

(ii) Title or possession to the transferred or leased surplus Federal real property and the right to immediate possession revert to the United States;

(iii) The surplus Federal real property be transferred or leased to another eligible entity as the Secretary directs;

(iv) The transferee or lessee abrogate the conditions and restrictions in the transfer or lease instrument in accordance with the provisions of § 12.15;

(v) The transferee or lessee place the surplus Federal real property into immediate use for an approved purpose and extend the period of restriction in the transfer or lease instrument for a term equivalent to the period during which the property was not fully and solely used for an approved use; or

(vi) The transferee or lessee comply with any combination of the sanctions described in paragraph (a)(1) or (a)(3) of this section.

(2) If title or possession reverts to the United States for noncompliance or is voluntarily reconveyed, the Secretary may require the transferee or lessee—

(i) To reimburse the United States for the decrease in value of the transferred or leased surplus Federal real property not due to—

(A) Reasonable wear and tear;

(B) Acts of God; or

(C) Reasonable alterations made by the transferee or lessee to adapt the surplus Federal real property to the approved program and plan of use for which it was transferred or leased;

(ii) To reimburse the United States for any costs incurred in reverting title or possession;

(iii) To forfeit any cash payments made by the transferee or lessee against the purchase or lease price of surplus Federal real property transferred;

(iv) To take any other action directed by the Secretary; or

(v) To comply with any combination of the provisions of paragraph (a)(3) of this section.

(3) If the transferee or lessee does not put the surplus Federal real property into use within the applicable time limitation in § 12.12(a), the Secretary may require the transferee or lessee to make cash payments to the Secretary equivalent to the current fair market rental value of the surplus Federal real

property for each month during which the program and plan of use has not been implemented.

(Authority: 40 U.S.C. 484(k)(4))

(4) If the Secretary determines that a lessee of a transferee or a sublessee of a lessee is not complying with a term or condition of the lease, or if the lessee voluntarily surrenders the premises, the Secretary may require termination of the lease.

(Authority: 40 U.S.C. 484(k)(4)(A))

(b) *Additional sanction for noncompliance with off-site transfer.* In addition to the sanctions in paragraph (a) of this section, if the Secretary determines that a transferee is not complying with a term or condition of a transfer of off-site surplus Federal real property, the Secretary may require that the unearned PBA become immediately due and payable in cash to the United States.

(Authority: 40 U.S.C. 484(k)(4)(A))

Subpart E—Abrogation

§ 12.15 What are the procedures for securing an abrogation of the conditions and restrictions contained in the conveyance instrument?

(a) The Secretary may, in the Secretary's sole discretion, abrogate the conditions and restrictions in the transfer or lease instrument if—

(1) The transferee or lessee submits to the Secretary a written request that the Secretary abrogate the conditions and restrictions in the conveyance instrument as to all or any portion of the surplus Federal real property;

(2) The Secretary determines that the proposed abrogation is in the best interests of the United States;

(3) The Secretary determines the terms and conditions under which the Secretary will consent to the proposed abrogation; and

(4) The Secretary transmits the abrogation to the Administrator and there is no disapproval by the Administrator within thirty (30) days after notice to the Administrator.

(b) The Secretary abrogates the conditions and restrictions in the transfer

or lease instrument upon a cash payment to the Secretary based on the formula contained in the transfer or lease instrument and any other terms and

conditions the Secretary deems appropriate to protect the interest of the United States.

(Authority: 40 U.S.C. 484(k)(4)(A)(iii))

APPENDIX A TO PART 12—PUBLIC BENEFIT ALLOWANCE FOR TRANSFER OF SURPLUS FEDERAL REAL PROPERTY FOR EDUCATIONAL PURPOSES¹

Classification	Percent allowed													
	Basic public benefit allowance	Organization allowances							Utilization allowances				Maximum public benefit allowance ⁴	
		Ac-creditation	Federal impact	Public service training	Hard-ship	Inadequacy of existing school plant facilities			Intro-duction of new in-structional programs	Stu-dent health and wel-fare	Re-search	Service to hand-capped		
						10-25%	26-50%	51-100%						
Elementary or high schools	70	.....	10	10	10	10	20	30	10	10	10	10	100
Colleges or Universities	50	20	.....	10	10	10	20	30	10	10	10	10	100
Specialized schools	70	.....	.....	10	10	10	20	30	10	10	10	10	100
Public libraries or educational museums ..	2	100	2	100
School outdoor education	40	.....	.....	.....	.....	.....	.....	.....	10	³ 10	10	.....	70
Central administrative and/or service centers	80	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	80
Non-profit educational research organizations	50	20	.....	10	.....	.....	.....	.....	10	10	.....	10	100

² Applicable when this is the primary use to be made of the property. The public benefit allowance for the overall program is applicable when such facilities are conveyed as a minor component of other facilities.

³ This 10% may include an approvable recreation program which will be accessible to the public and entirely compatible with, but subordinate to, the educational program.

⁴ This column establishes the maximum discount from the fair market value for payment due from the transferee at the time of the transfer. This column does not apply for purposes of ranking applicants to determine to which applicant the property will be transferred. Competitive rankings are based on the absolute total of public benefit allowance points and are not limited to the 100% ceiling.

DESCRIPTION OF TERMS USED IN THIS APPENDIX

Elementary or High School means an elementary school (including a kindergarten), high school, junior high school, junior-senior high school or elementary or secondary school system, that provides elementary or secondary education as determined under State law. However, it does not include a nursery school even though it may operate as part of a school system.

College or University means a non-profit or public university or college, including a jun-

ior college, that provides postsecondary education.

Specialized School means a vocational school, area trade school, school for the blind, or similar school.

Public Library means a public library or public library service system, not a school library or library operated by non-profit, private organizations or institutions that may be open to the general public. School libraries receive the public benefit allowance in the appropriate school classification.

¹ This Appendix applies to transfers of both on-site and off-site surplus property.

Educational Museum means a museum that conducts courses on a continuing, not *ad hoc*, basis for students who receive credits from accredited postsecondary education institutions or school systems.

School Outdoor Education means a separate facility for outdoor education as distinguished from components of a basic school. Components of a school such as playgrounds and athletic fields receive the basic allowance applicable for that type of school. The outdoor education must be located reasonably near the school system and may be open to and used by the general public, but only if the educational program for which the property is conveyed is given priority of use. This category does not include components of the school such as playgrounds and athletic fields, that are utilized during the normal school year, and are available to all students.

Central Administrative and/or Service Center means administrative office space, equipment storage areas, and similar facilities.

DESCRIPTION OF ALLOWANCES

Basic Public Benefit Allowance means an allowance that is earned by an applicant that satisfies the requirements of §12.10 of this part.

ORGANIZATION ALLOWANCE

Accreditation means an allowance that is earned by any postsecondary educational institution, including a vocational or trade school, that is accredited by an accrediting agency recognized by the Secretary under 34 CFR part 602.

Federal Impact means an allowance that is earned by any local educational agency (LEA) qualifying for Federal financial assistance as the result of the impact of certain Federal activities upon a community, such as the following under Public Law 81-874 and Public Law 81-815: to any LEA charged by law with responsibility for education of children who reside on, or whose parents are employed on, Federal property, or both; to any LEA to which the Federal Government has caused a substantial and continuing financial burden as the result of the acquisition of a certain amount of Federal property since 1938; or to any LEA that urgently needs minimum school facilities due to a substantial increase in school membership as the result of new or increased Federal activities.

Public Services Training means an allowance that is earned if the applicant has cadet or ROTC units or other personnel training contracts for the Federal or State governments. This is given to a school system only if the particular school receiving the property furnishes that training.

Hardship means an allowance earned by an applicant that has suffered a significant facility loss because of fire, storm, flood, other

disaster, or condemnation. This allowance is also earned if unusual conditions exist such as isolation or economic factors that require special consideration.

Inadequacies of Existing Facilities means an allowance that is earned on a percentage basis depending on the degree of inadequacy considering both public and nonpublic facilities. Overall plant requirements are determined based on the relationship between the maximum enrollment accommodated in the present facilities, excluding double and night sessions and the anticipated enrollment if the facilities are transferred. Inadequacies may be computed for a component school unit such as a school farm, athletic field, facility for home economics, round-out school site, cafeteria, auditorium, teacherages, faculty housing, etc., only if the component is required to meet State standards. In that event, the State Department of Education will be required to provide a certification of the need. Component school unit inadequacies may only be related to a particular school and not to the entire school system.

UTILIZATION ALLOWANCES

Introduction of New Instructional Programs means an allowance that is earned if the proposed use of the property indicates that new programs will be added at a particular school. Examples of these new programs include those for vocational education, physical education, libraries, and similar programs.

Student Health and Welfare means an allowance that is earned if the proposed program and plan of use of the property provides for cafeteria, clinic, infirmary, bus loading shelters, or other uses providing for the well-being and health of students and eliminating safety and health hazards.

Research means an allowance that is earned if the proposed use of the property will be predominantly for research by faculty or graduate students under school auspices, or other primary educational research.

Service to Handicapped means an allowance that is earned if the proposed program and plan of use for the property will be for special education for the physically or mentally handicapped.

PART 15—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

AUTHORITY: Section 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894 (42 U.S.C. 4601) as amended by the