

## § 102-75.65

value of the property and other satisfactory terms of disposal are obtainable by negotiation; or

(d) 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 obtainable 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 (some examples of such purposes are administrative offices and economic development); or

(e) Negotiation is otherwise authorized by the Federal Property and Administrative Services Act of 1949 or other law, such as disposals of power transmission lines for public or cooperative power projects.

### **§ 102-75.65 What are Executive agencies' responsibilities concerning negotiated sales?**

Executive agencies must:

(a) Obtain such competition as is feasible in all negotiations of disposals and contracts for disposal of surplus property; and

(b) Prepare and transmit an explanatory statement, identifying the circumstances of each disposal by negotiation for any real property specified in 40 U.S.C. 484(e)(6)(A), to the appropriate committees of the Congress in advance of such disposal.

### **§ 102-75.70 What can Executive agencies do to eliminate the potential for windfall profits to public agencies in negotiated sales?**

To eliminate the potential for windfall profits to public agencies, Executive agencies must include in negotiated sales to public agencies an excess profits clause, which usually runs for 3 years. This clause states that, if the purchaser should sell or enter into agreements to sell the property within 3 years from the date of title transfer by the Federal Government, all proceeds in excess of the purchaser's costs will be remitted to the Federal Government. (Put the clause found in § 101-47.4908 of this title in the offer to pur-

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chase and in the conveyance document.)

### **§ 102-75.75 What is a negotiated sale for economic development purposes?**

A negotiated sale for economic development purposes means that the public body purchasing the property will develop or make substantial improvements to the property with the intention of reselling 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 are greater than the anticipated proceeds derived from a competitive public sale.

### **§ 102-75.80 What are Executive agencies' responsibilities concerning public sales?**

Executive agencies must make available by competitive public sale any surplus property that is not disposed of by public benefit discount conveyance or by negotiated sale. Awards must be made to the responsible bidder whose bid will be most advantageous to the Government, price and other factors considered.

### **§ 102-75.85 How can Federal agencies obtain related disposal services?**

Federal agencies with independent disposal authority are encouraged to obtain disposal related services from those agencies with expertise in real property disposal, such as GSA, as allowed by 31 U.S.C. 1535 (the Economy Act), so that agencies may remain focused on their core mission.

### **§ 102-75.90 What type of appraisal value must be obtained for real property disposal transactions?**

For all real property transactions requiring appraisals, Executive agencies 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.

### **§ 102-75.95 Are appraisals required for all real property disposal transactions?**

Generally, yes, appraisals are required for all real property disposal