submitted to Congressional Committees on Government Affairs/Government Reform and Oversight.
- Negotiated sales under FPASA § 202(e)(3)(H) require an excess profits covenant to recover for the Federal Government any excess profits realized from the property's resale.

*References: Federal Property and Administrative Services Act, § 202(e)(3)  
(40 U.S.C. § 484(e)(3)); 41 CFR § 101-47.304.*

### **Public Bid Sales**

- Sales are advertised publicly and bids are solicited. Bids may be submitted either as sealed bids or through an auction.
- Property is typically awarded to the highest bidder, provided that the bid is for no less than the property's fair market value. Bidders below FMV may be offered an opportunity to increase their bids, or the property may be reoffered for sale. If sufficiently large bids cannot be obtained, the property may be conveyed by negotiated sale.
- Notice of public sales of \$3 million or more to private interests must be given to the Attorney General for advice on antitrust implications.

*References: Federal Property and Administrative Services Act, §§ 202(e)(1) & (2)  
(40 U.S.C. §§ 484(e)(1) & (2)); 41 CFR §§ 101-47.304–101-47.306*

## Depository Institution Facilities

- **Sale to the operator**
  - Operator must have constructed or renovated facility
  - Cost to operator is facility value less operator contributions
- **Can include land**
  - Offered first to operator
  - At fair market value
- **Must be consistent with redevelopment plan**



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**Section 2825 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Pub.L. 102-190), as amended by section 2928 of the National Defense Authorization Act for Fiscal Year 1994 (Pub.L. 103-160):**

**SEC. 2825. DISPOSITION OF FACILITIES OF DEPOSITORY INSTITUTIONS ON MILITARY INSTALLATIONS TO BE CLOSED.**

(a) **AUTHORITY TO CONVEY FACILITIES.**—(1) Subject to subsection (c) and notwithstanding any other provisions of law, the Secretary of the military department having jurisdiction over a military installation being closed pursuant to a base closure law may convey all right, title, and interest of the United States in a facility located on that installation to a depository institution that—

(A) conducts business in the facility; and

(B) constructed or substantially renovated the facility using funds of the depository institution.

(2) In the case of the conveyance under paragraph (1) of a facility that was not constructed by the depository institution but was substantially renovated by the depository institution, the Secretary shall require the depository institution to pay an amount determined by the Secretary to be equal to the value of the facility in the absence of the renovations.

(b) **AUTHORITY TO CONVEY LAND.**—As part of the conveyance of a facility to a depository institution under subsection (a), the Secretary of the military department concerned shall permit the depository institution to purchase the land upon which that facility is located. The Secretary shall offer the land to the depository institution before offering such land for sale or other disposition to any other entity. The purchase price shall be not less than the fair market value of the land, as determined by the Secretary.

(c) **LIMITATION.**—The Secretary of a military department may not convey a facility to a depository institution under subsection (a) if the Secretary determines that the operation of a depository institution at such a facility is inconsistent with the redevelopment plan with respect to the installation.

(d) **BASE CLOSURE LAW DEFINED.**—For purposes of this section, the term “base closure law” means the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 104 Stat. 1808; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2627; 10 U.S.C. 2687 note).

(3) Section 2687 of title 10, United States Code.

(4) Any other similar law enacted after the date of the enactment of this Act.

(e) **DEPOSITORY INSTITUTION DEFINED.**—For purposes of this section, the term “depository institution” has the meaning given that term in section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)).

## Conveyances for the Cost of Environmental Remediation

- **Established by Section 2908 of Pryor Amendments**
- **Agreement to transfer to party who performs environmental restoration, waste management, and environmental compliance**
  - > CERCLA responsibilities not affected
  - > Party not indemnified by DoD
- **Total cost to recipient must be no less than the property's fair market value**
- **Implementing regulations currently under revision**
- **Authority expires 30 November 1998**



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### **DBCRA 90 § 2905(e):**

(e) TRANSFER AUTHORITY IN CONNECTION WITH PAYMENT OF ENVIRONMENTAL REMEDIATION COSTS.—(1)(A) Subject to paragraph (2) of this subsection and section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), the Secretary may enter into an agreement to transfer by deed real property or facilities referred to in subparagraph (B) with any person who agrees to perform all environmental restoration, waste management, and environmental compliance activities that are required for the property or facilities under Federal and State laws, administrative decisions, agreements (including schedules and milestones), and concurrences.

(B) The real property and facilities referred to in subparagraph (A) are the real property and facilities located at an installation closed or to be closed under this part that are available exclusively for the use, or expression of an interest in a use, of a redevelopment authority under subsection (b)(6)(F) during the period provided for that use, or expression of interest in use, under that subsection.

(C) The Secretary may require any additional terms and conditions in connection with an agreement authorized by subparagraph (A) as the Secretary considers appropriate to protect the interests of the United States.

(2) A transfer of real property or facilities may be made under paragraph (1) only if the Secretary certifies to Congress that—

(A) the costs of all environmental restoration, waste management, and environmental compliance activities to be paid by the recipient of the property or facilities are equal to or greater than the fair market value of the property or facilities to be transferred, as determined by the Secretary; or

(B) if such costs are lower than the fair market value of the property or facilities, the recipient of the property or facilities agrees to pay the difference between the fair market value and such costs.

(3) As part of an agreement under paragraph (1), the Secretary shall disclose to the person to whom the property or facilities will be transferred any information of the Secretary regarding the environmental restoration, waste management, and environmental compliance activities described in paragraph (1) that relate to the property or facilities. The Secretary shall provide such information before entering into the agreement.

(4) Nothing in this subsection shall be construed to modify, alter, or amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(5) Section 330 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 10 U.S.C. 2687 note) shall not apply to any transfer under this subsection to persons or entities described in subsection (a)(2) of such section 330.

(6) The Secretary may not enter into an agreement to transfer property or facilities under this subsection after the expiration of the five-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994.

*References: DBCRA 90 § 2905(e); 32 CFR Part 91.7(j) (proposed rule)*

## Conveyance for Construction or Provision of Military Family Housing

- **Agreement to transfer property to person agreeing to construct/provide military family housing at/near installation with shortage of suitable housing**
  - Value of housing received must be at least value of property transferred; or
  - Recipient must pay difference
- **Agreements subject to Congressional review**
- **Implementing regulations required**



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**DBCRA 90 § 2905(f), as added by the National Defense Authorization Act for Fiscal Year 1996:**

**(f) TRANSFER AUTHORITY IN CONNECTION WITH CONSTRUCTION OR PROVISION OF MILITARY FAMILY HOUSING.**—(1) Subject to paragraph (2), the Secretary may enter into an agreement

to transfer by deed real property or facilities located at or near an installation closed or to be closed under this part with any person who agrees, in exchange for the real property or facilities, to transfer to the Secretary housing units that are constructed or provided by the person and located at or near a military installation at which there is a shortage of suitable housing to meet the requirements of members of the Armed Forces and their dependents. The Secretary may not select real property for transfer under this paragraph if the property is identified in the redevelopment plan for the installation as property essential to the reuse or redevelopment of the installation.

(2) A transfer of real property or facilities may be made under paragraph (1) only if—

(A) the fair market value of the housing units to be received by the Secretary in exchange for the property or facilities to be transferred is equal to or greater than the fair market value of such property or facilities, as determined by the Secretary; or

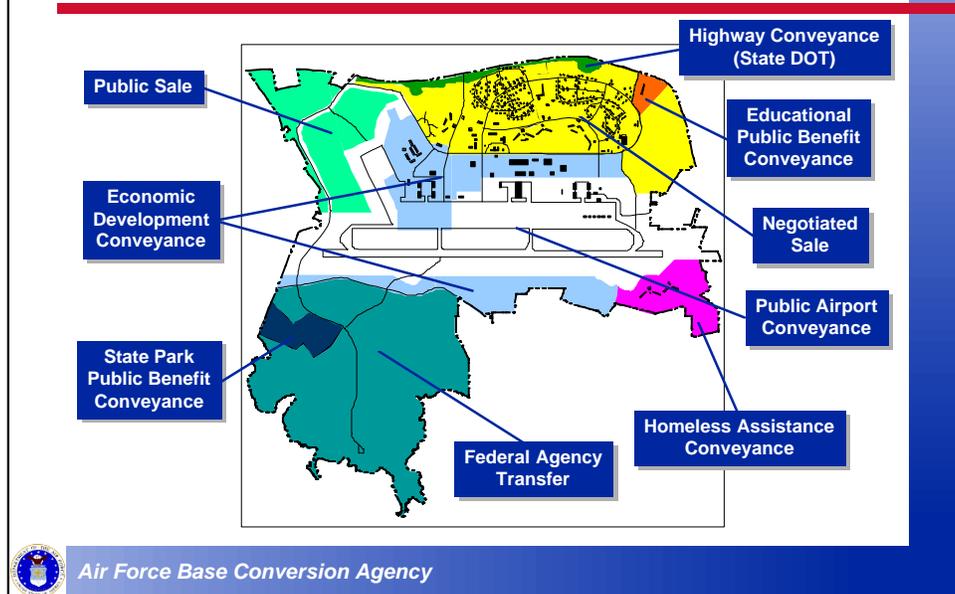
(B) in the event the fair market value of the housing units is less than the fair market value of property or facilities to be transferred, the recipient of the property or facilities agrees to pay to the Secretary the amount equal to the excess of the fair market value of the property or facilities over the fair market value of the housing units.

(3) Notwithstanding paragraph (2) of section 2906(a), the Secretary may deposit funds received under paragraph (2)(B) in the Department of Defense Family Housing Improvement Fund established under section 2873(a) of title 10, United States Code.

(4) The Secretary shall submit to the congressional defense committees a report describing each agreement proposed to be entered into under paragraph (1), including the consideration to be received by the United States under the agreement. The Secretary may not enter into the agreement until the end of the 30-day period beginning on the date the congressional defense committees receive the report regarding the agreement.

(5) The Secretary may require any additional terms and conditions in connection with an agreement authorized by this subsection as the Secretary considers appropriate to protect the interests of the United States.

## Example Redevelopment Plan— Conveyance Methods



The above figure emphasizes a notional LRA's proposed conveyance methods for achieving reuse. A broad variety of land uses and conveyance methods can and should be used to achieve reuse of an installation. A particular land use can be achieved through multiple conveyance methods and, conversely, a single conveyance method can be used to obtain multiple land uses. Effective redevelopment planning depends on selecting a combination of land uses and conveyance methods that is appropriate to the local economic environment.

*Reference: DoD Base Reuse Implementation Manual, Chapter 3*

## Other Property Conveyance Issues

- **Reversionary rights**



- **Withdrawn public domain lands**



- **Mineral rights**



- **Native American property rights/claims**



- **Air traffic control/air navigation systems**



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**Reversionary rights**—Property for military installations was commonly obtained from State and local governments, sometimes at a reduced price or at no cost. In such cases, the Air Force's title to the property may contain a reversionary right or reverter clause that provides for return of the property to its previous owner.

**Withdrawn public domain lands** are those lands that have been transferred from the Department of the Interior to the Air Force. The Secretary of the Interior will determine if the land is suitable for return to the public domain; if so, it will be transferred to the Bureau of Land Management (BLM); if not, it will be disposed of according to the base closure statutes.

**Mineral Rights**—BLM advises the Air Force on disposition of mineral assets. On withdrawn public domain lands not suitable for return, BLM will determine whether mineral rights will be retained by the Federal Government; if not retained, the rights will be appraised and included in the value of the property. Mineral rights acquired by purchase may be disposed of at the Air Force's discretion, after consultation with BLM.

**Native American Interests** can be addressed through two processes:

- Tribes can submit expressions of interest to the Bureau of Indian Affairs, which is subject to Federal agency timetables.
- Tribal governments may participate with the LRA in the local planning effort.

**Air Traffic Control Equipment and Navigation Aids** are surveyed by FAA to identify those facilities that are needed to support the National Airspace System; Federally managed facilities will be taken over by FAA, and other facilities may be conveyed to the local civilian airport authority.

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