

## **e-CFR Data is current as of December 18, 2009**

### **Title 41: Public Contracts and Property Management**

#### [PART 102-75—REAL PROPERTY DISPOSAL](#)

#### [Subpart C—Surplus Real Property Disposal](#)

#### [Property for Correctional Facility, Law Enforcement, or Emergency Management Response Purposes](#)

### **§ 102-75.750 Who is eligible to receive surplus real and related personal property for correctional facility, law enforcement, or emergency management response purposes?**

Under 40 U.S.C. 553, the head of the disposal agency or designee may, in his or her discretion, convey, without monetary consideration, to any State, or to those governmental bodies named in the section; or to any political subdivision or instrumentality, surplus real and related personal property for—

(a) Correctional facility purposes, if the Attorney General has determined that the property is required for such purposes and has approved an appropriate program or project for the care or rehabilitation of criminal offenders;

(b) Law enforcement purposes, if the Attorney General has determined that the property is required for such purposes; or

(c) Emergency management response purposes, including fire and rescue services, if the Director of the Federal Emergency Management Agency (FEMA) has determined that the property is required for such purposes.

### **§ 102-75.755 Which Federal agencies must the disposal agency notify concerning the availability of surplus properties for correctional facility, law enforcement, or emergency management response purposes?**

The disposal agency must provide prompt notification to the Office of Justice Programs (OJP), Department of Justice (DOJ), and FEMA that surplus property is available. The disposal agency's notice or notification must include a copy of the landholding agency's Report of Excess Real Property (Standard Form 118), with accompanying schedules.

### **§ 102-75.760 Who must the Office of Justice Programs (OJP) and the Federal Emergency Management Agency (FEMA) notify that surplus real property is available for correctional facility, law enforcement, or emergency management response purposes?**

OJP or FEMA must send notices of availability to the appropriate State and local public agencies. The notices must state that OJP or FEMA, as appropriate, must coordinate and approve any planning involved in developing a comprehensive and coordinated plan of use and procurement for the property for correctional facility, law enforcement, or emergency management response use. The notice must also state that public agencies may obtain application forms and preparation instructions from OJP or FEMA.

### **§ 102-75.765 What does the term “law enforcement” mean?**

The OJP defines “law enforcement” as “any activity involving the control or reduction of crime and juvenile delinquency, or enforcement of the criminal law, including investigative activities such as laboratory functions as well as training.”

### **§ 102-75.770 Is the disposal agency required to approve a determination by the Department of Justice (DOJ) that identifies surplus property for correctional facility use or for law enforcement use?**

Yes, the disposal agency must approve a determination, under §102–75.795, by DOJ that identifies surplus property required for correctional facility use or for law enforcement use before an eligible public agency can obtain such property for correctional facility or law enforcement use.

**§ 102-75.775 Is the disposal agency required to approve a determination by FEMA that identifies surplus property for emergency management response use?**

Yes, the disposal agency must approve a determination, under §102–75.795, by FEMA that identifies surplus property required for emergency management response use before an eligible public agency can obtain such property for emergency management response use.

**§ 102-75.780 When must DOJ or FEMA notify the disposal agency that an eligible applicant is interested in acquiring the property?**

OJP or FEMA must notify the disposal agency within 30 calendar days after the date of the surplus notice, if there is an eligible applicant interested in acquiring the property. After that 30–calendar day period expires, OJP or FEMA then has another 30 days to review and approve an appropriate program and notify the disposal agency of the need for the property. If no application is approved, then OJP or FEMA must notify the disposal agency that there is no requirement for the property within the 30–calendar day period allotted for review and approval.

**§ 102-75.785 What specifically must DOJ or FEMA address in the assignment request or recommendation that is submitted to the disposal agency?**

Any determination that DOJ or FEMA submits to the disposal agency must provide complete information concerning the correctional facility, law enforcement, or emergency management response use, including—

- (a) Identification of the property;
- (b) Certification that the property is required for correctional facility, law enforcement, or emergency management response use;
- (c) A copy of the approved application that defines the proposed plan of use; and
- (d) The environmental impact of the proposed correctional facility, law enforcement, or emergency management response use.

**§ 102-75.790 What responsibilities do landholding agencies and disposal agencies have concerning properties to be used for correctional facility, law enforcement, or emergency management response purposes?**

Both landholding and disposal agencies must cooperate to the fullest extent possible with Federal and State agency representatives in their inspection of such property and in furnishing information relating to the property.

**§ 102-75.795 What happens after the disposal agency receives the assignment request by DOJ or FEMA?**

If, after considering other uses for the property, the disposal agency approves the assignment request by DOJ or FEMA, the disposal agency must convey the property to the appropriate grantee. The disposal agency must proceed with other disposal action if it does not approve the assignment request, if DOJ or FEMA does not submit an assignment request, or if the disposal agency does not receive the determination within the 30 calendar days specified in §102–75.780. The disposal agency must notify OJP or FEMA 15 days prior to any announcement of a determination to either approve or disapprove an application for correctional, law enforcement, or emergency management response purposes and must furnish to OJP or FEMA a copy of the conveyance documents.

**§ 102-75.800 What information must be included in the deed of conveyance?**

The deed of conveyance of any surplus real property transferred under the provisions of 40 U.S.C. 553 must provide that all property be used and maintained for the purpose for which it was conveyed in perpetuity. If the property ceases to be used or maintained for that purpose, all or any portion of the property must, at the option of the United

States, revert to the United States in its existing condition. The deed of conveyance may contain additional terms, reservations, restrictions, and conditions the Administrator of General Services determines to be necessary to safeguard the United States' interests.

**§ 102-75.805 Who is responsible for enforcing compliance with the terms and conditions of the transfer of the property used for correctional facility, law enforcement, or emergency management response purposes?**

The Administrator of General Services is responsible for enforcing compliance with the terms and conditions of disposals of property to be used for correctional facility, law enforcement, or emergency management response purposes. GSA is also responsible for reforming, correcting, or amending any disposal instrument; granting releases; and any action necessary for recapturing the property following the provisions of 40 U.S.C. 553(e).

**§ 102-75.810 What responsibilities do OJP or FEMA have if they discover any information indicating a change in use of a transferred property?**

Upon discovery of any information indicating a change in use, OJP or FEMA must—

- (a) Notify GSA; and
- (b) Upon request, make a redetermination of continued appropriateness of the use of a transferred property.

**§ 102-75.815 What happens if property conveyed for correctional facility, law enforcement, or emergency management response purposes is found to be in noncompliance with the terms of the conveyance documents?**

OJP or FEMA must, prior to the repossession, provide the appropriate GSA regional property disposal office with an accurate description of the real and related personal property involved. OJP or FEMA must use the Report of Excess Real Property (Standard Form 118), and the appropriate schedules for this purpose. After receiving a statement from OJP or FEMA that the title to the property is proposed for reversion, GSA will review the statement and determine if title should be reverted. If GSA, in consultation with OJP or FEMA, determines that the property should be reverted, OJP or FEMA must submit a Standard Form 118 to GSA. GSA will review and act upon the Standard Form 118, if acceptable. However, the grantee must provide protection and maintenance for the property until the title reverts to the Federal Government, including the period following any notice of intent to revert. Such protection and maintenance must, at a minimum, conform to the standards prescribed in the GSA Customer Guide to Real Property Disposal.