

Current Events Webinar: Questions Raised by Attendees

October 18, 2018

GSA Office of Real Property Utilization and Disposal (RPU&D)

1.) Will low value disposal (demolitions) remain delegated to LHA?

Yes. RPU&Ds current position and intention for the revised disposal regulations is that demolition remains an option for real property determined to have no commercial or salvage value or is not feasible to dispose via sale due to an expectation of no or low proceeds.

2.) If OMB does not meet the 30-day review, will the waiver be considered granted?

Yes, that is RPU&Ds proposal for revision: If OMB does not respond or request an extension, then GSA may, at its discretion, proceed with the disposal action.

3.) In what document and when were the proposed revisions to the FMR previously published?

RPU&Ds current proposals for repeal, replace and revise is a work in progress. The current disposal regulation (102-75) is what the public and other agencies had the opportunity to offer input; it was published in the FEDERAL REGISTER; comments were due by July 31, 2017. However, agencies still have an opportunity to weigh in by submitting comments, edits and suggestion for repeal, replace or revise on www.regulations.gov. For assistance with how to submit on that website, please contact Chris Coneeney, Real Property Policy Division, Office of Governmentwide Policy at chris.coneeney@gsa.gov.

4.) Are agencies expected to offer up space on federal facilities for communication equipment for free?

In HR 1625 sections 608(b) and (c), there is nothing in the language that requires Federal agencies to offer up their assets to the telecoms at no cost. The focus of the Mobile Now Act is permitting/outleasing to the private sector telecoms who want to broaden their networks, it does not speak to the Federal acquisition of telecom services for agency use, so while most, if not all Federal buildings have telecom installations on them to acquire internet service, not all have leased space on their rooftops or vacant land for telecoms to install equipment to expand their broadband network. To be thorough, a Federal agency should ask its general counsel what the Mobile Now Act requires of agencies based upon the agency's real estate authorities.

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5.) Many federal buildings already have private sector communications facilities installed on them. How is this MOBILE NOW Act different?

Yes, many federal properties have existing infrastructure installed on them. The law aims to increase the visibility of that information to the private sector communications industry.

6.) Do you have a clear definition for height? Above sea level? What about a building on a sloping site?

The guidance includes a definition for height. Agencies will need to apply that definition to assets in their inventories.

7.) How long will it take GSA to do the geo spatial calculation?

GSA is working with its GIS center of excellence on detailing all the steps involved in the process. I do not have a specific answer to the question, but I can state that it will occur between Feb. 2019 and April 2019, based on the current schedule.

8.) When will the data become available to the public?

Based on the current schedule, the data will be available to the public in April 2019.

9.) Is Historic Status required for assets being reported to FRPP under the Mobile Now Act?

Short answer is no, the FRPP MOBILE NOW Act does not dictate the historic status FRPP data element. That data element existed with associated reporting requirements before the MOBILE NOW Act became law.

10.) Can HHS compel an agency to enter into a lease with a homeless organization via McKinney-Vento?

HHS cannot compel an agency to enter into a lease, but if the property has been determined suitable by HUD and the landholding agency has stated to HUD that it is available, and HHS subsequently approves an application, then: In the case of under and unutilized property, if HHS recommends lease or permit to the homeless assistance

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provider, in accordance with 42 USC 11411 (f)(2), the landholding agency would need to make the property available by lease or permit for a period of not less than one year, unless the applicant requests a shorter term. In the case of an HHS approved application for excess or surplus property and a recommendation of a lease or deed to the homeless assistance provider by HHS, if the decision is made by HHS or GSA not to proceed with the transfer, an explanatory statement must be submitted to Congress detailing the reasons why the property cannot be made available, and why the competing interest is so meritorious and compelling as to outweigh the needs of the homeless, in accordance with 42 USC 11411 (f)(3)(B).

11.) Are there specific exceptions for disposing of improvements on non-federal land?

Subpart E—Abandonment, Destruction and Donation is applicable to disposing of improvements on private land. RPU&D is working to revise the language and separate the provisions for abandonment and destruction (demolition) and treat them separately while eliminating the donation provisions altogether as discussed during today's webinar. If I understand the question, prior to abandoning or destroying real property on private land, agencies must:

- Determine that the excess real property has no commercial or salvage value and that the costs of continuing to hold the property exceeds any expected proceeds from a sale of the property;
- Post a public notice;
- Screen the property for off-site removal;
- Address and comply with laws affecting the disposal of excess real property (e.g.—McKinney-Vento, NEPA, NHPA, etc.);
- Obtain GSA's concurrence prior to abandoning or destroying if the improvement is of permanent construction.

Feel free to contact the RPU&Ds zonal office that services the area in which the property is located for assistance with determining if and when Government-owned property may be abandoned or destroyed on privately-owned land; or if and when donation may be an option.

With regard to how this pertains to the McKinney-Vento Act, the exemptions are listed at 24 CFR Part 581.2(b), and exemption #9 is Property interests subject to reversion. So if federal facilities were acquired or constructed on non-federal land and it was stipulated that the improvements would remain with the fee holder when no longer needed by the federal government, they would be exempt. If it was not stipulated that the improvements remain with the fee holder, then they would need to be reported to HUD for off-site removal, and using the criteria at 25 CFR Part 581.6, HUD will make the suitability determination.

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If you have any questions in regard to this Q&A, please contact Gary Jordon on 202-841-6995 or gary.jordon@gsa.gov and your questions will be directed to the appropriate center of expertise.