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**FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES  
ACT OF 1949**

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December 29, 2000

**FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES  
ACT OF 1949**

[As Amended Through P.L. 106–580, Dec. 29, 2000]

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Federal Property and Administrative Services Act of 1949”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Declaration of policy.
- Sec. 3. Definitions.

**TITLE I—ORGANIZATION**

- Sec. 101. General Services Administration.
- Sec. 102. Transfer of affairs of Bureau of Federal Supply.
- Sec. 103. Transfer of affairs of the Federal Works Agency.
- Sec. 106. Redistribution of functions.
- Sec. 107. Transfer of funds.
- Sec. 109. General supply fund.
- Sec. 110. Information Technology Fund.
- Sec. 112. Federal information centers.

**TITLE II—PROPERTY MANAGEMENT**

- Sec. 201. Procurements, warehousing, and related activities.
- Sec. 202. Property utilization.
- Sec. 203. Disposal of surplus property.
- Sec. 204. Proceeds from transfer or disposition of property.
- Sec. 205. Policies, regulations, and delegations.
- Sec. 206. Surveys, standardization, and cataloging.
- Sec. 207. Applicability of antitrust laws.
- Sec. 208. Employment of personnel.
- Sec. 209. Civil remedies and penalties.
- Sec. 210. Operation of buildings and related activities.
- Sec. 211. Motor vehicle identification and operation.
- Sec. 212. Reports to Congress.

**TITLE III—PROCUREMENT PROCEDURE**

- Sec. 301. Declaration of purpose.
- Sec. 302. Application and procurement methods.
- Sec. 302A. Simplified acquisition threshold.
- Sec. 302B. Implementation of simplified acquisition procedures.
- Sec. 302C. Implementation of FACNET capability.
- Sec. 303. Competition requirements.
- Sec. 303A. Planning and solicitation requirements.
- Sec. 303B. Evaluation and award.
- Sec. 303C. Encouragement of new competition.
- Sec. 303D. Validation of proprietary data restrictions.
- Sec. 303F. Economic order quantities.
- Sec. 303G. Prohibition of contractors limiting subcontractor sales directly to the United States.
- Sec. 303H. Task and delivery order contracts: general authority.
- Sec. 303I. Task order contracts: advisory and assistance services.
- Sec. 303J. Task and delivery order contracts: orders.
- Sec. 303K. Task and delivery order contracts: definitions.
- Sec. 303L. Severable services contracts for periods crossing fiscal years.

- Sec. 303M. Design-build selection procedures.
- Sec. 304. Contract requirements.
- Sec. 304A. Cost or pricing data: truth in negotiations.
- Sec. 304B. Multiyear contracts.
- Sec. 304C. Examination of records of contractor.
- Sec. 305. Contract financing.
- Sec. 306. Allowable costs.
- Sec. 307. Administrative determinations and delegations.
- Sec. 309. Definitions.
- Sec. 310. Statutes not applicable.
- Sec. 311. Assignment and delegation of procurement functions and responsibilities.
- Sec. 312. Determinations and decisions.
- Sec. 313. Performance based management: acquisition programs.
- Sec. 314. Relationship of commercial item provisions to other provisions of law.
- Sec. 314A. Definitions relating to procurement of commercial items.
- Sec. 314B. Preference for acquisition of commercial items.
- Sec. 315. Contractor employees: protection from reprisal for disclosure of certain information.
- Sec. 316. Merit-based award of grants for research and development.

#### TITLE IV—FOREIGN EXCESS PROPERTY

- Sec. 401. Disposal of foreign excess property.
- Sec. 402. Methods and terms of disposal.
- Sec. 403. Proceeds; foreign currencies.
- Sec. 404. Miscellaneous provisions.

#### TITLE VI—GENERAL PROVISIONS

- Sec. 601. Applicability of existing procedures.
- Sec. 602. Repeal and saving provisions.
- Sec. 603. Authorizations for appropriations and transfer authority.
- Sec. 604. Separability.
- Sec. 605. Effective date.
- Sec. 606. Sex discrimination.

#### TITLE VIII—URBAN LAND UTILIZATION

- Sec. 801. Short title.
- Sec. 802. Declaration of purpose and policy.
- Sec. 803. Disposal of urban lands.
- Sec. 804. Acquisition or change of use of real property.
- Sec. 805. Waiver during national emergency.
- Sec. 806. Definitions.

#### TITLE IX—SELECTION OF ARCHITECTS AND ENGINEERS

- Sec. 901. Definitions.
- Sec. 902. Policy.
- Sec. 903. Requests for data on architectural and engineering services.
- Sec. 904. Negotiation of contracts for architectural and engineering services.
- Sec. 905. Short title.

#### **SEC. 2. [40 U.S.C. 471] DECLARATION OF POLICY.**

It is the intent of the Congress in enacting this legislation to provide for the Government an economical and efficient system for (a) the procurement and supply of personal property and nonpersonal services, including related functions such as contracting, inspection, storage, issue, specifications, property identification and classification, transportation and traffic management, establishment of pools or systems for transportation of Government personnel and property by motor vehicle within specific areas, management of public utility services, repairing and converting, establishment of inventory levels, establishment of forms and procedures, and representation before Federal and State regulatory bodies; (b) the utilization of available property; (c) the disposal of surplus property; and (d) records management.

May 8, 1914 (7 U.S.C. 341 et seq.); any State experiment station engaged in cooperative agricultural research work pursuant to the Act of March 2, 1887 (7 U.S.C. 361a et seq.); and any institution engaged in cooperative agricultural research or extension work pursuant to sections 1433, 1434, 1444, or 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195, 3196, 3221, and 3222) or the Act of October 10, 1962 (16 U.S.C. 582a et seq.), where title is retained in the United States. For the purpose of this provision, the term "State" means any one of the fifty States, the Commonwealth of Puerto Rico, Guam, and American Samoa, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, the Virgin Islands of the United States, and the District of Columbia.

This paragraph shall not preclude any Federal agency obtaining property and furnishing it to a grantee of that agency under paragraph (1) of this subsection.

(e) Each executive agency shall submit during the calendar quarter following the close of each fiscal year a report to the Administrator showing, with respect to personal property—

(1) obtained as excess property or as personal property determined to be no longer required for the purposes of the appropriation from which it was purchased, and

(2) furnished in any manner whatsoever within the United States to any recipient other than a Federal agency, the acquisition cost, categories of equipment, recipient of all such property, and such other information as the Administrator may require. The Administrator shall submit a report to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House if the House is not in session) summarizing and analyzing the reports of the executive agencies.

(f) [Repealed.]

(g) Whenever the Administrator determines that the temporary assignment or reassignment of any space in excess real property to any Federal agency for office, storage, or related facilities would be more advantageous than the permanent transfer of such property, he may make such assignment or reassignment for such period of time as he shall determine and obtain, in the absence of appropriation available to him therefor, appropriate reimbursement from the using agency for the expense of maintaining such space.

(h) the Administrator may authorize the abandonment, destruction, or donation to public bodies of property which has no commercial value or of which the estimated cost of continued care and handling would exceed the estimated proceeds from its sale.

**SEC. 203. [40 U.S.C. 484] DISPOSAL OF SURPLUS PROPERTY.**

(a) Except as otherwise provided in this section, the Administrator shall have supervision and direction over the disposition of surplus property. Such property shall be disposed of to such extent, at such time, in such areas, by such agencies, at such terms and conditions, and in such manner, as may be prescribed in or pursuant to this Act.

(b) The care and handling of surplus property, pending its disposition, and the disposal of surplus property, may be performed by the General Services Administration or, when so determined by the Administrator, by the executive agency in possession thereof or by any other executive agency consenting thereto.

(c) Any executive agency designated or authorized by the Administrator to dispose of surplus property may do so by sale, exchange, lease, permit, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the Administrator deems proper, and it may execute such documents for the transfer of title or other interest in property and take such other action as it deems necessary or proper to dispose of such property under the provisions of this title.

(d) A deed, bill of sale, lease, or other instrument executed by or on behalf of any executive agency purporting to transfer title or any other interest in surplus property under this title shall be conclusive evidence of compliance with the provisions of this title insofar as concerns title or other interest of any bona fide grantee or transferee for value and without notice of lack of such compliance.

(e)(1) All disposals or contracts for disposal of surplus property (other than by abandonment, destruction, donation, or through contract brokers) made or authorized by the Administrator shall be made after publicly advertising for bids, under regulations prescribed by the Administrator, except as provided in paragraphs (3) and (5) of this subsection.

(2) Whenever public advertising for bids is required under paragraph (1) of this subsection—

(A) the advertisement for bids shall be made at such time previous to the disposal or contract, through such methods, and on such terms and conditions as shall permit that full and free competition which is consistent with the value and nature of the property involved;

(B) all bids shall be publicly disclosed at the time and place stated in the advertisement;

(C) award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered: *Provided*, That all bids may be rejected when it is in the public interest to do so.

(3) Disposals and contracts for disposal may be negotiated, under regulations prescribed by the Administrator, without regard to paragraphs (1) and (2) of this subsection but subject to obtaining such competition as is feasible under the circumstances, if—

(A) necessary in the public interest during the period of a national emergency declared by the President or the Congress, with respect to a particular lot or lots of personal property or, for a period not exceeding three months, with respect to a specifically described category or categories of personal property as determined by the Administrator;

(B) the public health, safety, or national security will thereby be promoted by a particular disposal of personal property;

(C) public exigency will not admit of the delay incident to advertising certain personal property;

(D) the personal property involved is of a nature and quantity which, if disposed of under paragraphs (1) and (2) of this subsection, would cause such an impact on an industry or industries as adversely to affect the national economy, and the estimated fair market value of such property and other satisfactory terms of disposal can be obtained by negotiation;

(E) the estimated fair market value of the property involved does not exceed \$15,000;

(F) bid prices after advertising therefor are not reasonable (either as to all or some part of the property) or have not been independently arrived at in open competition;

(G) with respect to real property only, the character or condition of the property or unusual circumstances make it impractical to advertise publicly for competitive bids and the fair market value of the property and other satisfactory terms of disposal can be obtained by negotiation;

(H) the disposal will be to States, Territories, possessions, political subdivisions thereof, or tax-supported agencies therein, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation; or

(I) otherwise authorized by this Act or other law.

(4) Disposals and contracts for disposal of surplus real and related personal property through contract realty brokers employed by the Administrator shall be made in the manner followed in similar commercial transactions under such regulations as may be prescribed by the Administrator: *Provided*, That such regulations shall require that wide public notice of availability of the property for disposal be given by the brokers.

(5)(A) Negotiated sales of personal property at fixed prices may be made by the Administrator either directly or through the use of disposal contractors without regard to the limitations set forth in paragraphs (1) and (2) of this subsection: *Provided*, That such sales be publicized to the extent consistent with the value and nature of the property involved, that the prices established shall reflect the estimated fair market value thereof, and that such sales shall be limited to those categories of personal property as to which the Administrator determines that such methods of disposal will best serve the interests of the Government.

(B) Under regulations and restrictions to be prescribed by the Administrator, property to be sold pursuant to this paragraph may be offered to organizations specified in paragraph (3)(H) of this subsection that have expressed an interest in the property to permit such an organization a prior opportunity to purchase at the prices fixed for such property.

(6)(A) Except as otherwise provided by subparagraph (C) of this paragraph, an explanatory statement shall be prepared of the circumstances of each disposal by negotiation of—

(i) any personal property which has an estimated fair market value in excess of \$15,000;

(ii) any real property that has an estimated fair market value in excess of \$100,000, except that any real property disposed of by lease or exchange shall only be subject to clauses (iii) through (v) of this subparagraph;

(iii) any real property disposed of by lease for a term of 5 years or less, if the estimated fair annual rent is in excess of \$100,000 for any of such years;

(iv) any real property disposed of by lease for a term of more than 5 years, if the total estimated rent over the term of the lease is in excess of \$100,000; or

(v) any real property or real and related personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.

(B) Each such statement shall be transmitted to the appropriate committees of the Congress in advance of such disposal, and a copy thereof shall be preserved in the files of the executive agency making such disposal.

(C) No such statement need be transmitted to any such committee with respect to any disposal of personal property made under paragraph (5) at a fixed price, or to property disposals authorized by any other provision of law to be made without advertising.

(D) The annual report of the Administrator under section 212 shall contain or be accompanied by a listing and description of any negotiated disposals of surplus property having an estimated fair market value of more than \$15,000, in the case of real property, or \$5,000, in the case of any other property, other than disposals for which an explanatory statement has been transmitted under this paragraph.

(f)<sup>1</sup> Subject to regulations of the Administrator, any executive agency may authorize any contractor with such agency or subcontractor thereunder to retain or dispose of any contractor inventory.

(g)<sup>1</sup> The Administrator, in formulating policies with respect to the disposal of surplus agricultural commodities, surplus foods processed from agricultural commodities, and surplus cotton or woolen goods, shall consult with the Secretary of Agriculture. Such policies shall be so formulated as to prevent surplus agricultural commodities, or surplus food processed from agricultural commodities, from being dumped on the market in a disorderly manner and disrupting the market prices for agricultural commodities.

(h)<sup>1</sup> Whenever the Secretary of Agriculture determines such action to be required to assist him in carrying out his responsibilities with respect to price support or stabilization, the Administrator shall transfer without charge to the Department of Agriculture any surplus agricultural commodities, foods, or cotton or woolen goods to be disposed of. Receipts resulting from disposal by the Department of Agriculture under this subsection shall be deposited pursuant to any authority available to the Secretary of Agriculture, except that net proceeds of any sale of surplus property so transferred shall be credited pursuant to section 204(c), when applicable. Surplus farm commodities so transferred shall not be sold, other than for export, in quantities in excess of, or at prices less than, those applicable

<sup>1</sup> So in law. Subsections (f), (g), (h), and (i), should be full measurement.

with respect to sales of such commodities by the Commodity Credit Corporation.

(i)<sup>1</sup> The Secretary of Commerce shall dispose of surplus vessels of one thousand five hundred gross tons or more which the Secretary determines to be merchant vessels or capable of conversion to merchant use, and such vessels shall be disposed of only in accordance with the provisions of the Merchant Marine Act, 1936, as amended, and other laws authorizing the sale of such vessels.

(j)(1) Under such regulations as he may prescribe, the Administrator is authorized in his discretion to transfer, without cost (except for costs of care and handling), any personal property under the control of any executive agency which has been determined to be surplus property to the State agency in each State designated under State law as the agency responsible for the fair and equitable distribution, through donation, of all property transferred in accordance with the provisions of paragraphs (2) and (3) of this subsection. In determining whether the property is to be transferred for donation under this subsection, no distinction shall be made between property capitalized in a working-capital fund established under section 2208 of title 10, United States Code, or any similar fund, and any other property.

(2) In the case of surplus personal property under the control of the Department of Defense, the Secretary of Defense shall determine whether such property is usable and necessary for educational activities which are of special interest to the armed services, such as maritime academies, or military, naval, Air Force, or Coast Guard preparatory schools. If the Secretary determines that such property is usable and necessary for said purposes, the Secretary shall allocate it for transfer by the Administrator to the appropriate State agency for distribution, through donation, to such educational activities. If the Secretary determines that such property is not usable and necessary for such purposes, it may be disposed of in accordance with paragraph (3) of this subsection.

(3) Except for surplus personal property transferred pursuant to paragraph (2) of this subsection, the Administrator shall, pursuant to criteria which are based on need and utilization and established after such consultation with State agencies as is feasible, allocate such property among the States in a fair and equitable basis (taking into account the condition of the property as well as the original acquisition cost thereof), and transfer to the State agency property selected by it for distribution through donation within the State—

(A) to any public agency for use in carrying out or promoting for the residents of a given political area one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety; or

(B) to nonprofit educational or public health institutions or organizations, such as medical institutions, hospitals, clinics, health centers, providers of assistance to homeless individuals, providers of assistance to families or individuals whose annual incomes are below the poverty line (as that term is defined in section 673 of the Community Services Block Grant Act),

schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, child care centers, radio and television stations licensed by the Federal Communications Commission a educational radio or educational television stations, museums attended by the public, and libraries serving free all residents of a community, district, State, or region, which are exempt from taxation under section 501 of the Internal Revenue Code of 1954, for purposes of education or public health (including research for any such purpose).

The Administrator, in allocating and transferring property under this paragraph, shall give fair consideration, consistently with the established criteria, to expressions of need and interest on the part of public agencies and other eligible institutions within that State, and shall give special consideration to requests by eligible recipients, transmitted through the State agency, for specific items of property.

(4)(A) before property may be transferred to any State agency, such State shall develop, according to State law, a detailed plan of operation, developed in conformity with the provisions of this subsection, which shall include adequate assurance that the State agency has the necessary organizational and operational authority and capability, including staff, facilities, means and methods of financing, and procedures with respect to: accountability, internal and external audits, cooperative agreements, compliance and utilization reviews, equitable distribution and property disposal, determination of eligibility, and assistance through consultation with advisory bodies and public and private groups. The chief executive officer shall certify and submit the plan to the Administrator. In the event that a State legislature has not developed, according to State law, a State plan within two hundred and seventy calendar days after the date of enactment of this Act, the chief executive officer of the State shall approve, and submit to the Administrator, a temporary State plan. No such plan, and no major amendment thereof, shall be filed with the Administrator until sixty days after general notice of the proposed plan or amendment has been published and interested persons have been given at least thirty days during which to submit comments. In developing and implementing the State plan, the relative needs and resources of all public agencies and other eligible institutions within the State shall be taken into consideration. The Administrator may consult with interested Federal agencies for purposes of obtaining their views concerning the administration and operation of this subsection.

(B) The State plan shall provide for the fair and equitable distribution of property within such State based on the relative needs and resources of interested public agencies and other eligible institutions within the State and their abilities to utilize the property.

(C)(i) The State plan of operation shall require the State agency to utilize a management control system and accounting system for donable property transferred under this section of the same types as are required by State law for State-owned property, except that the State agency, with the approval of the chief executive officer of the State, may elect, in lieu of such systems, to utilize such other management control and accounting systems as are effective

to govern the utilization, inventory control, accountability, and disposal of property under this subsection.

(ii) The State plan of operation shall require the State agency to provide for the return of donable property for further distribution if such property, while still usable, has not been placed in use for the purpose for which it was donated within one year of donation or ceases to be used by the donee for such purposes within one year of being placed in use.

(iii) The State plan shall require the State agency, insofar as practicable, to select property requested by a public agency or other eligible institution within the State and, if so requested by the recipient, to arrange shipment of that property, when acquired, directly to the recipient.

(D) Where the State agency is authorized to assess and collect service charges from participating recipients to cover direct and reasonable indirect costs of its activities, the method of establishing such charges shall be set out in the State plan of operation. Such charges shall be fair and equitable and shall be based on services performed by the State agency, including, but not limited to, screening, packing, crating, removal, and transportation.

(E) The State plan of operation shall provide that the State agency may impose reasonable terms, conditions, reservations, and restrictions on the use of property to be donated under paragraph (3) of this subsection and shall impose such terms, conditions, reservations, and restrictions in the case of any passenger motor vehicle and any item of other property having a unit acquisition cost of \$5,000 or more. If the Administrator finds that an item or items have characteristics that require special handling or use limitations, he may impose appropriate conditions on the donation of such property.

(F) The State plan of operation shall provide that surplus property which the State agency determines cannot be utilized by eligible recipients shall be disposed of—

(i) subject to the disapproval of the Administrator within thirty days after notice to him, through transfer by the State agency to another State agency or through abandonment or destruction where the property has no commercial value or the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale; or

(ii) otherwise pursuant to the provisions of this Act under such terms and conditions and in such manner as may be prescribed by the Administrator.

Notwithstanding sections 204 and 402(c) of this Act, the Administrator, from the proceeds of sale of any such property, may reimburse the State agency for such expenses relating to the care and handling of such property as he shall deem appropriate.

(5) As used in this subsection, (A) the term "public agency" means any State, political subdivision thereof (including any unit of local government or economic development district), or any department, agency, instrumentality thereof (including instrumentalities created by compact or other agreement between States or political subdivision), or any Indian tribe, band, group, pueblo, or community located on a State reservation and (B) the term "State"

means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Virgin Islands, Guam, and American Samoa.

(k)(1) Under such regulations as he may prescribe, the Administrator is authorized, in his discretion, to assign to the Secretary of Health, Education and Welfare for disposal such surplus real property, including buildings, fixtures, and equipment situated thereon, as is recommended by the Secretary of Health, Education, and Welfare as being needed for school, classroom, or other educational use, or for use in the protection of public health, including research.

(A) Subject to the disapproval of the Administrator within thirty days after notice to him by the Secretary of Health, Education, and Welfare of a proposed transfer of property for school, classroom, or other educational use, the Secretary of Health, Education, and Welfare, through such officers or employees of the Department of Health, Education, and Welfare as he may designate, may sell or lease such real property including buildings, fixtures, and equipment situated thereon, for educational purposes to the States and their political subdivisions and instrumentalities, and tax-supported educational institutions, and to other nonprofit educational institutions which have been held exempt from taxation under section 101(6) of the Internal Revenue Code.

(B) Subject to the disapproval of the Administrator within thirty days after notice to him by the Secretary of Health, Education, and Welfare of a proposed transfer of property for public-health use, the Secretary of Health, Education, and Welfare, through such officers or employees of the Department of Health, Education, and Welfare as he may designate, may sell or lease such real property for public-health purposes, including research, to the States and their political subdivisions and instrumentalities, and to tax-supported medical institutions, and to hospitals or other similar institutions not operated for profit which have been held exempt from taxation under section 101(6) of the Internal Revenue Code.

(C) In fixing the sale or lease value of property to be disposed of under subparagraph (A) and subparagraph (B) of this paragraph, the Secretary of Health, Education, and Welfare shall take into consideration any benefit which has accrued or may accrue to the United States from the use of such property by any such State, political subdivision, instrumentality, or institution.

(D) "States" as used in this subsection includes the District of Columbia, the Commonwealth of Puerto Rico, and the Territories and possessions of the United States

(2) Under such regulations as he may prescribe, the Administrator is authorized, in his discretion, to assign to the Secretary of the Interior for disposal, such surplus real property, including buildings, fixtures, and equipment situated thereon, as is recommended by the Secretary of the Interior as needed for use as a public park or recreation area.

(A) Subject to the disapproval of the Administrator within thirty days after notice to him by the Secretary of the Interior of a proposed transfer of property for public park or public rec-

reational use, the Secretary of the Interior, through such officers or employees of the Department of the Interior as he may designate, may sell or lease such real property, including buildings, fixtures, and equipment situated thereon, for public park or public recreational purposes to any State, political subdivision, instrumentalities thereof, or municipality.

(B) In fixing the sale or lease value of property to be disposed of under subparagraph (A) of this paragraph, the Secretary of the Interior shall take into consideration any benefit which has accrued or may accrue in the United States from the use of such property by any such State, political subdivision, instrumentality, or municipality.

(C) The deed of conveyance of any surplus real property disposed of under the provisions of this subsection—

(i)<sup>1</sup> shall provide that all such property shall 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

(ii)<sup>1</sup> 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 interests of the United States.

(D) “States” as used in this subsection includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(3) Without monetary consideration to the United States, the Administrator may convey to any State, political subdivision, instrumentalities thereof, or municipality, all of the right, title, and interest of the United States in and to any surplus real and related personal property which the Secretary of the Interior has determined is suitable and desirable for use as a historic monument, for the benefit of the public. 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 established by section 463 of Title 16, and only so much of any such property shall be so determined to be suitable or desirable for such use as is necessary for the preservation and proper observation of its historic features.

(A) The Administrator may authorize use of any property conveyed under this subsection or the Surplus Property Act of 1944, as amended, for revenue-producing activities if the Secretary of the Interior (i) determines that such activities are compatible with use of the property for history monument purposes, (ii) approves the grantee’s plan for repair, rehabilitation, restoration, and maintenance of the property, and (iii) approves the grantee’s plan for financing repair, rehabilitation, restoration, and maintenance of the property. The Secretary shall not approve a financial plan unless it provides that in-

<sup>1</sup> So in law. Wrong measurement.

comes in excess of costs of repair, rehabilitation, restoration, and maintenance shall be used by the grantee only for public historic preservation, park, or recreational purposes. The Administrator may not authorize any uses under this subsection until the Secretary has examined and approved the accounting and financial procedures used by the grantee. The Secretary may periodically audit the records of the grantee, directly related to the property conveyed.

(B) The deed of conveyance of any surplus real property disposed of under the provisions of this subsection—

(i) shall provide that all such property shall be used and maintained for historic monument purposes in perpetuity, and that in the event that the property ceases to be used or maintained for that purpose, all or any portion of the property shall, in its then existing condition, at the option of the United States, revert to the United States; and

(ii) may contain such additional terms, reservations, restrictions, and conditions as may be determined by the Administrator to be necessary to safeguard the interest of the United States.

(C) “States” as used in this subsection, includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(4) Subject to the disapproval of the Administrator within thirty days after notice to him of any action to be taken under this subsection, except with respect to personal property transferred pursuant to subsection (j)—

(A) <sup>1</sup>The Secretary of Health, Education, and Welfare, through such officers or employees of the Department of Health, Education, and Welfare as he may designate, in the case of property transferred pursuant to the Surplus Property Act of 1944, as amended, and pursuant to this Act, to States, political subdivisions, and instrumentalities thereof, and tax-supported and other nonprofit educational institutions for school, classroom, or other educational use;

(B) the Secretary of Health, Education, and Welfare, through such officer or employees of the Department of Health, Education, and Welfare as he may designate, in the case of property transferred pursuant to the Surplus Property Act of 1944, as amended, and pursuant to this Act, to States, political subdivisions and instrumentalities thereof, supported medical institutions, and to hospitals and other similar institutions not operated for profit, for use in the protection of public health (including research);

(C) the Secretary of the Interior, in the case of property transferred pursuant to the Surplus Property Act of 1944, as amended, and pursuant to this Act, to States, political subdivisions, and instrumentalities thereof, and municipalities for use as a public park, public recreational area, or historic monument for the benefit of the public;

<sup>1</sup> So in law. Probably should not be capitalized.

(D) the Secretary of Defense, in case of property transferred pursuant to the Surplus Property Act of 1944, as amended, to States, political subdivisions, and tax-supported instrumentalities thereof for use in the training and maintenance of civilian components of the armed forces.<sup>1</sup> is authorized and directed—

(i) to determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in any instrument by which such transfer was made;

(ii) to reform, correct, or amend any such instrument by the execution of a corrective, reformatory or amendatory instrument where necessary to correct such instrument or to conform such transfer to the requirements of applicable law; and

(iii) to (I) grant releases from any of the terms, conditions, reservations and restrictions contained in, and (II) convey, quitclaim, or release to the transferee or other eligible user any right or interest reserved to the United States by, any instrument by which such transfer was made, if he determines that the property so transferred no longer serves the purpose for which it was transferred, or that such release, conveyance, or quitclaim deed will not prevent accomplishment of the purpose for which such property was so transferred: *Provided*, That any such release, conveyance, or quitclaim deed may be granted on, or made subject to, such terms and conditions as he shall deem necessary to protect or advance the interests of the United States; or

(E) the Secretary of Housing and Urban Development, through such officers or employees of the Department of Housing and Urban Development as the Secretary may designate, in the case of property transferred under paragraph (6).

(5)(A) Under such regulations as the Administrator may prescribe, the Administrator is authorized, in the discretion of the Administrator, to assign to the Chief Executive Officer of the Corporation for National and Community Service for disposal such surplus property as is recommended by the Chief Executive Officer as being needed for national service activities.

(B) Subject to the disapproval of the Administrator, within 30 days after notice to the Administrator by the Chief Executive Officer of the Corporation for National and Community Service of a proposed transfer of property for such activities, the Chief Executive Officer, through such officers or employees of the Corporation as the Chief Executive Officer may designate, may sell, lease, or donate such property to any entity that receives financial assistance under the National and Community Service Act of 1990 for such activities.

(C) In fixing the sale or lease value of such property, the Chief Executive Officer of the Corporation for National and Community Service shall comply with the requirements of paragraph (1)(C).

(6)(A) Under such regulations as the Administrator may prescribe, the Administrator may, in the discretion of the Administrator, assign to the Secretary of Housing and Urban Development for disposal such surplus real property, including buildings, fix-

<sup>1</sup> So in law. The period probably should be a comma.

tures, and equipment situated thereon, as is recommended by the Secretary as being needed for providing housing or housing assistance for low-income individuals or families.

(B) Subject to the disapproval of the Administrator within 30 days after notice to the Administrator by the Secretary of Housing and Urban Development of a proposed transfer of property for the purpose of providing such housing or housing assistance, the Secretary, through such officers or employees of the Department of Housing and Urban Development as the Secretary may designate, may sell or lease such property for that purpose to any State, any political subdivision or instrumentality of a State, or any nonprofit organization that exists for the primary purpose of providing housing or housing assistance for low-income individuals or families.

(C) The Administrator shall disapprove a proposed transfer of property under this paragraph unless the Administrator determines that the property will be used for low-income housing opportunities through the construction, rehabilitation, or refurbishment of self-help housing, under terms that require that—

(i) any individual or family receiving housing or housing assistance constructed, rehabilitated, or refurbished through use of the property shall contribute a significant amount of labor toward the construction, rehabilitation, or refurbishment; and

(ii) dwellings constructed, rehabilitated, or refurbished through use of the property shall be quality dwellings that comply with local building and safety codes and standards and shall be available at prices below prevailing market prices.

(D)(i) The Administrator shall ensure that nonprofit organizations that are sold or leased property under subparagraph (B) shall develop and use guidelines to take into consideration any disability of an individual for the purposes of fulfilling any self-help requirement under subparagraph (C)(i).

(ii) For purposes of this subparagraph, the term “disability” has the meaning given such term under section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)).

(E)(i) In fixing the sale or lease value of property to be disposed of under this paragraph, the Secretary of Housing and Urban Development shall take into consideration and discount the value with respect to any benefit which has accrued or may accrue to the United States from the use of such property by any such State, political subdivision, instrumentality, or nonprofit organization.

(ii) The amount of the discount under clause (i) shall be 75 percent of the market value of the property, except that the Secretary may discount by a greater percentage if the Secretary, in consultation with the Administrator, determines that a higher percentage is justified.

(1)<sup>1</sup> Under such regulation as he may prescribe, the Administrator is authorized in his discretion to donate to the American National Red Cross, for charitable purposes, such property, which was processed, produced, or donated by the American National Red Cross, as shall have been determined to be surplus property.

(m)<sup>1</sup> The Administrator is authorized to take possession of abandoned and other unclaimed property on premises owned or leased by the Government to determine when title thereto vested in the United States, and to utilize, transfer or otherwise dispose of such property. Former owners of such property upon proper claim filed within three years from the date of vesting of title in the United States shall be paid the proceeds realized from the disposition of such property or, if the property is used or transferred, the fair value therefor as of the time title was vested in the United States as determined by the Administrator, less in either case the costs incident to the care and handling of such property as determined by the Administrator.

(n) For the purpose of carrying into effect the provisions of subsection (j), the Administrator or the head of any Federal agency designated by the Administrator, and, with respect to subsection (k)(1), the Secretary of Health, Education, and Welfare or the head of any Federal agency designated by the Secretary, are authorized to enter into cooperative agreements with State surplus property distribution agencies designated in conformity with subsection (j). Such cooperative agreements may provide for utilization by such Federal agency, with or without payment or reimbursement, of the property, facilities, personnel, and services of the State agency in carrying out any such program, and for making available to such State agency, with or without payment or reimbursement, property, facilities, personnel, or services of such Federal agency in connection with such utilization. Payment or reimbursement, if any, from the State agency shall be credited to the fund or appropriation against which charges would be made if no payment or reimbursement were received. In addition, under such cooperative agreements and subject to such other conditions as may be imposed by the Administrator, or with respect to subsection (k)(1) by the Secretary of Health, Education, and Welfare, any surplus property transferred to the State agency for distribution pursuant to subsection (j)(3) may be retained by the State agency for use in performing its functions. Unless otherwise directed by the Administrator, title to property so retained shall vest in the State agency.

(o)(1) Six months after the end of the first full fiscal year after the date of enactment of this paragraph, and biennially thereafter, the Administrator shall transmit a report to the Congress that covers the initial period from such effective date and each succeeding biennial period and contains—

(A) a full and independent evaluation of the operation of programs for the donation of Federal surplus personal property,

(B) statistical information on the amount of excess personal property transferred to Federal agencies and provided to grantees and non-Federal organizations and surplus personal property approved for donation to the State Agencies for Surplus Property and donated to eligible non-Federal organizations during each succeeding biennial period, and

<sup>1</sup> So in law. Wrong paragraph indents.

(C) such recommendations as the Administrator determines to be necessary or desirable.

(2) A copy of each report made under paragraph (3)<sup>1</sup> shall also be simultaneously furnished to the Comptroller General of the United States. The Comptroller General shall review and evaluate the report and make any comments and recommendations to the Congress thereon, as he deems necessary or desirable.

(p)(1)(A) Under such regulation as he may prescribe, the Administrator is authorized in his discretion to transfer or convey to the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, or any political subdivision or instrumentality thereof, surplus real and related personal property determined by the Attorney General to be required for correctional facility use by the authorized transferee or grantee under an appropriate program or project for the care or rehabilitation of criminal offenders as approved by the Attorney General. Transfers or conveyance under this authority shall be made by the Administrator without monetary consideration to the United States. If the Attorney General determines that any surplus property transferred or conveyed pursuant to an agreement entered into between March 1, 1982, and the enactment of this subsection was suitable for transfer or conveyance under this subsection, the Administrator shall reimburse the transferee for any monetary consideration paid to the United States for such transfer or conveyance.

(B) The Administrator may exercise the authority under subparagraph (A) with respect to such surplus real and related property needed by the transferee or grantee for—

(i) law enforcement purposes, as determined by the Attorney General; or

(ii) emergency management response purposes, including fire and rescue services, as determined by the Director of the Federal Emergency Management Agency.

(2) The deed of conveyance of any surplus real and related personal property disposed of under the provisions of this subsection—

(A) shall provide that all such property shall be used and maintained for the purpose for which it was conveyed in perpetuity, and that in the event the property ceases to be used or maintained for that purpose, all or any portion of the property shall, in its then existing condition, at the option of the United States, revert to the United States; and

(B) may contain such additional terms, reservations, restrictions, and conditions as may be determined by the Administrator to be necessary to safeguard the interests of the United States.

(3) With respect to surplus real and related personal property conveyed pursuant to this subsection, the Administrator is authorized and directed—

(A) to determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in any instrument by which such transfer was made;

<sup>1</sup> So in original, probably should be "(1)".

(B) to reform, correct, or amend any such instrument by the execution of a corrective reformative or amendatory instrument where necessary to correct such instrument or to conform such transfer to the requirements of applicable law; and

(C) to (i) grant releases from any of the terms, conditions, reservations, and restrictions contained in, and (ii) convey, quitclaim, or release to the transferee or other eligible user any right or interest reserved to the United States by any instrument by which such transfer was made, if he determines that the property so transferred no longer serves the purpose for which it was transferred, or that such release, conveyance, or quitclaim deed will not prevent accomplishment of the purpose for which such property was so transferred: *Provided*, That any such release, conveyance, or quitclaim deed may be granted on, or made subject to, such terms and conditions as he or she shall deem necessary to protect or advance the interests of the United States.

(q)(1) Under such regulations as the Administrator, after consultation with the Secretary of Defense, may prescribe, the Administrator, or the Secretary of Defense, in the case of property located at a military installation closed or realigned pursuant to a base closure law, may, in his or her discretion, assign to the Secretary of Transportation for disposal such surplus real property, including buildings, fixtures, and equipment situated thereon, as is recommended by the Secretary of Transportation as being needed for the development or operation of a port facility.

(2) Subject to the disapproval of the Administrator or the Secretary of Defense within 30 days after notice by the Secretary of Transportation of a proposed conveyance of property for any of the purposes described in paragraph (1), the Secretary of Transportation, through such officers or employees of the Department of Transportation as he or she may designate, may convey, at no consideration to the United States, such surplus real property, including buildings, fixtures, and equipment situated thereon, for use in the development or operation of a port facility to any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, or any political subdivision, municipality, or instrumentality thereof.

(3) No transfer of property may be made under this subsection until the Secretary of Transportation has—

(A) determined, after consultation with the Secretary of Labor, that the property to be conveyed is located in an area of serious economic disruption;

(B) received and, after consultation with the Secretary of Commerce, approved an economic development plan submitted by an eligible grantee and based on assured use of the property to be conveyed as part of a necessary economic development program; and

(C) transmitted to Congress an explanatory statement that contains information substantially similar to the information contained in statements prepared under subsection (e)(6).

(4) The instrument of conveyance of any surplus real property and related personal property disposed of under this subsection shall—

(A) provide that all such property shall be used and maintained in perpetuity for the purpose for which it was conveyed, and that if the property ceases to be used or maintained for that purpose, all or any portion of the property shall, in its then existing condition, at the option of the United States, revert to the United States; and

(B) contain such additional terms, reservations, restrictions, and conditions as the Secretary of Transportation shall by regulation require to assure use of the property for the purposes for which it was conveyed and to safeguard the interests of the United States.

(5) With respect to surplus real property and related personal property conveyed pursuant to this subsection, the Secretary of Transportation shall—

(A) determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in any instrument by which such conveyance was made;

(B) reform, correct, or amend any such instrument by the execution of a corrective, reformatory, or amendatory instrument if necessary to correct such instrument or to conform such conveyance to the requirements of applicable law; and

(C)(i) grant releases from any of the terms, conditions, reservations, and restrictions contained in, and (ii) convey, quitclaim, or release to the grantee any right or interest reserved to the United States by, any instrument by which such conveyance was made, if the Secretary of Transportation determines that the property so conveyed no longer serves the purpose for which it was conveyed, or that such release, conveyance, or quitclaim deed will not prevent accomplishment of the purpose for which such property was so conveyed, except that any such release, conveyance, or quitclaim deed may be granted on, or made subject to, such terms and conditions as the Secretary of Transportation considers necessary to protect or advance the interests of the United States.

(6) In this section, the term “base closure law” means the following:

(A) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(B) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

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

(r) The head of a Federal agency having control of a canine that has been used by a Federal agency in the performance of law enforcement duties and that has been determined by the agency to be no longer needed for official purposes may donate the canine to an individual who has experience handling canines in the performance of those duties.