U.S. DEPARTMENT OF EDUCATION

HOW TO ACQUIRE SURPLUS FEDERAL REAL PROPERTY FOR EDUCATIONAL PURPOSES

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write to: The Federal Real Property Assistance Program, U. S. Department of Education, 400 Maryland Ave., SW, Washington, D.C. 20202-4553;

or **fax** your request to: (202) 401-0828;

or **e-mail** your request to: FRPA@ed.gov;

or **call in** your request: (202) 260-4558 or 1-800-872-5327 (1-800-USA-LEARN). Those who use a telecommunications device for the deaf (TDD) or a teletypewriter (TTY), should call 1-877-576-7734.

A small number of copies are available from the Federal Real Property Assistance Program in FB-6, Room 2E117.

On request, this publication may be made available in alternate formats, such as Braille, large print or computer diskette. For more information, please contact the Department's Alternate Format Center (202) 260-0852 or (202) 260-0818.

Front cover photo is the Fitzsimons Army Garrison in Aurora, Colo., which serves as the location of the multi-billion dollar University of Colorado Health Sciences Center.

FEDERAL REAL PROPERTY ASSISTANCE PROGRAM

Marlin Independent School District relocated its administrative headquarters into this historic former federal building in Marlin, Texas.

Agencies and departments of the federal government may find that they own property that they no longer require. This may occur because of a change in their program requirements, a reduction in their operations or the relocation of programs to other sites. These properties are reported to the General Services Administration as excess. Military installations may also be determined excess but are disposed of under the *Base Realignment and Closure* acts (BRAC).

THE LAW

The *Federal Property and Administrative Services Act* of 1949 (P.L. 81-152), as amended, provides statutory authority for the disposal of excess real property to another executive agency having a need for the property, or, if there is no such need, for its disposal as surplus property in accordance with federal laws and regulations. This act gives to the secretary of education the authority to sell surplus federal real property to eligible applicants who have demonstrated a need for the property at a Public Benefit Allowance discount, which takes into consideration benefits that may accrue to the United States as a result of its use for educational purposes.

Most real properties acquired and developed by the United States for federal activities are covered by the above legislation. Some properties are exempt, such as public domain lands, forest reserves, national park properties, Indian lands, lands securing federal loans and property owned by the U.S. Postal Service or other agencies which by law require reimbursement for their use.

BRAC properties are also made available during disposal through the U.S. Department of Education and may be acquired for needed educational purposes. BRAC laws and regulations differ in some respects with regard to the disposal of property and additionally require that potentially interested parties also coordinate their plans with Local Redevelopment Authorities (LRAs) to assure that their proposed programs are consistent with master redevelopment plans that have been developed by communities for the future of the closed installations.

A former federal building in Richmond, Ky., was enlarged and remodeled to serve as one of the branches of the Madison County Public Library.

REAL PROPERTY

Real property may consist of land, land and buildings and other improvements, or buildings only, with or without related personal property. It may be a portion or all of a surplus government installation.

On-site real property refers to land and to buildings such as federal buildings, courthouses, reserve centers, hospitals, barracks or any of many other types of structures or improvements, which may be transferred with land for use in place. Structures and improvements may be demolished to provide for new construction or other land use.

Related personal property, which is located on and is an integral part of the real property or is essential to its productive operation, may be conveyed either with off-site improvements or with property for on-site use.

ELIGIBILITY

Real and related personal property may be acquired for educational use by states and their political subdivisions and instrumentalities, by tax-supported institutions, and by nonprofit institutions that have been held exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

Institutions that meet the organizational eligibility requirements of the law must also demonstrate a need for surplus federal real property for an eligible education program. To meet this requirement, and qualify for a Public Benefit Allowance in lieu of full cash payment of the purchase price of the property desired, the program must clearly establish that it is fundamentally educational under federal regulations. An applicant must demonstrate organizational and financial ability to acquire the property and carry out the proposed program within prescribed timeframes. The amount of property applied for must be limited to that which is necessary to and useful for the applicant's program immediately and the applicant must use all of the requested property. The property applied for must be for a purpose that the eligible organization is authorized to carry out and the title must be conveyed to the organization that will be delivering the proposed program.

Potentially eligible education programs, in addition to schools and college campuses, may include public libraries, vocational training and rehabilitation of mentally or physically handicapped facilities, alternative schools, school administration and maintenance facilities, athletic fields and similar education programs.

Former U.S. Honor Farm unimproved property in Panthersville, Ga., is the site of the DeKalb County Board of Education Oak View Elementary School.

ESTABLISHING REQUIREMENTS

The Department notifies known or potentially eligible institutions of the availability of surplus federal real property and affords eligible institutions an opportunity to make application for all or a portion of the property. The Department is given 30 days from the date of the surplus determination to advise the federal property disposal agency of a potential interest in the property for educational purposes and 60 days from that same date within which to approve applications and request assignment of such property for transfer. Information concerning a formal application can be obtained by contacting the Federal Real Property Assistance Program office, which will supply the proper guidelines and materials and assist with any questions. Applications must establish eligibility of the institution and its program, and must contain all required information and assurances requested in the guidelines.

Craig Head Start Center now operates from the former Craig Air Force Base in Selma, Ala., which was acquired by the Dallas Selma Community Action Agency.

In order to meet the Department's responsibilities under the *National Environmental Policy Act*, the applicant is also required to furnish information regarding the reasonable and probable impacts of the proposed education program upon the environment. The applicant may also have to demonstrate that it will comply with the provisions of the *National Historic Preservation Act*, the *Endangered Species Act* and other federal laws and regulations, as necessary.

This former Navy Training Center in Steubenville, Ohio, was acquired by the Jefferson County Board of Mental Retardation and Developmental Disabilities to serve as a training center for developmentally disabled persons.

CONDITIONS AND RESTRICTIONS

Transfers of federal surplus real property at Public Benefit Allowance discount are legally accomplished in the form of a sale in return for the contractual commitment of the applicant to deliver education programs and services upon the property rather than pay for acquisition through monetary consideration. All conveyances are made by deeds, which require that the property must be utilized solely and continuously for a period of 30 years from the date of the deed for the education programs set forth and approved in the application and for no other purposes. Other deed conditions also provide that titleholders may not sell, lease, mortgage, encumber or otherwise dispose of, or grant any right or interest in the property to other parties without the advance written consent of the U.S. Department of Education.

The Public Benefit Allowance discount varies from 40 to 100 percent, depending on the proposed program, but classroom facilities usually qualify for a 100 percent discount. Titleholders must agree to comply with nondiscrimination acts and must submit periodic reports on utilization of the acquired property. Property will not be approved for transfer unless it is needed at the time of application. The property must be placed into use within 12 months after conveyance or 36 months where major construction or renovation is contemplated. If applicable time limits are not met, or the property is not utilized at any period of time, the titleholder may be required to pay, for each such month of nonuse, the percentage of the current value of the property which otherwise would have been earned through educational use. Payments

will cease when the property is used for the approved educational purposes. Upon breach of any of these conditions, title to the property may revert to the United States.

Educational use restrictions on the property may be abrogated and released with the consent of the Department upon payment of the unearned Public Benefit Allowance discount that was granted prospectively at the time of conveyance based upon the current fair market value of the property at the time of request for release.

In all cases, the titleholder is required to pay all external administrative costs incidental to transfer, which may include, but not be limited to, survey, appraisal, legal, title search and closing fees.

The Department's regulations governing the program are found in Title 34, *Code of Federal Regulations*, Subtitle A, Part 12.

The Phoenix Center, a McDowell County Board of Education alternative education school, is located in a former Social Security Administration Building in Welch, W.V.

BRAC

The Department works closely with the military services in assisting eligible education organizations to acquire real property that is being disposed of at military installations designated for closure under BRAC regulations. BRAC regulations differ from conventional surplus federal real property disposal regulations in several respects. Most importantly, BRAC regulations provide Local Redevelopment Authorities (LRAs) authority to develop master plans that guide redevelopment efforts. The Department honors local redevelopment plans but must reach its own decisions on the acceptability of applications and requests for BRAC properties in accordance with criteria established in Department regulations that govern acquisition of real property for educational purposes under Public Benefit laws. It is usually advisable for LRAs and education organizations interested in acquiring BRAC property to maintain close contact and coordinate their respective interests with the Department to assure that the proposed redevelopment is consistent with the regulations of all governing authorities.

This former Social Security Administration Building was acquired by the Project of Easton, Inc. to operate a dedicated literacy center in downtown Easton, Pa.

DETAILED ADVICE FOR ACQUIRING SURPLUS FEDERAL REAL PROPERTY

Interested parties may contact the Federal Real Property Assistance Program at the U.S. Department of Education.

U.S. Department of Education
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400 Maryland Ave., S.W., Rm. 2E117
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