

do not have a direct effect on a given individual, and the record may contain personal information about third parties.

The provisions of the Privacy Act of 1974 from which exemption for only those records required to be maintained by statute is claimed under 5 U.S.C. 552a(k)(4) are as follows: 5 U.S.C. 552a(c)(3); (d)(1), (2), (3) and (4); (e)(1), (e)(4)(G), (H), and (I); and (f).

As required by Executive Order 12866, it has been determined that this proposed rule is not a significant regulatory action and, therefore, does not require a regulatory impact analysis.

Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. The proposed rule imposes no duties or obligations on small entities.

In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department of the Treasury has determined that this proposed rule would not impose on the public new record keeping, application, reporting or other types of information collection requirements.

List of Subjects in 31 CFR Part 1

Privacy.

Part 1 of title 31 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 1 continues to read as follows:

Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552 as amended. Subpart C also issued under 5 U.S.C. 552a.

§ 1.36 [Amended]

2. Section 1.36 of subpart C is amended by revising paragraph (d) under the heading THE INTERNAL REVENUE SERVICE to read as follows:

* * * * *

(d) *Exemption under 5 U.S.C. 552a(k)(4).* (1) This paragraph applies to the following systems of records maintained by the Internal Revenue Service, for which exemption is claimed under 5 U.S.C. 552a (k)(4):

Name of System	No.
Customer Feedback System	00.003
Statistics of Income-Individual Tax Returns	70.001

(2) Under 5 U.S.C. 552a (k)(4), the head of any agency may promulgate rules to exempt any system of records within the agency from certain

provisions of the Privacy Act of 1974, if the system is required by statute to be maintained and used solely as statistical records.

(3) The Statistics of Income—Individual Tax Returns is maintained under § 6108 of the Internal Revenue Code, which provides that “the Secretary or his delegate shall prepare and publish annually statistics reasonably available with respect to the operation of the income tax laws, including classification of taxpayers and of income, the amounts allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable.”

(4) The Customer Feedback System is maintained under § 6108 of the Internal Revenue Code, and § 1211 of Pub. L. 104–168, the Taxpayers Bill of Rights 2 (TBOR 2), which provides that the Secretary of the Treasury shall submit a report to Congress on the misconduct of IRS employees. The Department is prohibited from using these records for any purpose involving the making of a determination about the individual to whom they pertain.

(5) The reason for exempting the above-named systems of records is that disclosure of statistical records (including release of accounting for disclosures) would in most cases be of no benefit to a particular individual since the records do not have a direct effect on a given individual.

(6) The provisions of the Privacy Act of 1974 from which exemption is claimed under 5 U.S.C. 552a (k)(4) are as follows:

5 U.S.C. 552a (c)(3)
5 U.S.C. 552a (d)(1), (2), (3), and (4)
5 U.S.C. 552a (e)(1)
5 U.S.C. 552a (e)(4)(G), (H), and (I)
5 U.S.C. 552a (f)

* * * * *

Dated: July 10, 1997.

Alex Rodriguez,

Deputy Assistant Secretary (Administration).

[FR Doc. 97–20817 Filed 8–6–97; 8:45 am]

BILLING CODE: 4810–30–F

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–16

RIN 3090–AF95

Governmentwide Real Property Policy

AGENCY: Office of Governmentwide Policy, General Services Administration.

ACTION: Proposed rule.

SUMMARY: The proposed rule describes the current real property policies applicable to GSA and Federal agencies to whom GSA real property operations have been delegated. The policies contained in this proposed rule have been separated from their procedural components and reflect the way that real property operations are currently conducted. This regulation, once finalized, will be located in the Federal Property Management Regulations (FPMR), Part 101–16, entitled “Governmentwide Real Property Policy.”

DATES: Comments must be received on or before October 6, 1997.

ADDRESSES: Written comments should be sent to the General Services Administration, Office of Governmentwide Policy, Office of Real Property, Real Property Policy Division (MPR), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Stanley C. Langfeld, Director, Real Property Policy Division, at (202) 501–1737.

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866.

This rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

The Paperwork Reduction Act does not apply to this action because the proposed changes to the Federal Property Management Regulations do not impose reporting, recordkeeping or information collection requirements which require the approval of the Office of Management and Budget pursuant to 44 U.S.C. §§ 3501 *et seq.*

List of Subjects in 41 CFR Part 101–16

Federal buildings and facilities, Government real property management.

Therefore, it is proposed that 41 CFR Part 101–16 be added to read as follows:

PART 101–16—GOVERNMENTWIDE REAL PROPERTY POLICY

Sec.

Subpart 101–16.1—General

101–16.100 Philosophy and scope of part.
101–16.101 Definitions.
101–16.102 Applicability.
101–16.103 Basic authority.
101–16.104 Legislative and executive impacts.
101–16.105 Policy implementation.

Subpart 101-16.2—Delegation of Authority

- 101-16.200 Basic policy.
- 101-16.201 Types of delegations.

Subpart 101-16.3—Real Estate

- 101-16.300 Basic policy.
- 101-16.301 Program-specific authority.
- 101-16.302 Real estate and related services.

Subpart 101-16.4—Facility Management

- 101-16.400 Basic policy.
- 101-16.401 Program-specific authority.
- 101-16.402 Occupancy services.
- 101-16.403 Asset services.

Subpart 101-16.5—Real Property Disposal

- 101-16.500 Basic policy.
- 101-16.501 Program-specific authority.
- 101-16.502 Real property disposal services.

Subpart 101-16.6—Design and Construction

- 101-16.600 Basic policy.
- 101-16.601 Program-specific authority.
- 101-16.602 Design and construction services.

Subpart 101-16.7—Art-in-Architecture

- 101-16.700 Basic policy.
- 101-16.701 Art-in-architecture services.

Subpart 101-16.8—Historic Preservation

- 101-16.800 Basic policy.
- 101-16.801 Program-specific authority.
- 101-16.802 Historic preservation services.

Subpart 101-16.9—Assignment and Utilization of Space

- 101-16.900 Basic policy.
- 101-16.901 Program-specific authority.
- 101-16.902 Assignment and utilization services.
- 101-16.903 Location of space.

Subpart 101-16.10—Safety and Environmental Management

- 101-16.1000 Basic policy.
- 101-16.1001 Program-specific authority.
- 101-16.1002 Occupancy services.
- 101-16.1003 Federal construction and lease construction projects.

Subpart 101-16.11—Security

- 101-16.1100 Basic policy.
- 101-16.1101 Program-specific authority.
- 101-16.1102 Law enforcement.
- 101-16.1103 Security services.

Subpart 101-16.12—Public Utilities

- 101-16.1200 Basic policy.
- 101-16.1201 Program-specific authority.
- 101-16.1202 Public utilities services.

Subpart 101-16.13—Reserved

Authority: Sec. 205(c), 63 Stat. 390, 40 U.S.C. § 486(c)

Subpart 101-16.1 General**§ 101-16.100 Philosophy and scope of part.**

(a) This part contains the applicable Governmentwide real property policies for Federal agencies operating pursuant to the authority of the Administrator of General Services, including the GSA/PBS business lines.

[The deviation language in the following sentence is proposed, subject to the revision of § 101-1.110]

GSA and Federal agencies operating under the authority of the Administrator of General Services must comply with the policy statements in this part, unless it is determined to be in the Government's best interest not to comply with them and there is no conflict with applicable laws and Executive orders. These policies cover the delivery, management, utilization and disposal of real property by Federal agencies that initiate and have decision-making authority over actions for real property services. These Governmentwide policies reflect a restatement of existing policies without their procedural, how-to components. They articulate the policy considerations concerning the manner in which Federal agencies currently conduct their real property business. In the future, GSA's Office of Governmentwide Policy will review these policies and make necessary adjustments to ensure that they optimize the performance of the Federal Government's real property portfolio. The policies stated in this part are derived from applicable laws and Executive orders. However, in the event a specific policy is not stated for a given real property function, or for any aspect of a function, all real property functions must be conducted in accordance with the provisions of applicable laws and Executive orders.

(b) The real property policies presented in this part are divided into subparts covering the following functional areas: delegation of authority, real estate, facility management, real property disposal, design and construction, art-in-architecture, historic preservation, assignment and utilization of space, safety and environmental management, security, and public utilities.

(c) The policy statements contained in this part are intended to apply to the FPMR Subchapters D, Public Buildings and Space, and H, Utilization and Disposal. To the extent that any statements of policy elsewhere in Subchapters D and H could be construed as inconsistent with the

policy prescribed by this part, the policy statements in this part are controlling.

§ 101-16.101 Definitions.

(a) *Business line.* An organizational component of GSA/PBS charged with the management, execution, and/or oversight of its assigned real property-related duties and responsibilities. Within PBS the business lines include the Offices of Property Acquisition and Realty Services, Property Development, Federal Protective Service, Property Disposal, Property Management, and Portfolio Management. These business lines are also real property services providers.

(b) *Federal Government real property services provider.* A GSA/PBS organizational component, or other Federal Government entity operating pursuant to the authority of the Administrator of General Services, which provides real property services to Federal agencies and/or internal GSA customers. This definition also includes private sector firms under contract with Federal agencies that are engaged in the delivery of real property services to Federal agencies.

(c) *Federal agency.* Any executive agency or any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction).

§ 101-16.102 Applicability.

Those Federal agencies that initiate and have decision-making authority over actions for real property services from GSA under the authority of the Administrator of General Services, are accountable for compliance with the policies in this part.

§ 101-16.103 Basic authority.

The basic authorities underlying these Governmentwide real property policies include, but are not limited to, the Federal Property and Administrative Services Act of 1949, as amended, (40 U.S.C. 471 *et seq.*); the Public Buildings Act of 1959, as amended, (40 U.S.C. 601-619); Reorganization Plan No. 18 of 1950 (40 U.S.C. 490 note); and other applicable provisions of law, Executive Orders, and policies of the Office of Management and Budget.

§ 101-16.104 Legislative and executive impacts.

The following non-inclusive listing of legal provisions and statutory authorities influence specific aspects of the Governmentwide real property policies and programs:

(a) *Federal Property Management Regulations (FPMR, 41 CFR Chapter*

101), specifically Subchapter D—Public Buildings and Space, Parts 101–17—Assignment and Utilization of Space; 101–18—Acquisition of Real Property; 101–19—Construction and Alteration of Public Buildings; 101–20—Management of Buildings and Grounds, and Subchapter H—Utilization and Disposal, Part 101–47—Utilization and Disposal of Real Property.

(b) *Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.)*. Among other things, this Act establishes the Federal Buildings Fund (FBF) and provides the Administrator of General Services with an important source of real property related authority, such as the authority to charge anyone furnished space or services at rates which approximate commercial charges for comparable space and services, authority for supervision and direction over the disposition of surplus property, authority for entering into leases not exceeding 20 years, and assigning and reassigning space in Government-owned and leased buildings to executive agencies.

(c) *Public Buildings Act of 1959, as amended, (40 U.S.C. 601–619)*. Provides the Administrator with, among other things, the exclusive authority to construct public buildings; the authority to acquire any building and its site by purchase, condemnation, donation, exchange, or otherwise; the authority to alter any public building and to acquire such lands as may be necessary to carry out such alteration; the authority to acquire such lands or interests in lands for use as sites, or additions to sites, for public buildings authorized to be constructed or altered under this Act by purchase, condemnation, donation, exchange, or otherwise. In addition, this Act establishes a prospectus threshold, applicable to GSA and Federal agencies operating under the authority of the Administrator of General Services, for the construction, alteration, purchase, and acquisition of any building to be used as a public building; and establishes a prospectus threshold to lease any space for use for public purposes. Such projects require an approved resolution by the Senate and the House of Representatives if the dollar value exceeds the prospectus threshold. In order to obtain this approved resolution, prospectuses for such projects must be submitted to GSA; and the Administrator of General Services will transmit the proposed prospectuses to Congress for consideration by the Senate and the House of Representatives.

(d) *The Architectural Barriers Act of 1968 (42 U.S.C. 4151–4157)*. Requires

facilities be provided to ensure ready access for handicapped persons to public buildings and certain interior spaces.

(e) *The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)*. Requires consideration of environmental factors in the decision-making process for major Federal actions.

(f) *Executive Order 12072—Federal Space Management*. Requires Federal agencies to give first consideration to the Centralized Community Business Area (CBA) when locating Federal facilities in urban areas.

(g) *The Randolph-Sheppard Act, as amended, (20 U.S.C. 107–107f)*. Requires that blind persons licensed under the provisions of the Act be authorized to operate vending facilities on any Federal property, including leased buildings. Federal agencies are obligated to acquire space in buildings with suitable areas for vending facilities.

(h) *Occupational Safety and Health Act of 1970 (29 U.S.C. 653)*. Requires Federal agencies to provide safe and healthful places and conditions of employment.

(i) *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651–4655)*. Requires Federal agencies to treat all property owners and other affected persons in a fair and equitable manner, and to provide relocation services and benefits to persons displaced by Federal agencies' acquisition of their real property.

(j) *Executive Order 11738—Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal Contracts, Grants, or Loans*. Requires Federal agencies having authority to enter into contracts to conduct its acquisitions in a manner that will result in effective enforcement of the Clean Air Act and the Federal Water Pollution Control Act.

(k) *Small Business Act, as amended (15 U.S.C. 631 et seq.)*. Requires a positive effort by Federal contractors to place subcontracts with small and small disadvantaged business concerns.

(l) *Executive Order 11988—Floodplain Management*. Requires that each agency shall provide leadership and shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities for acquiring, managing, and disposing of Federal lands and facilities; providing federally undertaken, financed, or assisted construction and improvements; and

conducting Federal activities and programs affecting land use. Each agency has the responsibility to evaluate the potential effects of any actions it may take in a floodplain; to ensure that its planning programs and budget requests reflect consideration of flood hazards and floodplain management; and to prescribe procedures to implement the policies and requirements of this Executive Order.

(m) *Executive Order 11990—Protection of Wetlands*. Requires that each agency shall provide leadership and shall take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out its responsibilities for acquiring, managing, and disposing of Federal lands and facilities; providing federally undertaken, financed, or assisted construction and improvements; and conducting Federal activities and programs affecting land use. As implemented by GSA, the construction, purchase or lease of space in buildings located within a base floodplain or wetlands area is generally precluded.

(n) *Executive Order 12003—Relating to Energy Policy and Conservation*. Requires buildings constructed for Government lease to meet certain energy consumption design specifications.

(o) *Executive Order 12512—Federal Real Property Management*. Authorizes the Administrator to provide Governmentwide policy oversight and guidance for Federal real property management. This Executive Order requires, among other things, all executive departments and agencies to establish internal policies and systems of accountability that ensure effective use of real property in support of mission-related activities, consistent with Federal policies regarding the acquisition, management, and disposal of such assets. All such agencies shall also develop annual real property management improvement plans that include clear and concise goals and objectives related to all aspects of real property management, and identify sales, work space management, productivity, and excess property targets.

(p) *Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411–11412)*. Requires Federal agencies to make available surplus real property to homeless organizations.

(q) *National Historic Preservation Act (16 U.S.C. 470 et seq.)*. Requires Federal agencies to take into account the effect of any Federal undertaking on any property in or eligible for listing in the National Register of Historic Places; and

to use historic properties under Federal control prior to acquiring other real property for Federal use.

(r) *Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended (42 U.S.C. 9601 et seq.)*. Provides for liability, compensation, cleanup and emergency response for hazardous substances released into the environment, and the cleanup of hazardous waste disposal sites.

(s) *Superfund Amendments and Reauthorization Act of 1986, as amended (42 U.S.C. 9601-9675)*. Extends and amends CERCLA, paragraph (r) of this section.

(t) *Protection of Public Property Act (40 U.S.C. 318-318d)*. Gives the Administrator authority to make rules and regulations governing property under control of GSA, and to appoint uniformed and non-uniformed special police.

(u) *Executive Order 12196—Occupational Safety and Health Programs for Federal Employees*. Requires Federal agencies to establish and maintain occupational safety and health programs for Federal employees.

(v) *Rehabilitation Act of 1973, as amended (Pub. L. 93-112, 387 Stat. 355)*. Requires Federal agencies to ensure compliance with standards set by GSA, DOD and HUD pursuant to the Architectural Barriers Act of 1968.

(w) *Public Buildings Amendments of 1988 (Pub. L. 100-678, 102 Stat. 4049)*. Provides, among other things, the Administrator with authority to determine the extent to which a building constructed by GSA complies with one of the nationally recognized model building codes. Federal agencies may not lease any space to accommodate computer and telecommunications operations; secure or sensitive activities related to the national defense or security; or a permanent courtroom, judicial chamber, or administrative office for any United States court, if the average rental cost of leasing such space would exceed the prospectus threshold. Federal agencies may lease such space only if the Administrator first determines that leasing such space is necessary to meet requirements which cannot be met in public buildings and submits such reasons to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(x) *Federal Power Act (16 U.S.C. 791a et seq.)*. Regulates power industry and appoints the Federal Power Commission.

(y) *Clean Air Act of 1963 (42 U.S.C. 7401 et seq.)*. Requires the utilization in Federal air control programs of all available and appropriate facilities and resources within the Federal Government for the prevention and abatement of air pollution.

(1) *Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et seq.)*. Regulates natural gas supplies, pricing and related issues.

(2) *Public Utility Regulatory Policies Act of 1978, as amended (Pub. L. 95-617, 92 Stat. 3117)*. Provides for the conservation, distribution, and development of electric, hydro-electric, natural gas and crude oil energy resources.

(3) *Powerplant and Industrial Fuel Use Act of 1978, as amended (Pub. L. 95-620, 92 Stat. 3289)*. To decrease petroleum importation and increase capability to use indigenous energy resources, among other things.

(4) *Rural Development Act of 1972 (Pub. L. 92-419, 86 Stat. 657)*. Provides for improving the economy and living conditions in rural America.

(5) *Energy Policy Act of 1992 (Pub. L. 102-486, 106 Stat. 2776)*. Provides for increased energy efficiency.

(6) *Executive Order 12902—Energy Efficiency and Water Conservation at Federal Facilities*. Requires, among other things, each executive agency to develop energy consumption reduction goals.

(7) *Executive Order 12873—Federal Acquisition, Recycling, and Waste Prevention*. Requires, among other things, each executive agency to incorporate waste prevention and recycling in its daily operations.

(8) *Executive Order 12411—Government Work Space Management Reforms*. Requires, among other things, the heads of all Federal executive agencies to establish programs to reduce the amount of workspace, used or held, to that amount which is essential for known agency missions; to produce and maintain a total inventory of work space and related furnishings and declare excess to the Administrator of General Services all such holdings that are not necessary to satisfy existing or known and verified planned programs; and ensure that the amount of office space used by each employee of the agency, or others using agency-controlled space, is held to the minimum necessary to accomplish the task that must be performed.

(9) *Americans with Disabilities Act of 1990 (Pub. L. 101-336, 104 Stat. 327)*. Provides, among other things, accessibility requirements on employment, State and local government services, buildings and facilities.

(10) *Child care services for Federal employees in Federal buildings (40 U.S.C. 490b)*. Provides Federal agencies with the authority to allot space in Federal buildings to individuals or entities who will provide child care services to Federal employees.

(11) *Executive Order 13006—Locating Federal Facilities on Historic Properties in our Nation's Central Cities*. When operationally appropriate and economically prudent, and subject to the requirements of Section 601 of Title VI of the Rural Development Act of 1972, as amended, (42 U.S.C. 3122), and Executive Order 12072, when locating Federal facilities, Federal agencies shall give first consideration to historic properties within historic districts. If no such property is suitable, then Federal agencies shall consider other developed or undeveloped sites within historic districts. Federal agencies shall then consider historic properties outside of historic districts, if no suitable site within a district exists.

(12) *Act of December 10, 1941 (40 U.S.C. 291)*. Requires Federal agencies to admit seeing-eye dogs or other guide dogs accompanied by their blind masters to any building or other property owned or controlled by the United States.

(13) *Act of July 1, 1898 (40 U.S.C. 285)*. Places all courthouses, customhouses, appraiser's stores, barge offices, and other public buildings outside of the District of Columbia and outside of military reservations under the exclusive jurisdiction and control and in the custody of the Administrator of General Services.

(14) *The Act of June 23, 1913 (40 U.S.C. 281)*. Makes available appropriations for furniture and repairs of furniture whenever the Administrator of General Services is authorized to secure temporary quarters for the use of Government officials pending the repair and/or alteration of any public building under the control of the Administrator of General Services.

(15) *Act of May 14, 1948 (40 U.S.C. 130)*. Places the operation, maintenance, and repair of the completed building for the use of the United States Court of Appeals for the District of Columbia and the United States District Court for the District of Columbia under the control of the Administrator of General Services. The allocation of space therein shall be vested in the chief judge of the United States Court of Appeals for the District of Columbia and the chief judge of the United States District Court for the District of Columbia.

(16) *Federal Urban Land-Use Act (40 U.S.C. 531-535)*. Promotes more harmonious intergovernmental relations

and encourages sound planning, zoning, and land use practices by prescribing uniform policies and procedures in order that urban land transactions entered into for the General Services Administration or on behalf of other Federal agencies be consistent with zoning and land-use practices and be made in accordance with planning and development objectives of the local governments and local planning agencies concerned.

(17) *Section 901(b) of the Agriculture Act of 1970, 84 Stat. 1383, as amended by section 601 of Title VI the Rural Development Act of 1972, 86 Stat. 674 (42 U.S.C. 3122(b))*. Section 601 of Title VI of the Rural Development Act of 1972 amends Section 901(b) of the Agricultural Act of 1970. Section 601 directs the heads of all executive departments and agencies of the Government to establish and maintain departmental policies and procedures giving first priority to the location of new offices and other facilities in rural areas as defined in the private business enterprise exception in Section 306(a)(7) of the Consolidated Farmers Home Administration Act of 1961, as amended (7 U.S.C. 1926).

(18) *Public Buildings Cooperative Use Act of 1976 (40 U.S.C. 601a, 612a)*. Requires the Administrator to acquire and utilize space in suitable buildings of historic, architectural, or cultural significance, if feasible; to encourage the location of commercial, cultural, educational, and recreational facilities and activities within public buildings; to encourage public access and pedestrian traffic into and through public buildings; to encourage the public use of public buildings for cultural, educational, and recreational activities.

(19) *Executive Order 11507—Prevention, Control, and Abatement of Air and Water Pollution at Federal Facilities*. Requires that the Federal Government, in the design, operation, and maintenance of its facilities, provide leadership in the nationwide effort to protect and enhance the quality of our air and water resources.

(20) *Executive Order 11508—Providing for the Identification of Unneeded Federal Real Property*. Establishes a uniform policy for Executive branch concerning the identification of excess real property holdings and establishes uniform procedures to insure the prompt identification and release by executive agencies of real property holdings that are no longer essential to their activities and responsibilities.

(21) *Fair Housing Act, as amended (42 U.S.C. 3601 et seq.)*. Provides for fair

housing practices and prohibits discrimination in the sale or rental of housing.

(22) *Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.)*. Requires, among other things, that all agencies of the executive, legislative, and judicial branches of the Federal Government having jurisdiction over any property or facility, or engaged in any activity resulting in the discharge or runoff of pollutants, must comply with all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of water pollution.

(23) *Office of Management and Budget Circular A-95 Revised*. Furnishes guidance to Federal agencies for cooperation with state and local governments in the evaluation, review, and coordination of Federal and federally assisted programs and projects.

(24) *Executive Order 11724—Federal Property Council*. Directs the Administrator of General Services to conduct surveys of real property holdings of executive agencies on a continuing basis to identify properties which are not utilized, are underutilized, or are not being put to their optimum use. The Administrator of General Services shall also make reports as to which of these properties (not utilized, underutilized, not being put to optimum use) he recommends should be reported as excess property.

(25) *Executive Order 12088—Federal Compliance with Pollution Control Standards*. Requires the head of each Executive agency to ensure that all necessary actions are taken for the prevention, control, and abatement of environmental pollution with respect to Federal facilities and activities. This will entail responsibility for compliance with applicable pollution control standards, coordination with other agencies, and the submission of an annual plan for the control of environmental pollution.

(26) *Executive Order 13005—Empowerment Contracting*. Requires the Secretary of Commerce to develop policies and procedures to ensure that agencies grant qualified large businesses and qualified small businesses appropriate incentives to encourage businesses in areas of general economic distress, in order to strengthen the economy and to improve the efficiency of the Federal procurement system by encouraging business development that expands the industrial base and increases competition.

(27) *Act of April 28, 1902 (40 U.S.C. 19)*. Requires the Administrator of General Services to have charge of the

public buildings and grounds in the District of Columbia, and to evict any person that is in unlawful occupation of any portion of these lands.

(28) *Executive Order 12699—Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction*. Requires Federal agencies responsible for the design and construction of each new Federal building and/or for the construction and lease of a new building for Federal use to ensure that the building is designed and constructed in accord with appropriate seismic design and construction standards.

(29) *Executive Order 11593—Protection and Enhancement of the Cultural Environment*. Requires Federal Agencies to direct their policies, plans and programs in such a way that federally owned sites, structures, and objects of historical, archaeological or archaeological significance are preserved, restored and maintained.

§ 101-16.105 Policy implementation.

Each Federal Government real property services provider shall develop its operating procedures in conformance with the policies presented in this part for each functional area of specialization outlined in § 101-16.100(b). Also, Federal agencies shall ensure that the provisions of any contract with private sector real property services providers conform to the real property policy requirements of this part.

Subpart 101-16.2—Delegation of Authority

§ 101-16.200 Basic policy.

The Administrator of General Services is authorized to delegate and to authorize successive redelegations of the real property functions vested in the Administrator to any other Federal agency. The guiding principle in the delegation decision is whether the delegation is in the best interest of the Government, including but not limited to whether a delegation would be cost effective for the Government in the delivery of space. Federal agencies must conduct their real property functions within the parameters described within each specific delegation of authority document, and Federal agencies may only exercise the authority of the Administrator that is specifically provided within the written delegation of authority document. Specific guidance on delegations of authority is found in §§ 101-17.202-2, 101-18.104-1(a), 101-19.501, and 101-20.106-1 of this subchapter.

Note: The "Can't Beat GSA Leasing Program" provides Federal agencies with the

option to either use GSA when a new lease is necessary or conduct the lease procurement themselves. This delegation includes some conditions which agencies must meet when the procurement is not performed by GSA. These conditions include training in lease contracting and reporting data to GSA.

§ 101-16.201 Types of delegations.

Delegations of authority cover the following areas of responsibility:

(a) *Real estate leasing.* (1) Section 101-18.104 of this subchapter describes the existing types of delegations for lease acquisitions.

(2) *General purpose space.* The Administrator of GSA has issued a standing delegation of authority to the heads of all Federal agencies to accomplish all functions relating to leasing of general purpose space for terms of up to 20 years regardless of geographic location, subject to the conditions in the written delegation of authority instrument.

(3) *Administrative contracting officer (ACO) delegations.* An ACO, in addition to lease management authority, has limited contracting officer authority to perform such duties as paying and withholding lessor rent and modifying lease provisions that do not change the lease term length or the amount of square footage under lease.

When a Federal agency elects not to exercise the delegation of authority for general purpose space mentioned in paragraph (a) of this section, GSA may consider granting this ACO delegation when all of the following conditions exist:

(i) The Federal agency occupies 90 percent of the leased space or the Federal agency has the written concurrence of 100% of rent-paying occupants covered under the lease; and

(ii) The Federal agency has the technical capability to perform the leasing function.

(b) *Facility management.* Delegates authority to Federal agencies to accomplish functions concerned with the day-to-day operation and management of buildings, to accomplish individual repair and alteration projects, and to accomplish functions associated with lease management. The types of facility management delegations include the following:

(1) *Delegation of real property management and operation.* Delegates authority to Federal agencies to accomplish functions concerned with the day-to-day operation and management of buildings. These functions include building operations, maintenance, recurring repairs, alterations, historic preservation, concessions, and energy management of

specified buildings subject to the conditions stated in the delegation instrument.

(i) Delegates real property management and operation authority when all of the following conditions exist:

(A) The Federal agency occupies at least 90 percent of the space in the Government controlled facility or the Federal agency has the concurrence of 100 percent of rent paying occupants; and

(B) The Federal agency satisfactorily demonstrates the ability to perform the delegated real property management and operation responsibilities.

(2) *Individual repair and alteration project delegation.* Delegates to Federal agencies the authority to perform individual repair and alterations projects. Repair and alterations authority is delegated to Federal agencies for reimbursable space alteration projects up to the simplified acquisition threshold, in accordance with § 101-20.106 of this subchapter. Repair and alterations authority may be delegated to Federal agencies for other individual alteration projects when the Federal agency demonstrates the ability to perform the delegated repair and alterations responsibility and when such a delegation will promote efficiency and economy.

(3) *Delegation of lease management authority (Contracting Officer Representative Authority).* When a Federal agency elects not to exercise the delegation of authority for general purpose space mentioned in paragraph (a) of this section, GSA may delegate authority to a Federal agency upon request to manage the administration of one or more lease contracts. A delegation of lease management authority is appropriate when all of the following conditions exist:

(i) The Federal agency occupies at least 90 percent of the space in the lease or the Federal agency has the written concurrence of 100% of rent-paying occupants covered under the lease; and

(ii) The Federal agency personnel satisfactorily demonstrate the ability to perform the delegated lease management responsibilities.

(c) *Disposal of real property.* Delegates authority to Federal agencies to utilize and dispose of real and related personal property and to grant approvals and make determinations as provided for in the delegation instrument. Disposal delegations to Federal agencies are infrequent. Delegation of disposal authority may be appropriate where low-value properties are involved and where the Federal agency has the technical expertise to perform the

disposition functions. GSA may grant special delegations of authority to other Federal agencies for the utilization and disposal of certain real property through the procedures set forth in subpart 101-47.6.

(d) *Security.* Delegates authority to Federal agencies relating to the protection of persons and property at the locations identified in the delegation instrument. Security delegations to Federal agencies are based upon considerations such as whether a clear and unique security requirement exists; whether there is a critical national security issue; whether the agency has an intelligence or law enforcement mission; and/or whether the agency can show that the current security contractor is ineffective.

(e) *Public utilities.* Delegates authority to Federal agencies to negotiate and execute utility services contracts for the use and benefit of the delegated agency and to intervene in utility rate proceedings to represent the consumer interests of the Federal Government, subject to the conditions stated in the delegation instrument. The criteria that GSA uses in determining whether a delegation will be issued include whether the Federal agency has the technical expertise and adequate staffing, and whether there is an existing areawide contract.

Subpart 101-16.3—Real Estate

§ 101-16.300 Basic policy.

Federal agencies must provide real estate and related services for their use in an efficient and cost effective manner, after a determination that suitable Government-controlled real estate is not available.

§ 101-16.301 Program-specific authority.

Including, but not limited to, the Federal Property and Administrative Services Act of 1949, as amended; Public Buildings Act of 1959, as amended; Public Buildings Cooperative Use Act of 1976; Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended; the Architectural Barriers Act of 1968; the Randolph-Sheppard Act, as amended; the National Environmental Policy Act of 1969; the National Historic Preservation Act; Executive Order 12072, entitled "Federal Space Management"; Executive Order 11988, entitled "Floodplain Management"; Executive Order 11990, entitled "Protection of Wetlands"; Executive Order 13006, entitled "Locating Federal Facilities on Historic Properties in our Nation's Central Cities."

§ 101–16.302 Real estate and related services.

Federal agencies must provide real estate and related services, including leases, purchase options, building purchase, purchase of sites, condemnation, and relocation assistance. The real estate and related services include the following:

(a) *Leases.* Federal agencies must adhere to the following policies when acquiring space by lease:

(1) Federal agencies may consider leases of privately owned land and buildings only when needs cannot be satisfactorily met in Government-controlled space and:

(i) Leasing proves to be more advantageous than the construction of a new or alteration of an existing Federal building.

(ii) New construction or alteration is not warranted because requirements in the community are insufficient or indefinite in scope or duration.

(iii) Completion of a new building within a reasonable time cannot be ensured.

(2) Available space in buildings under the custody and control of the United States Postal Service (USPS) will be given priority consideration in fulfilling Federal agency space needs.

(3) Acquisition of space by lease will be on the basis most favorable to the Government, with due consideration to maintenance and operational efficiency, and only at charges consistent with prevailing scales for comparable facilities in the community.

(4) Acquisition of space by lease will be by negotiation except where the sealed bid procedure is required by 41 U.S.C. 253(a). Except as otherwise provided in 41 U.S.C. 253, full and open competition will be obtained among suitable locations meeting minimum Government requirements.

(5) When acquiring space by lease, the provisions of (101–17.205 of this subchapter regarding determination of the location of Federal facilities must be strictly adhered to. This implements Executive Order 12072.

(6) When acquiring space by lease, the provisions of section 110(a) of the National Historic Preservation Act of 1966 (16 U.S.C. 470), as amended, regarding the use of historic properties must be strictly adhered to.

(7) Federal agencies may enter into lease agreements with any person, copartnership, corporation, or other public or private entity, which do not bind the Government for periods in excess of twenty years for each such lease agreement.

(8) Federal agencies may not lease any space to accommodate computer and

telecommunications operations; secure or sensitive activities related to the national defense or security; or a permanent courtroom, judicial chamber, or administrative office for any United States court, if the average rental cost of leasing such space would exceed the prospectus threshold. Federal agencies may lease such space only if the Administrator first determines that leasing such space is necessary to meet requirements which cannot be met in public buildings and submits such reasons to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(b) *Leases with purchase options.* Give consideration to leasing with a purchase option when one or more of the following conditions exist:

(1) When the purchase option offers economic and other advantages to the Government and is consistent with the Government's goals;

(2) When the Government is the sole or major tenant of the building, and has a long-term need for the property;

(3) When otherwise in the best interest of the Government.

(c) *Building purchase.* Evaluate buildings considered for purchase on a case-by-case basis when one or more of the following conditions exist:

(1) When it is economically more beneficial to own and manage the property;

(2) When there is a long-term need for the property;

(3) When the property is an existing building, or a building nearing completion, that can be purchased and occupied within a reasonable time.

(4) Or when otherwise in the best interests of the Government.

(d) *Purchase of sites.* Locate proposed Federal buildings on sites that are most advantageous to the United States. Factors that may be considered include, but are not limited to, whether the site will contribute to economy and efficiency in the construction, maintenance and operation of the individual building, and how the proposed site relates to the Government's total space needs in the community. Site selections must take into consideration Executive Orders 12072 and 13006 (see § 101–19.002(a) of this subchapter). In addition, consideration will also be given to:

(1) Maximum utilization of Government-owned land (including excess land) whenever it is adequate, economically adaptable to requirements and properly located, where such use is consistent with the provisions of

Executive Order 11724 of June 25, 1973 and subpart 101–47.8 of this chapter.

(2) A site adjacent to or in the proximity of an existing Federal building which is well located and is to be retained for long-term occupancy.

(3) Determine the environmental condition of proposed sites prior to purchase; such sites must be free from contamination, unless it is otherwise determined to be in the best interests of the Government to purchase a contaminated site.

(4) Consider purchase options to secure the availability of a site.

(5) Suitable sites in established civic or redevelopment centers which are well planned and properly financed with development initiated and insured.

(6) Policies regarding the determination of the location of Federal facilities shall be strictly adhered to in the process of developing building projects.

(e) *Condemnation.* Obtain the use of real property through the procedures set forth in subpart 101–18.2 of this subchapter.

(f) *Relocation assistance.* Eligible owners and tenants of property purchased for use by Federal agencies must receive appropriate relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. 4651–4655. The implementing regulations are found at § 105–51.005 of this chapter.

Subpart 101–16.4—Facility Management**§ 101–16.400 Basic policy.**

Federal agencies must manage, operate, and maintain Government-owned and leased buildings in a manner that ensures quality space and services consistent with operational needs and that accomplish overall Government objectives. The management, operation, and maintenance of buildings and building systems must be cost effective, must be adequate to meet the agencies' missions, must meet nationally recognized standards, and must be at an appropriate level to maintain and preserve the physical plant assets, consistent with available funding.

§ 101–16.401 Program-specific authority.

Including, but not limited to, the Randolph-Sheppard Act, as amended; the Small Business Act, as amended; Executive Order 12902, entitled "Energy Efficiency and Water Conservation at Federal Facilities"; and Executive Order 12873, entitled "Federal Acquisition, Recycling, and Waste Prevention."

§ 101–16.402 Occupancy services.

Federal agencies must provide occupancy services for real property assets.

(a) Federal agencies must manage, administer, and enforce the requirements of agreements (such as Memoranda of Understanding, etc.) and contracts that provide for the delivery of occupancy services.

(b) Federal agencies must provide occupancy services which substantially conform to nationally recognized standards. As needed, Federal agencies may adopt other standards for buildings and services in federally controlled facilities in order to conform to statutory requirements and to implement cost-reduction efforts. The occupancy services include the following:

(1) *Building services.* Federal agencies must provide building services such as custodial, solid waste management (including recycling), heating and cooling, landscaping and grounds maintenance, tenant alterations, minor repairs, building maintenance, integrated pest management, signage, parking, and snow removal, at appropriate levels to support Federal agency missions.

(2) *Concessions.* Federal agencies must provide concessions services where building population supports such services and when the availability of existing commercial services is insufficient to meet Federal agency needs. Concessions services consist of services such as dry cleaners, gift shops, vending facilities (onsite preparation facilities, prepackaged facilities, sundry facilities, and vending machines), cafeterias, employee health units, and public pay telephones. See Randolph-Sheppard Act, as amended, and subpart 101–20.2 of this subchapter.

(3) *Conservation.* Federal agencies must provide programs for the improvement of energy and water efficiency. These programs must promote and maintain an effective source reduction activity (reducing consumption of resources such as energy, water and paper), resource recovery activity (obtaining materials from the waste stream that can be recycled into new products), and reuse activity (reusing same product before disposition, such as reusing unneeded memos for scratch paper).

§ 101–16.403 Asset services.

Federal agencies must provide asset services such as repairs (in addition to those minor repairs identified in § 101–16.402(b)(1) entitled “Building services”) and alterations for real property assets. GSA must provide asset services such as modernizations for real

property assets. Asset services must be accomplished to maintain continuity of Government operations, to provide for continued efficient building operations, to extend the useful life of buildings and related building systems, and to provide a quality workplace environment that enhances employee productivity.

Subpart 101–16.5—Real Property Disposal**§ 101–16.500 Basic policy.**

GSA must provide, in a timely, efficient, and cost effective manner, the full range of real estate services necessary to support the real property utilization and disposal needs of Federal agencies. Each executive landholding agency must make surveys of real property under its jurisdiction to identify property that is unutilized, underutilized, or not being put to optimum use and to ensure that adequate systems are in place to promote the effective utilization and disposal of such real property.

§ 101–16.501 Program-specific authority.

Including, but not limited to, the Federal Property and Administrative Services Act of 1949, as amended; the Stewart B. McKinney Homeless Assistance Act; Executive Order 12512, entitled “Federal Real Property Management;” National Environmental Policy Act of 1969, as amended; National Historic Preservation Act of 1966, as amended; Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; Superfund Amendments and Reauthorization Act of 1986, as amended.

§ 101–16.502 Real property disposal services.

GSA must provide for real property disposal services for real property assets under its custody and control and for Federal agencies. These real property disposal services include the following:

(a) *Utilization of excess property.* GSA must:

(1) Stimulate the identification and reporting by executive agencies of excess real property.

(2) Achieve the maximum utilization by executive agencies, in terms of economy and efficiency, of excess real property in order to minimize expenditures for the purchase of real property.

(3) Provide for the transfer of excess real property among Federal agencies, to mixed-ownership Government corporations, and to the municipal government of the District of Columbia.

(4) Resolve conflicting transfer requests that cannot be resolved by the involved agencies.

(b) *Surveys.* Each executive agency must:

(1) Survey real property under its control (including property assigned on a permit basis to other Federal agencies, or outleased to States, local governments, other public bodies, or private interests) at least annually to identify property which is not needed, underutilized, or not being put to optimum use. When other needs for the property are identified or recognized, the agency must determine whether continuation of the current use or another Federal or other use would better serve the public interest, considering both the Federal agency's needs and the property's location. In conducting each review, Federal agencies must be guided by § 101–47.801(b) of this chapter, and other applicable General Services Administration regulations.

(2) Maintain its inventory of real property at the absolute minimum consistent with economical and efficient conduct of the affairs of the agency.

(3) Promptly report to GSA real property which it has determined to be excess.

(c) *Disposal of surplus property.* Excess real property not needed for further Federal use must be determined by GSA as surplus to the needs of the Federal government and must be expeditiously made available for acquisition by State and local governmental units and nonprofit institutions or for sale by public advertising, negotiation, or other disposal action. Considerations regarding availability for public purposes based on highest and best use and estimated fair market value must be made by GSA on a case-by-case basis. See § 101–47.202–2(b) of this chapter for the requirements for reporting excess real property containing hazardous substance activity and, where hazardous substance activity has been identified, § 101–47.304–14 for required information to be incorporated into Invitation for Bids/Offers to Purchase.

(1) GSA may dispose of surplus real property by exchange for privately owned property only—

(i) For property management considerations such as boundary realignment or provision of access or

(ii) Where authorized by law, when the requesting Federal agency has received approval by the Office of Management and Budget and the appropriate oversight committees, and where the transaction offers substantial economic or unique program advantages

not otherwise obtainable by any other method of acquisition.

(2) GSA may outlease surplus real property for non-Federal interim use, pending its disposition, when both of the following conditions exist:

(i) The lease or permit is for a period not exceeding 1 year and is revocable on not to exceed 30 days' notice by the disposal agency; and

(ii) The use and occupancy will not interfere with, delay, or impede the disposal of the property.

(3) GSA, or landholding Federal agencies with the approval of GSA, may grant rights for non-Federal interim use of excess property reported to GSA, when it is determined that such interim use is not required for the needs of any Federal agency.

(d) *Public benefit conveyances.* Based on a highest and best use analysis, GSA may designate surplus real property as available to State and local governmental bodies and certain nonprofit institutions at up to 100 percent public benefit discount for public benefit purposes including education, health, park and recreation, homeless, historic monument, public airport, highway, correctional, ports, and wildlife conservation.

(e) *Negotiated sale.* GSA must obtain such competition as is feasible under the circumstances in all negotiations of disposals and contracts for disposal of surplus property.

(1) Negotiated sales may be made only:

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

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

(iii) When the character or conditions 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;

(iv) When the disposals will be to States, Commonwealth of Puerto Rico, 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 negotiations. Such negotiated sales to public bodies must be limited to where a public benefit will result from a negotiated sale which would not be realized from a competitive sale disposal (Such public purposes include administrative offices,

police stations, fire houses, and economic development); or

(v) When negotiation is otherwise authorized by the Federal Property and Administrative Services Act of 1949 or other law, such as:

(A) Disposals of power transmission lines for public or cooperative power projects.

(B) Disposals for public airport utilization.

(2) Negotiated sales to public agencies must include an excess profits clause, which usually runs for a period of 3 years, in the offer to purchase and the conveyance document to eliminate the potential for windfall profits to the public agencies.

(3) A negotiated sale for *economic development* purposes means a transferee will develop or make substantial improvements to the property with the intention of re-selling or leasing the property in parcels to users to advance the community's economic benefit. This type of negotiated sale is acceptable where the expected public benefits to the community will be greater than the anticipated proceeds derived from a competitive public sale.

(f) *Public sales.* Surplus property that is not disposed of by public benefit discount conveyance or by negotiated sale is made available by competitive public sale. Awards must be made on the basis of the Government's estimate of value, price and other factors that are most advantageous to the Government.

(g) *Economy Act sales.* Under the Economy Act, GSA may provide sales services to other Federal agencies on a reimbursable basis. Even though these agencies have their own disposal authority, they are, in many instances, unable to dispose of/sell large real property inventories acquired through forfeiture, loan default, and drug seizures. Reimbursable charges must be for actual expenses and are not formulated to create a profit to GSA. Requests for sales services from other agencies under the Economy Act must not be accepted by GSA if they delay or otherwise impact the accomplishment of the mission objectives of the Federal Property and Administrative Services Act of 1949, as amended.

(h) *Appraisals.* For all real property transactions requiring appraisals, GSA must in all cases obtain, as appropriate, an appraisal of either the fair market value or the fair annual rental value of property available for disposal.

(1) Appraisals are not required when either of the following conditions exist:

(i) The property is to be disposed of without monetary consideration, or at a fixed price. This exception shall not

apply to disposals that take any public benefit purpose into consideration in fixing the sale value of the property.

(ii) The estimated fair market value of property to be offered on a competitive sale basis does not exceed \$50,000.

(2) GSA must have the property appraised by experienced and qualified appraisers familiar with the types of property to be appraised.

(3) Appraisal data required for the purposes of disposing of surplus property by negotiation under § 101-16.502(e)(1)(iii), (iv), or (v)(A) must be obtained under contractual arrangements with experienced and qualified real estate appraisers familiar with the types of property to be appraised. However, GSA may authorize any other method of obtaining an estimate of the fair market value or the fair annual rental it deems proper when the cost of obtaining such data from a contract appraiser would be out of proportion to the expected recoverable value of the property, or if for any other reason employing a contract appraiser would not be in the best interest of the Government.

Subpart 101-16.6—Design and Construction

§ 101-16.600 Basic policy.

GSA must provide for the highest quality of design and construction services for the construction of new Federal facilities and for the repair and alteration of existing Federal facilities in a timely, efficient, and cost effective manner to support the mission of Federal agencies. GSA must provide for Federal facilities in an architectural style and form which is distinguished and reflects the dignity, enterprise, vigor and stability of the Federal Government. GSA must follow national building codes that govern Federal construction to the maximum extent feasible, and give consideration to the requirements of local building codes. Federal buildings must be designed to have a long life expectancy, and must be able to accommodate continual changes due to renovations. GSA must ensure that buildings are cost effective, accessible to and usable by the physically handicapped, and that building service equipment must be designed to be accessible for maintenance, repair or replacement without causing significant disturbance in occupied space. GSA must consider ease of operation when selecting mechanical and electrical equipment.

§ 101-16.601 Program-specific authority.

Including, but not limited to, the Public Buildings Act of 1959;

Architectural Barriers Act of 1968; National Environmental Policy Act of 1969; National Historic Preservation Act of 1966, as amended; Rehabilitation Act of 1973, as amended; Americans with Disabilities Act of 1990.

§ 101–16.602 Design and construction services.

GSA must provide for design and construction services for real property assets under its custody and control for Federal agencies. The design and construction services include the following:

(a) *Site planning and landscape design.* The quality of GSA site design must be a direct extension of the building design and must make a positive contribution to the surrounding landscape.

(1) GSA must consider all non procedural requirements of local zoning laws. GSA must consider non procedural requirements of laws relating to setbacks, height, historic preservation and aesthetic qualities of a building.

(2) GSA must identify areas for future building expansion in the architectural and site design concept for all GSA buildings where an expansion need is identified to exist.

(3) GSA must assure that the landscape design creates a pleasant, dynamic experience for occupants and visitors to its facilities and that it is closely coordinated with the architectural characteristics of the building.

(4) GSA must comply with the requirements of the National Environmental Policy Act of 1969 for each project.

(b) *Architectural and interior design.* GSA must design Federal facilities that demonstrate distinction and quality.

(1) Buildings must reflect the local architecture through the use of building form, materials, colors, or detail. Building interiors must express a quality of permanence similar to that of the buildings' exterior.

(2) For new construction and major renovations, GSA must ensure that physically handicapped persons have full access to, and use of federally-controlled facilities in accordance with the Architectural Barriers Act of 1968 (Uniform Federal Accessibility Standards (UFAS)) or Americans with Disabilities Act of 1990 (ADA accessibility guidelines), whichever is more stringent. For minor renovations in existing buildings, GSA must meet minimum UFAS requirements. A more detailed explanation of these standards can be found in subpart 101–19.6 of this subchapter.

(3) GSA must utilize metric specifications in construction where metrication is the accepted industry standard, and to the extent that such usage is economically feasible and practical.

(4) GSA must provide for the design of security systems to protect Federal workers and visitors and to safeguard facilities against criminal activity and/or terrorist activity. Security design must support the continuity of government operations during civil disturbances, natural disasters and other emergency situations.

(c) *Engineering systems design.* GSA must provide for engineering systems for real property assets under its custody and control for Federal agencies. The engineering systems include the following:

(1) *Structural engineering.* GSA must have the capability to accommodate changing Federal agencies' requirements in the life cycle of Federal buildings.

(2) *Mechanical engineering.* GSA must encourage the use of building automation systems that are cost effective and enable ease of operation in Federal buildings.

(3) *Electrical engineering and communications systems.* GSA must assure that electrical and communications systems support the many types of equipment used in Federal buildings. These systems must provide ample capacity for increased requirements in the future.

Subpart 101–16.7—Art-in-Architecture

§ 101–16.700 Basic policy.

The architectural character and design of Federal buildings occupied by Federal agencies is enhanced through the commissioning of works of art. GSA should incorporate fine arts as an integral part of the total building concept in the design of new Federal buildings, and in the substantial repair and alteration of existing Federal buildings, as appropriate. The selected fine arts, including painting, sculpture, and artistic work in other media, must reflect the national cultural heritage and emphasize the work of living American artists.

§ 101–16.701 Art-in-architecture services.

GSA may provide Art-in-architecture services for real property assets under its custody and control. The Art-in-architecture services include the following:

(a) *Types of art.* GSA must commission artwork that is diverse in style and media.

(b) *Funding.* GSA funds the Art-in-architecture efforts by allocating to it a

portion of the estimated cost of constructing or purchasing new Federal buildings, or of completing major repair and alteration of existing buildings. Funding for qualifying projects, including new construction, building purchases, other building acquisition, or prospectus-level repair and alteration projects must be in a range determined by the Administrator of General Services.

(c) *Community support.* To the maximum extent practicable, GSA should seek the support and involvement of local citizens in the selection of appropriate artwork. GSA should collaborate with the artist and community to produce works of art that reflect the cultural, intellectual, and historic interests and values of a community.

(d) *Commissioning of art.* To the maximum extent practicable, the commissioning and selection of art in Federal buildings should be a collaborative effort among GSA, the architect of the building, art professionals, and the local community.

(e) *Public affairs.* GSA must ensure that Art-in-architecture is given national visibility to facilitate participation by a large and diverse group of artists representing a wide variety of types of artwork.

Subpart 101–16.8—Historic Preservation

§ 101–16.800 Basic policy.

In order to protect, enhance and preserve historic and cultural property under its control, GSA must take into account the effects of its undertakings on historic and cultural properties, and give the Advisory Council on Historic Preservation (Advisory Council), the State Historic Preservation Officer (SHPO), and other consulting parties a reasonable opportunity to comment regarding the proposed undertakings. Historic and cultural properties are those which are included in, or eligible for inclusion in, the National Register of Historic Places (National Register).

(a) GSA must solicit information from consulting parties to assist it in carrying out its responsibilities under historic and cultural preservation laws and regulations. GSA must invite the participation of consulting parties through its normal public notification processes.

(b) Whenever a GSA undertaking adversely affects a historic or cultural property, all adverse impacts must be minimized to the extent that is feasible and prudent.

§ 101-16.801 Program-specific authority.

Including, but not limited to, the National Historic Preservation Act of 1966, as amended; the Public Buildings Cooperative Use Act of 1976; and Executive Order 13006, entitled "Locating Federal Facilities on Historic Properties in our Nation's Central Cities."

§ 101-16.802 Historic preservation services.

GSA must provide historic preservation services for real property assets under its custody and control. The historic preservation services include the following:

(a) *Identification of historic properties.* GSA must identify all National Register or National Register-eligible historic and cultural properties that are under its control. Properties that may be affected by the policies, plans, or other undertakings of GSA sponsored activities, must be examined for the presence of historic and cultural significance. If unable to reach agreement on eligibility with the State Historic Preservation Officer, GSA must request a determination of eligibility from the Keeper of the National Register (Keeper) for properties under its control that appear to meet the criteria of eligibility for inclusion in the National Register.

(b) *Nomination to the National Register.* GSA must nominate to the National Register all properties under its control determined eligible for inclusion in the National Register by the Keeper.

(c) *Property under GSA control.* (1) *Real property.* GSA must prepare a Historic Building Preservation Plan for each National Register or National Register-eligible property under its control. All reports must, when approved by the consulting parties, become a binding management plan for the property.

(2) *Direct and leased construction.* GSA must investigate for the presence of historic and cultural factors on all proposed sites for direct and leased construction.

(3) *Leased space.* Federal agencies must give consideration to historic properties which are suitable for office space or other commercial usage. In leasing historic property, Federal agencies gives a preference to such leasing actions.

(d) *Disposition of real property.* (1) *Property under the control of GSA.* GSA must review all proposed excess actions for the inclusion of National Register or National Register-eligible properties. GSA must not perform an undertaking which could alter, destroy, or modify an historic or cultural property until GSA

has consulted with the SHPO and the Advisory Council.

(2) *Property under another agency's jurisdiction.* GSA must not accept property declared excess by another Federal agency nor act as an agent for transfer or sale of such properties until the holding agency has provided evidence that the Federal agency's National Historic Preservation Act responsibilities have been met.

(e) *Locating Federal Facilities on Historic Properties in Our Nation's Central Cities.* When operationally appropriate and economically prudent, and subject to the requirements of Section 601 of Title VI of the Rural Development Act of 1972, as amended, (42 U.S.C. 3122), and Executive Order 12072, when locating Federal facilities, Federal agencies shall give first consideration to historic properties within historic districts. If no such property is suitable, then Federal agencies shall consider other developed or undeveloped sites within historic districts. Federal agencies shall then consider historic properties outside of historic districts, if no suitable site within a district exists.

Subpart 101-16.9—Assignment and Utilization of Space**§ 101-16.900 Basic policy.**

Federal agencies must provide a quality workplace environment that supports program operations, preserves the value of real property assets, ensures essential requirements for Federal workspace, and ensures the provision of child care and physical fitness facilities in the workplace when adequately justified. Federal agencies must promote maximum utilization of Federal workspace in order to maximize its value to the Government.

§ 101-16.901 Program-specific authority.

Including, but not limited to, the Rural Development Act of 1972, as amended; Executive Order 12072, entitled "Federal Space Management"; Competition in Contracting Act of 1984 (CICA), as amended; Executive Order 12411, entitled "Government Work Space Management Reforms"; Executive Order 12512, entitled "Federal Real Property Management;" and Executive Order 13006, entitled "Locating Federal Facilities on Historic Properties in our Nation's Central Cities."

§ 101-16.902 Assignment and utilization services.

Federal agencies must provide assignment and utilization services in a manner that will maximize the value of Federal real property resources and improve the productivity of the workers

that are housed. The assignment and utilization services include the following:

(a) *Assignment of space.* Federal agencies must promote the optimum use of space for each assignment at the minimum cost to the Government, and must ensure that quality workspace is delivered and occupied in a timely manner.

(1) Federal agencies must assign space based on space requirements.

(2) In accordance with 40 U.S.C. 490b and § 101-17.214 of this subchapter, Federal agencies are authorized to allot space in Federal buildings to individuals or entities who will provide child care services to Federal employees.

(3) In accordance with 5 U.S.C. 7901 and § 101-17.213 of this subchapter, Federal agencies are authorized to allot space in Federal buildings for establishing fitness programs.

(b) *Utilization of space.* Federal agencies must promote efficient utilization of space in accordance with GSA standards. In order to maximize the use of vacant space, Federal agencies' space needs must be satisfied in existing Government-controlled space to the maximum extent practical. Available space in buildings under the custody and control of the U.S. Postal Service must also be given priority consideration. Where there is no space need, Federal agencies must make every effort to maximize the productive use of vacant space through out-granting (i.e., outlease, permit, license).

§ 101-16.903 Location of space.

Federal agencies must give first priority to the location of new offices and other facilities in rural areas (42 U.S.C. 3122). When Federal agency mission and program requirements call for location in an urban area, Federal agencies must give first consideration to central business areas (CBAs) and other designated areas (Executive Order 12072). In accordance with the Competition in Contracting Act (CICA), Federal agencies must consider whether restricting the delineated area to the central business area will provide for competition when acquiring leased space. Where it is determined that an acquisition should not be restricted to the CBA, Federal agencies may expand the delineated area in consultation with local officials. The CBA must continue to be included in such expanded areas. In accordance with Executive Order 13006, and subject to the requirements of Section 601 of Title VI of the Rural Development Act of 1972, as amended, (42 U.S.C. 3122), Executive Order 12072, and CICA (41 U.S.C. 253 et seq.),

when locating Federal facilities, Federal agencies shall give first consideration to historic properties within historic districts. If no such property is suitable, then Federal agencies shall consider other developed or undeveloped sites within historic districts. Federal agencies shall then consider historic properties outside of historic districts, if no suitable site within a district exists. Each Federal agency is responsible for identifying the delineated area within which it wishes to locate specific activities, consistent with its mission and program requirements, and in accordance with all applicable laws, regulations, and Executive orders. GSA is responsible for approving the final delineated area and shall confirm that the final delineated area is in compliance with the requirements of all applicable laws, regulations, and Executive orders.

Subpart 101-16.10—Safety and Environmental Management

§ 101-16.1000 Basic policy.

Federal agencies must provide for a safe and healthful work environment for Federal employees and the visiting public, protect Federal real and personal property, promote mission continuity, and provide reasonable safeguards for emergency forces if an incident occurs. GSA must assess risk, ensure decisionmakers are aware of risks, and act promptly and appropriately in response to risk.

§ 101-16.1001 Program-specific authority.

Including, but not limited to, the Occupational Safety and Health Act of 1970; Executive Order 12196, entitled "Occupational Safety and Health Programs for Federal Employees"; Environmental Protection Agency (EPA) approved State plans; the National Environmental Policy Act; Executive Order 11988, entitled "Floodplain Management"; Executive Order 11990, entitled "Protection of Wetlands" as amended; Clean Air Act, as amended; the Comprehensive Environmental Response, Compensation, and Liability Act; Executive Order 12699, entitled "Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction"; the Solid Waste Disposal Act, as amended; and the Toxic Substances Control Act.

§ 101-16.1002 Occupancy services.

GSA must provide occupancy services for real property assets. The occupancy services include the following:

(a) *Asbestos.* Federal agencies must inspect and assess GSA-owned buildings for the presence and condition

of asbestos-containing materials. Federal agencies must ensure that leased space is free of all asbestos containing materials, except undamaged asbestos flooring in the space or undamaged boiler or pipe insulation outside the space, in which case an asbestos management program conforming to Environmental Protection Agency guidance must be implemented.

(1) Federal agencies must manage in-place asbestos that is in good condition and not likely to be disturbed.

(2) Federal agencies must abate damaged asbestos, and asbestos likely to be disturbed. Federal agencies must perform a pre-alteration asbestos assessment for activities that may disturb asbestos.

(3) Federal agencies must not use asbestos in new construction, renovation/modernization or repair of GSA-owned space. Unless approved by GSA, Federal agencies must not obtain space with asbestos through purchase, exchange, transfer, or lease, except as identified in paragraph (a) of this section. In situations where space is obtained which has asbestos, an asbestos abatement program must ensure that the asbestos will not be damaged or subject to disturbance by routine operations, and the Federal agency must implement an asbestos management program conforming to EPA guidance and requirements.

(4) Federal agencies must communicate all written and oral asbestos information about the leased space to tenants.

(b) *Radon.* Federal agencies must abate radon in their space and ensure that lessors abate radon in space when radon levels exceed current EPA standards.

(1) Federal agencies must retest abated areas and ensure that lessors retest, as required, abated areas to ensure adherence to EPA standards.

(2) Federal agencies must test non-public water sources (in remote areas for projects such as border stations) for radon according to EPA guidance. Radon levels must be mitigated that exceed current applicable EPA standards. Federal agencies must retest, as required, to ensure adherence to EPA standards.

(c) *Indoor air quality.* GSA must assess indoor air quality of all GSA-controlled buildings during GSA safety and environmental facility assessments. Problems identified must be corrected. Federal agencies must respond to Federal agency complaints on air quality and take appropriate corrective action.

(d) *Lead.* Federal agencies must test space for lead-based paint in renovation

projects that require sanding, welding or scraping painted surfaces. Lead based paint must not be removed from surfaces in good condition. Federal agencies must test all painted surfaces for lead in proposed or existing child care centers. Lead-based paint found must be abated in accordance with Department of Housing and Urban Development (HUD) Lead-Based Paint Guidelines. Federal agencies must test potable water for lead in all drinking water outlets in child care centers. Federal agencies must take corrective action when lead levels exceed the HUD Guidelines.

(e) *Hazardous materials and wastes.* Federal agencies must monitor the transport, use, and disposition of hazardous materials and waste in GSA-controlled buildings to ensure compliance with GSA, OSHA, Department of Transportation, EPA, and EPA-approved State and local requirements. In leased space, Federal agencies must ensure that all agreements with the lessor require that the leased space be free of hazardous materials according to applicable Federal, State, and local environmental regulations.

(f) *Underground storage tanks.* GSA must manage and close underground storage tanks, including heating oil and fuel oil tanks, in accordance with GSA, EPA, and EPA-approved State and local requirements. GSA must require the responsible party for tanks not owned or operated by GSA, to follow these requirements and to be responsible for the cost of compliance.

(g) *Fire prevention and fire protection engineering.* Federal agencies must follow accepted fire prevention practices in operating and managing buildings. Federally owned buildings are generally exempt from State and local code requirements in fire protection. Leased buildings are subject to local requirements and inspection.

(1) GSA must identify and estimate risks and appropriate reduction strategies for each Federal agency's building.

(2) Federal agencies must use the National Fire Protection Association (NFPA) codes and standards as a guide for its building operations.

(h) *Facility assessments.* GSA must evaluate facilities to ensure compliance with GSA's Safety and Environmental program. These evaluations must be conducted in accordance with schedules that are compatible with repair and alteration and leasing operations.

(i) *Risk reduction.* GSA must manage the execution of risk reduction projects. GSA regions, or Central Office, if

requested, must determine appropriate action for identifying hazards, initiating corrections, conducting follow-up, and documenting actions.

(j) *Incident investigation.* Federal agencies must investigate all incidents regardless of severity, e.g., fires, accidents, injuries, and environmental incidents. Boards of Investigation must be formed, with GSA representation, for incidents resulting in serious injury, death, or significant property losses.

(k) *Communication.* Federal agencies must inform occupant Federal agencies of the condition and management of their facility safety and environment.

(l) *Prevention.* Federal agencies must ensure that fire and accident prevention, and environmental prevention promotes clean, safe, useful, and properly maintained and preserved facilities. These activities will promote accident and fire prevention, and environmental practices among GSA staff, contractors, occupant agencies, and others, as appropriate.

§ 101–16.1003 Federal construction and lease construction projects.

GSA must ensure that required environmental issues are assessed throughout planning and project development. This will ensure that the environmental impacts of a project will be considered during the decision-making process.

Subpart 101–16.11—Security

§ 101–16.1100 Basic policy.

Federal agencies must provide for the security and protection of federally owned or controlled real estate, including the protection of persons and property.

(a) Federal agencies must, where feasible, upgrade and maintain security standards in each federally owned facility to the minimum standards specified in the June 28, 1995, Presidential Policy Memorandum for Executive Departments and Agencies, entitled, “Upgrading Security at Federal Facilities.”

(b) GSA must establish Building Security Committees composed of representatives from each Federal agency at GSA controlled facilities.

§ 101–16.1101 Program-specific authority.

Including, but not limited to, the Protection of Public Property Act.

§ 101–16.1102 Law enforcement.

Federal agencies must manage, administer, and operate law enforcement functions to support their mission to protect real property assets, as well as occupants and visitors to federally owned or controlled facilities.

§ 101–16.1103 Security services.

Federal agencies must provide security services, including physical security, contract guard administration, training, and security systems. The security services include the following:

(a) *Physical security.* GSA must determine the specific type of security and physical protection for each building, facility, or space under its custody and control, including standards for the location and special security needs of day care centers.

(b) *Contract guard administration.* Federal agencies must allow contract guards to work in federally owned or controlled facilities only under direct supervision prior to obtaining the appropriate background investigations. Federal agencies must administer guard contracts and monitor and inspect contract guard personnel on a recurring basis.

(c) *Training.* Federal agencies must ensure the management, development, and implementation of mission related training for its special police officers.

(1) Federal agencies must ensure that security training takes into account the possibility of the threat of terrorism, terrorist attacks, or other acts of violence at federally controlled facilities.

(2) Federal agencies must ensure that the level of training received by contract guards meets or exceeds the Federal Protective Service (FPS) contract guard standards. These standards include 80 hours of classroom training on security related topics, First-Aid/CPR training/certification, and firearms training. Contract guard responsibilities include controlling building access at fixed positions, providing initial security screens, operating screening equipment, providing a patrol presence, and reporting incidents. The level of training required by FPS Police Officers include 8 weeks of law enforcement and security training at the Federal Law Enforcement Training Center (FLETC), chemical spray training, expandable baton training, 40 hours of in-service training on law enforcement topics on an annual basis, First-Aid/CPR training/certification, and 80 hours of refresher training at FLETC every 3 years. FPS Police Officer responsibilities include detaining suspects, arrest, investigating incidents, providing a patrol presence, responding to calls, monitoring guards, educating tenants, and performing safety and crime prevention activities.

(d) *Security systems.* GSA must maintain communication control centers to protect Federal workers and visitors and to safeguard facilities against criminal activity. GSA must maintain a physical security data base of all Federal office buildings.

Subpart 101–16.12—Public Utilities

§ 101–16.1200 Basic policy.

Federal agencies must provide services that ensure and promote economy and efficiency in the procurement of public utility services.

§ 101–16.1201 Program-specific authority.

Including, but not limited to, the Federal Power Act of 1920, as amended; Public Utility Holding Company Act of 1935, as amended; Clean Air Act of 1963, as amended; National Environmental Policy Act of 1969; Natural Gas Policy Act of 1978, as amended; Public Utility Regulatory Policy Act of 1978, as amended; The Small Business Act (SBA), as amended by Pub. L. 95–507; Powerplant and Industrial Fuel Use Act of 1978, as amended; Energy Policy Act of 1992, as amended; Executive Order 12902, entitled “Energy Efficiency and Water Conservation at Federal Facilities”; and “Federal Energy Regulatory Commission and Environmental Protection Agency” rulings.

§ 101–16.1202 Public utilities services.

Federal agencies must provide rate intervention and utility contracting services for public utilities. GSA must provide technical assistance services for public utilities. The public utility services include the following:

(a) *Rate intervention.* Federal agencies must provide for representation in proceedings involving public utilities before Federal and state regulatory bodies.

(b) *Utility contracts.* Federal agencies must provide for the procurement of utility services (such as commodities and utility rebate programs), as required, and must procure from sources of supply that are the most advantageous to the Federal Government in terms of economy, efficiency, reliability, or quality of service.

(c) *Technical assistance services.* GSA must make available technical assistance or acquisition information on public utilities to other Federal agencies, mixed ownership Federal Government corporations, and the District of Columbia.

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David L. Bibb,

Acting Associate Administrator for Governmentwide Policy.

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