

## § 12.3

the conveyance instrument before the term of the instrument expires.

*Act* means the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 377 (40 U.S.C. 471 *et seq.*).

*Applicant* means an eligible entity as described in §12.5 that formally applies to be a transferee or lessee of surplus Federal real property, using a public benefit allowance (PBA) under the Act.

*Lessee*, except as used in §12.14(a)(5), means an entity that is given temporary possession, but not title, to surplus Federal real property by the Secretary for educational purposes.

*Nonprofit institution* means any institution, organization, or association, whether incorporated or unincorporated—

(1) The net earnings of which do not inure or may not lawfully inure to the benefit of any private shareholder or individual; and

(2) That has been determined by the Internal Revenue Service to be tax-exempt under section 501(c)(3) of title 26.

*Off-site property* means surplus buildings and improvements—including any related personal property—that are capable of being removed from the underlying land and that are transferred by the Secretary without transferring the underlying real property.

*On-site property* means surplus Federal real property, including any related personal property—other than off-site property.

*Period of restriction* means that period during which the surplus Federal real property transferred for educational purposes must be used by the transferee or lessee in accordance with covenants, conditions, and any other restrictions contained in the conveyance instrument.

*Program and plan of use* means the educational activities to be conducted by the transferee or lessee using the surplus Federal real property, as described in the application for that property.

*Public benefit allowance* (“PBA”) means the credit, calculated in accordance with appendix A to this part, given to a transferee or lessee which is applied against the fair market value of the surplus Federal real property at the time of the transfer or lease of such

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property in exchange for the proposed educational use of the property by the transferee or lessee.

*Related personal property* means any personal property—

(1) That is located on and is an integral part of, or incidental to the operation of, the surplus Federal real property; or

(2) That is determined by the Administrator to be otherwise related to the surplus Federal real property.

*Surplus Federal real property* means the property assigned or suitable for assignment to the Secretary by the Administrator for disposal under the Act.

*Transfer* means to sell and convey title to surplus Federal real property for educational purposes as described in this part.

*Transferee* means that entity which has purchased and acquired title to the surplus Federal real property for educational purposes pursuant to section 203(k) of the Act.

(Authority: 40 U.S.C. 472 and 20 U.S.C. 3401 *et seq.*)

### § 12.3 What other regulations apply to this program?

The following regulations apply to this program:

- (a) 34 CFR parts 100, 104, and 106.
- (b) 41 CFR part 101–47.
- (c) 34 CFR part 85.

(Authority: 40 U.S.C. 484(k); 42 U.S.C. 2000d–1 *et seq.*; 29 U.S.C. 794 *et seq.*; 20 U.S.C. 1681 *et seq.*; Executive Order 12549; and 20 U.S.C. 3474)

## Subpart B—Distribution of Surplus Federal Real Property

### § 12.4 How does the Secretary provide notice of availability of surplus Federal real property?

The Secretary notifies potential applicants of the availability of surplus Federal real property for transfer for educational uses in accordance with 41 CFR 101–47.308–4.

(Authority: 40 U.S.C. 484(k)(1))

### § 12.5 Who may apply for surplus Federal real property?

The following entities may apply for surplus Federal real property:

- (a) A State.