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January 23, 1964

ACQUISITION OF REAL PROPERTY EXCEPT LEASEHOLD INTERESTS



A GSA HANDBOOK

GENERAL SERVICES ADMINISTRATION
WASHINGTON, D. C.

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ACQUISITION OF REAL PROPERTY - EXCEPT LEASEHOLD INTERESTS

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Figure 1-6. Net Postal Space on First Floor--Square Feet

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CHAPTER 1. GENERAL

1. PURPOSE. This handbook prescribes the instructions and procedures for the program activities of the General Services Administration for the acquisition of land and interests therein, except leaseholds, pursuant to the provisions of the Public Buildings Act of 1959 (40 U.S.C. 601-615) and certain other acts authorizing acquisition of lands for other Federal agencies.
2. APPLICABILITY. The instructions and procedures in this handbook apply to all organizational elements of GSA in the Central Office and regional offices concerned with the acquisition of land and interests therein, except leaseholds, within the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.
3. AUTHORITY. The authority of GSA to acquire interests in real property is vested in the Administrator. This authority, to a large extent, has been delegated to the Commissioner, Public Buildings Service, and is exercised by the Regional Administrator when directed by the Commissioner, FBS. All authority exercised in connection with the instructions and procedures prescribed in this handbook shall be in accordance with the authority delegated to the Assistant Commissioner for Space Management, or to the Regional Administrators, or successively redelegated to other officials, and shall be subject to such administrative limitations and directives as are in effect on the date of the exercise of such authority.
4. POLICY: BUILDING SITES. It is the policy of the General Services Administration to:
 - a. Locate a proposed Federal building on a site which will contribute to economy and efficiency in the construction, maintenance and operation of the building in the management of the Government's total space needs in the community, and in the conduct of the Federal business for which the building is planned. Generally, a site in the central business district offers the greatest potential in meeting all of these requirements.
 - b. Utilize property already owned by the Government if it is adequate and economically adaptable to the requirements of the activities to be housed in the proposed building and properly located.
 - c. Locate on a site adjacent to or in the proximity of an existing Federal building if such building is well located and is to be retained for long-term occupancy.

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- d. Consider a location in established civic or redevelopment centers, which offer suitable sites, provided such centers are well planned, financed and development initiated and assured.
5. PLANNING AND ACQUISITION. The following determinations are necessary:
 - a. Size and characteristics of site.
 - b. Area in which site should be located.
 - c. Probable cost.
 - d. Method of acquisition.
6. SITE SIZE AND CHARACTERISTICS. Considerations essential in selecting a specific site or in the evaluation of prospective sites within a general area are:
 - a. Required ground area of the building as determined by first floor or single floor requirements. For general-purpose building a factor of 65% gross to net area may be used to calculate ground area from first floor net area. Graph figure 1-6 shall be used for Post Offices.
 - b. Local construction and zoning ordinances and regulations dealing with building heights and setbacks, from property lines and for upper floors, provided that compliance therewith would not impose an undue economic burden on the Government.
 - c. General seismic or foundation conditions which may influence building height.
 - d. Motor vehicle requirements for parking, maneuvering, and inspections and for motor pool operations.
 - e. Possibility of future expansion of building by construction extensions.
7. LOCATION.
 - a. The factors to be considered in establishing general location are:
 - (1) Convenience to the public.
 - (2) Convenience to and suitability of environs for employees.

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(3) Special requirements of occupying agencies such as Post Office Department and Courts.

(4) Conformity with established municipal planning.

(5) Growth trends.

(6) Prevention of uneconomic use of flood plains.

b. Additional factors to be considered in selecting a specific site are:

(1) Using an existing Government-owned site and acquiring contiguous area as necessary.

(2) Subsurface and topographic conditions, availability of utilities, easy access, and parking.

8. ACQUISITION POLICY. Whenever possible, title to real property will be acquired by voluntary conveyance in accordance with the procedures set forth in this handbook, at a price compatible with the fair market value. Owners or persons occupying real property under arrangement with owners will not be required to relinquish possession without their consent until actual payment has been made to the parties in interest pursuant to a purchase contract, or a Declaration of Taking has been filed in conjunction with a condemnation proceeding and the Government's estimate of just compensation deposited in the registry of the court.

9. INITIATION OF ACQUISITION ACTION.

a. Action for the acquisition of real property originates in Central Office with the issuance of an appropriate directive signed by the Administrator, or FBS official to whom such authority has been delegated, and is transmitted to the responsible regional office. The directive sets forth the site requirements and specifications including, when appropriate, delineation of the area within which a site would be acceptable, whether public advertising will be used for site acquisition, and other pertinent data.

b. Regional offices shall forward promptly to the Office of Space Management information regarding any request by a Federal agency for the acquisition of real property, where the request is made directly to the regional office, and is received in advance of an appropriate directive from the Central Office.

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GENERAL SERVICES ADMINISTRATION - PUBLIC BUILDINGS SERVICE
OFFICE OF ASSISTANT COMMISSIONER FOR CONSTRUCTION
ESTIMATES DIVISION

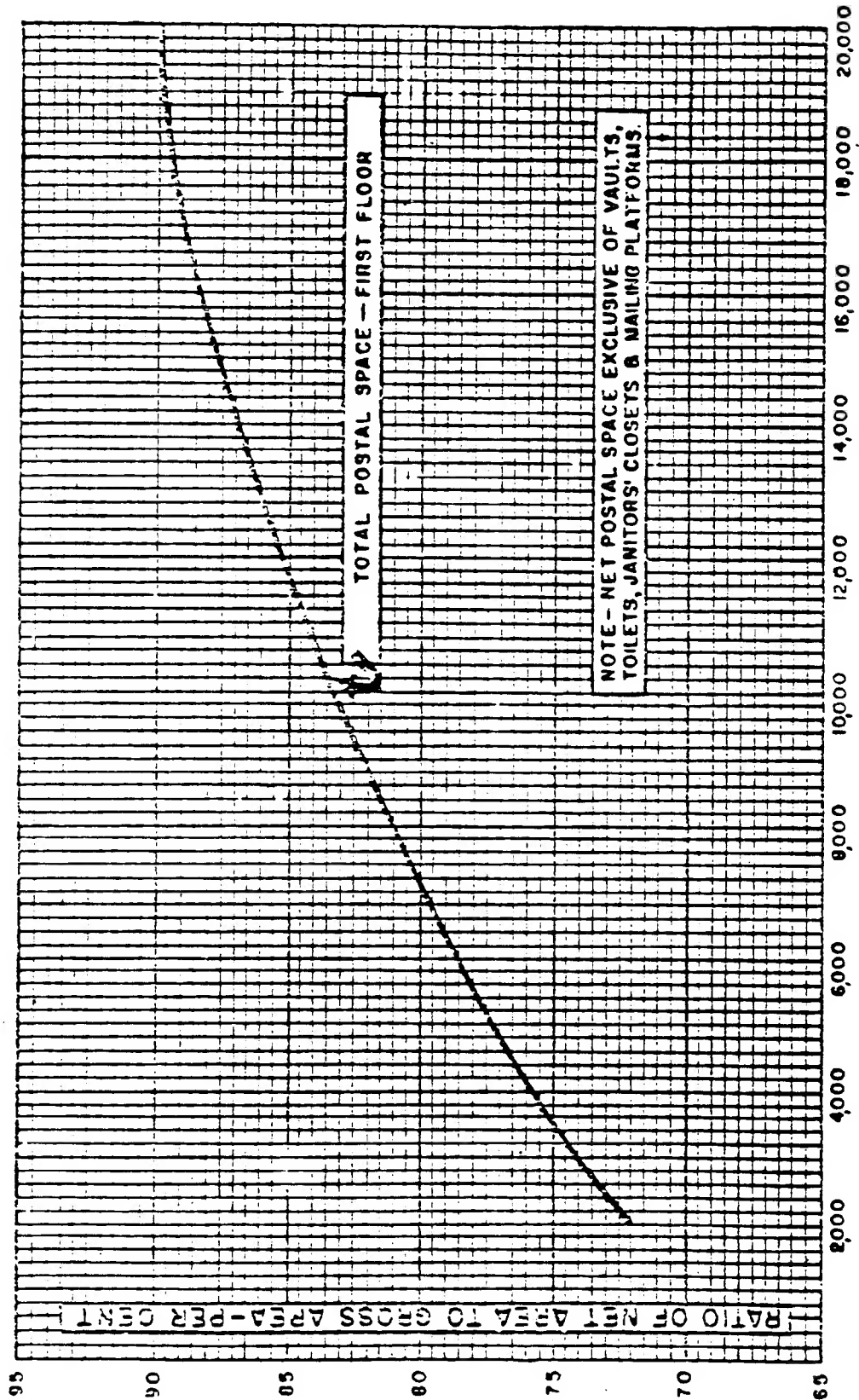


Figure 1-6. Net Postal Space on First Floor--Square Feet

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c. The Regional Administrator may acquire, without Central Office approval, interests in real property by easements, rights-of-way or revocable permit for access roads, utility lines, drainage ditches and similar purposes where the fair market value of the interest to be acquired does not exceed \$2,500, provided funds are available in the region for such acquisitions.

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CHAPTER 2. PUBLIC ADVERTISING FOR, AND SELECTION OF, SITES

PART 1. ADVERTISING

SECTION 1 GENERAL

1. PUBLIC ADVERTISING FOR SITES.

a. Section 5 of the Public Buildings Act of 1959 authorizes the Administrator of General Services to acquire such lands or interests in lands as he deems necessary for use as sites, or additions to sites (hereinafter referred to as sites), for public buildings authorized to be constructed or altered under the Act. It is further provided that whenever the Administrator is to acquire a site under section 5, he may, if he deems it necessary, solicit by public advertisement, proposals for the sale, donation, or exchange of real property to the United States to be used as such site. In addition, the Administrator is authorized to select such site as in his estimation is the most advantageous to the United States, all factors considered, and to acquire such site without regard to Title III of the Federal Property and Administrative Services Act of 1949, as amended.

b. The foregoing provisions of section 5 of the Public Buildings Act of 1959 also apply to the acquisition of such land as may be necessary to carry out the alteration of any public building authorized under section 4 of the Act.

c. The aforementioned provisions of section 5, of the Public Buildings Act of 1959, however, do not apply to the acquisition of any building and its site under section 3 of the Act, and such acquisitions have not been excepted from the provisions of Title III of the Federal Property and Administrative Services Act of 1949, as amended. *per title*

d. In those acquisitions under section 4 and 5 of the Public Buildings Act of 1959 where the Site Acquisition Directive from Central Office specifies the use of public advertising to solicit site proposals (GSA Form 1226, Contract to Sell Real Property), the purpose of such advertising is to canvass the geographic area in which a site is to be selected and to establish the identity of available sites. The site proposals received in response to such public advertising, as in the case of site data and proposals received in response to public notice of the intent of GSA to conduct a site investigation, are not to be considered as competitive bids. The Administrator is authorized to select such sites as in his estimation are the most advantageous to the United States. If the building is to be used in whole or in part for post office purposes, the concurrence of the Postmaster General on the selection of the site is required.

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2. GENERAL.

a. Regional offices shall be responsible for the preparation and release of public notices and advertisements relating to the acquisition of real property.

b. Duplicate copies of public notices and/or advertisements, including publication schedules when applicable, shall be promptly submitted to the Office of Space Management.

3. SITE INVESTIGATION DIRECTIVE AND SCHEDULING.

a. After it has been determined that action will be initiated for the acquisition of real property, the office of Commissioner, FBS will inform the appropriate regional office by memorandum of the following, as applicable, and other pertinent data required for the preparation of public notice and/or advertisements soliciting proposals to sell real property to the United States.

- (1) Nature of proposed acquisition and purpose therefor;
- (2) Method of acquisition (alternatives of purchase, exchange, or donation);
- (3) Site requirements and specifications;
- (4) If applicable, the delineated area within which a site would be acceptable; and
- (5) The scheduled date for site selection.

b. Immediately after receipt of the site investigation directive, the regional office shall schedule the investigation of the site and submission of the site investigation report to the Central Office on GSA Form 1829, Schedule and Performance - Site Selection, and submit a current reproduced copy of this form to the Site Acquisition Division at the end of each month.

c. The site investigation report will be prepared and forwarded so as to arrive in the Central Office at least two weeks prior to the scheduled date for site selection.

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4. PREPARATION OF PUBLIC NOTICES.

- a. Upon receipt of the date referred to in 3a, above, and allotment of funds, the regional office will issue public notice and/or advertisements for site offers advising that it is the intent of the GSA to conduct a survey of possible sites, and thereafter to select and acquire a site for a specific purpose in the city named in the site acquisition directive. Consistent therewith, notice of this intent should be given through appropriate advertising media which may include but is not limited to, notice posted in public buildings, gratuitous announcements in real estate publications, statements by public officials, and paid advertising. The notice will contain pertinent site specification data, including the delineation of a preferred site area, when appropriate, and the date or dates on which representatives of the GSA will conduct the investigation. The notice should also state that anyone desiring to offer or donate a site should submit detailed site data or, when offers are solicited, an executed GSA Form 1226, Contract to Sell Real Property, to the appropriate regional office prior to the date on which the site investigation is to be conducted.
- b. The notice will also indicate where information pertaining to site requirements and offer forms may be obtained in the event an owner wishes to offer property and should provide for the receipt of offers by the site investigation team at the time the site investigation is made.
- c. In cases involving a site to be acquired in a city other than that of the regional office, the Area Manager, Buildings Management Division, is to receive a copy of the notice and/or advertisements soliciting site offers. He is to be furnished with a supply of contract forms sufficient for local inquiry, and he is to be promptly advised of amendments and/or postponements in the dates of the site investigation.

5. ADVERTISING IN NEWSPAPERS. Advertising of the notice of intent to conduct an investigation shall be placed with two newspapers having the largest circulation in the city concerned, preferably one morning and one evening paper. In the event two daily newspapers are not published in the city in which a site is to be selected, the required advertisement of notice shall be placed in such paper as may be published, either on a weekly or daily basis. The advertising schedule shall be for two weeks and provide for publication once in each paper one week apart, or twice in the same paper with a one week interval if there is only one paper. The size of the advertisement or notice shall be sufficient to properly attract attention and give appropriate display, but extravagance is to be avoided. Except when otherwise directed, the advertisement or notice shall not be larger than two columns by four inches. Figure 2-5 is a sample. All advertising shall include a solicitation

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for the donation of a site. Also, where there is Government-owned surplus real property in the community or where the existing Federal building will become surplus when the new building is constructed, the advertising shall include a statement that the Government will consider exchanging the specified property for a suitable site; such an exchange to be based on the appraised fair market value of the respective properties. Where the size of the project, its location, and/or the schedule for program execution do not justify, or allow advertising over a two-week period of time, advertising may be reduced in respect to time and modified in respect to method by the Regional Administrator to the extent considered appropriate under the circumstances.

6. POSTING IN FEDERAL BUILDING. Copies of the advertising or public notice shall be displayed in Federal buildings in the city where the building is to be located and in the regional office Business Service Center.
7. EXTRA COPIES REQUIRED. At the time the advertisement or public notice is placed with the newspapers, or other advertising media, the regional office shall arrange for the number of "tear sheets" required for direct mail to realtors and owners of prospective sites. A copy of the advertisement or public notice with the schedule of insertion dates for each publication used shall be transmitted to the Office of Space Management immediately after the first publication.

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Region 9
49 Fourth Street
San Francisco, California 94103

ADVERTISEMENT FOR FEDERAL BUILDING SITE

Public notice is given that General Services Administration will conduct an investigation of possible sites for a Post Office and Courthouse Building in Carson City, Nevada. Representatives of General Services Administration will be in Carson City on September 5 and 6, 1963, for purposes of the site investigation and can be contacted on these dates through the Postmaster, Carson City.

A site of approximately 60,000 square feet with a minimum width of 200 feet will be required, located within the city limits of Carson City. Owners of parcels aggregating less than the size specified, but to which adjoining parcels may be added to produce a site of required size, are encouraged to offer such parcels for inspection. Sites which may be donated to the Federal Government are solicited as well as sites which are available for sale.

[The General Services Administration will consider a proposal to exchange (location and description of Government-owned property) for a suitable site. An exchange will be based on the appraised fair market value of the properties to be exchanged.]

Owners or agents desiring to submit sites for consideration should submit site data to (Insert name and address of appropriate Government official). Forms for submitting offers may be obtained from (Insert name and address of appropriate Government official) upon request. Offers submitted on other than these forms are acceptable.

This advertisement is not a basis for negotiation, and notice is hereby given that sites other than those offered in response to this advertisement will be considered.

Figure 2-5. Advertisement for Federal Building Site

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SECTION 2. AMENDMENTS TO PUBLICATIONS

8. USE OF AMENDMENTS. As soon as possible after it has been determined necessary to change a public notice whether for changes in specifications or otherwise, an amendment in writing shall be sent by direct mail to all recipients of the original notice and in the case of public advertising, such changes shall be given the same public notice as the original announcement.
9. POSTPONEMENT OF OPENING DATE.
 - a. When it is determined to be in the best interest of the Government, the date or dates on which the site investigation will be made may be postponed by issuing and distributing to all recipients of the original notice (including the public, where public advertising is used) an amendment or addendum to the public notice which will state the new date or dates on which the site investigation will be made. Notice of postponement shall be issued by mail or telegraph as early as possible but, in any event, prior to the dates set for the site investigation. Postponement shall be given the same public notice as the original announcement. The following are typical circumstances justifying postponement of a site investigation:
 - (1) When the Regional Administrator has reason to believe that the offers of an important segment of prospective proponents have been delayed in the mail due to causes beyond the control, and without fault or negligence, of the proponents concerned.
 - (2) When the public notice is amended as provided in paragraph 2, above, and there is inadequate time for prospective proponents to receive the amendment and change their offers.
10. REQUESTS FOR INFORMATION. If any request is received from a prospective proponent for clarification of the original public notice, the clarifying information should be given immediately and if such information is necessary to all proponents in submitting offers or if lack of such information would be prejudicial to uninformed proponents, the information shall be issued and distributed to all prospective proponents. This may require readvertising to clarify the original public notice.
11. FORM AND CONTENTS OF AMENDMENTS. Amendments to a public notice normally shall be in letter form except that if circumstances justify, telegrams may be used. Amendments shall be dated and numbered serially as issued (No. 1 for the first amendment, No. 2 for the second, etc.). They shall refer to the number, date of issue, and final date for

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receipt of proposals specified in the original notice, and clearly indicate the nature of the changes. All amendments shall contain a statement requesting proponents to acknowledge receipt thereof by signing and returning a copy of the amendment.

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SECTION 3. OFFERS TO SELL REAL PROPERTY

12. REQUIREMENTS. The basic requirements for the submission of offers to sell real property in response to the issuance of an advertisement or public notice soliciting offers to sell real property are set out in the following paragraphs of this section.
13. FORM PRESCRIBED.
 - a. GSA Form 1226, Contract to Sell Real Property, is prescribed for use in soliciting offers. The regional office shall make appropriate arrangements for the distribution of this form. Offers not submitted on GSA Form 1226 are acceptable, if all data required by GSA Form 1226 are supplied. The failure by a property owner to submit an offer on GSA Form 1226 or to properly complete such form, or other written offer, shall not preclude inspection and consideration of the offered site during the site investigation.
 - b. Offers submitted by the regional offices to the Site Acquisition Division, Office of Space Management, PBS, as a part of the Site Investigation Report shall be accompanied by a plat or sketch showing the dimensions of the land offered, the location and character of the improvements on the land and the names and correct widths of the abutting public streets, sidewalks, and alleys.
14. OFFER CUSTODIAN. The Chief of the Acquisition Branch, Space Management, Division, will perform the functions incident to the receipt, opening, recording and custody of offers received in response to the issuance of a public notice of an intent to conduct a site investigation.
15. PROCEDURE ON RECEIPT OF OFFERS.
 - a. All offers shall be stamped upon receipt to indicate the place, time, and date of receipt, and shall be delivered promptly to the offer custodian. The offer custodian shall maintain a record of all offers received which shall include the name of the proponent, the date of receipt of the offer, the property offered, and any other pertinent data.
 - b. After the offer has been delivered to the offer custodian, and the delivery has been properly recorded by him, the offer shall be examined to determine whether it is responsive to the public notice, and whether there has been substantial compliance with the basic requirements for submission of offers. If examination of an offer develops the fact that there has not been substantial compliance, and it appears that

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the offer is one that is potentially acceptable in respect to size, and location, it shall be returned to the proponent for amendment. All offers submitted will be carefully analyzed and an inspection of the offered sites may be made as soon as practicable, or at the time the site investigation is made.

c. Information submitted in connection with any and all offers shall be considered confidential and shall not be disclosed to other than authorized Government employees. All proponents shall be advised, upon receipt of their offer that a decision as to acceptance will be made as soon as possible.

16. ELIGIBILITY OF LATE OFFERS. The purpose of establishing a cutoff date for the receipt of offers is to encourage prospective proponents to submit their proposals without undue delay. Since formal advertising procedure is not being used to acquire the site and the Administrator will select such site which in his estimation is the most advantageous to the United States, all factors considered, offers received after the cutoff date shall be considered together with the offers received prior to such date.

17. SYNOPSIS OF OFFERS.

a. The regional office shall prepare a synopsis of all offers received. The synopsis shall set forth the following information:

- (1) Name of proponent, and statement whether agent or owner.
- (2) Location, dimensions and brief description of property offered.
- (3) Asking price.
- (4) Any other data deemed pertinent.

b. Offers on contiguous parcels which when considered collectively constitute an eligible site, shall be tabulated in sequence, with a subtotal shown in the price column for the total of the offered price for each parcel.

c. Two copies of the synopsis will be transmitted to the Office of Space Management. A copy is to be retained in the files of the regional office.

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d. Where the site is to be used in part for a Post Office facility, a copy of the synopsis shall be sent to the appropriate regional office of the Post Office Department.

18. SOLICITATION OF BIDS BY FORMAL ADVERTISING. In all cases when acquisitions of lands or interests in lands are subject to the provisions of title III of the Federal Property and Administrative Services Act of 1949, as amended, and a particular case does not fall within any of the exceptions authorizing acquisition by negotiation, offers to sell shall be solicited by formal advertising.

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PART 2. SITE SELECTION

SECTION 1. SITE INSPECTION

19. CRITERIA FOR SITE SELECTION. The selection of a site shall be made in accordance with policies stated in chap. 1, above.
20. INSPECTION BY GSA REPRESENTATIVES (SITE INSPECTION TEAM).
 - a. After the offers to sell have been analyzed, an inspection of each site covered by an offer shall be made by a site inspection team from the regional office consisting of representatives of the Design and Construction and the Space Management Divisions. The minimum site inspection team should be composed of an engineer, an appraiser, and a realty officer. Other sites deemed to be acceptable and suitable but which have not been offered shall be inspected also.
 - b. When sites are offered by individuals, planning bodies, or civic groups prior to initiation of, or during the course of the site investigation, and the offerings are not submitted on GSA Form 1226, Contract to Sell Real Property, such sites shall be considered together with all other offered sites.
21. JOINT INSPECTION - POST OFFICE DEPARTMENT. The Post Office Department has delegated to its Regional Directors authority to participate in investigations and concur in reports and recommendations on sites involving the construction of buildings to be utilized jointly by the Post Office Department and other agencies. Accordingly, when such projects are involved, arrangements shall be made with the appropriate Regional Director of the Post Office Department for a joint inspection with a representative of that Department as prescribed in instructions hereinafter referred to.
21. 1. SITES IN FLOOD PLAINS. The Regional Administrator shall consider flood hazards when planning the location of new Federal buildings in order to minimize the exposure of such buildings to potential flood damage and the need for future Federal expenditures for flood

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protection and flood disaster relief. (See Executive Order No. 11296, dated August 10, 1966, copy of which is included as figure 2-21.1.) Precautionary measures shall be taken to select sites which not only meet the required criteria as to size, accessibility, special requirements of the occupying agencies, etc., but lessen the risk of flood losses in the use of the land and operation and maintenance of the proposed building, as set forth below:

a. Data. Prior to the site investigation, the Regional Administrator shall determine whether or not the area in which the site is to be selected is in a flood plain and in appropriate cases shall endeavor to either delineate an area outside the plain or where the flood losses would be minimal. Requests for flood hazard information shall be addressed to the District Engineer, Corps of Engineers, Department of the Army, in the region involved or, in the case of lands lying in the basin of the Tennessee River, to the Tennessee Valley Authority, Division of Water Control Planning, Knoxville, Tennessee 37902. The requested data shall include, but not be limited to, a plat showing the flood plain in relation to the community in which the building is to be constructed, past and probable flood heights, existing and proposed plans of the Federal Government for flood protection in the particular area, the availability of funds to accomplish the objective and the estimated date on which the flood protection measures will be undertaken. If additional information is required, GSA representatives should confer with the applicable District Engineer or TVA.

b. Evaluation. If it is determined that the general area in which the site is to be selected is of necessity in a flood plain, the flood hazard shall be considered as a major factor governing the suitability of the site for construction of the building. Sites which are otherwise suitable but have a flood damage potential even with a flood protection structure and could result in uneconomic use of the property by the Federal Government shall be eliminated from further consideration as far as practical. The results of the evaluation shall be reflected in the site investigation report.

c. Identification. During the inspection of sites, the inspection team shall identify each site inspected in relation to its location

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within a flood plain and shall include such information in the inspection report. The reasons why it would not be feasible to locate the building outside the flood plain shall also be included in the report.

d. Recommended Sites. Where it is impractical to locate the building outside a flood plain, the inspection report shall include an evaluation and analysis of the flood damage potential and extent of flood losses, if any, that are to be expected if the recommended site or the alternate second and third choice sites were selected, including an estimate of the additional construction costs in providing a flood protected structure at these locations. A negative report shall be included in the site inspection report if any or all of the three most suitable sites are outside a flood plain.

22. COORDINATION WITH LOCAL OFFICIALS.

a. There should be no significant conflict between the site recommended by the Regional Administrator and the development plans of local government agencies. Information should be obtained by contacting the planning director, or other officials of the local government having responsibility for city planning functions, as to the existence of master plans and any other definitive planning for streets, parking, traffic control, civic centers, renewal and development projects, and public building locations.

b. In the event there is a planned or active urban renewal project in the community, officials of the local redevelopment authority should also be contacted in order to determine the status of such project and the availability of a potential site within the area whose characteristics can be evaluated in relation to other sites and existing PBS criteria.

c. The site investigation report will include specific comments and discussion concerning the redevelopment plan and the willingness of the local redevelopment authority to amend the plan to accommodate the Government's proposed project. A copy of the Urban Renewal Plan should be included if available.

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23. FORMS PRESCRIBED.

a. GSA Form 1433, Specifications for GSA Site Investigation Report, and GSA Form 1239, Recommended Sites-Characteristics, are prescribed for use in inspecting and reporting on the inspection of sites. As a minimum requirement, the items set forth in the site investigation report specifications and the site investigation instructions in this HB shall be accomplished.

b. GSA Form 1239, Recommended Sites-Characteristics, shall be completed showing required data concerning the recommended sites. A narrative explanation of any additional costs to the Government resulting from the utilization of a particular site, as set forth on the GSA Form 1239, shall supplement that form and be included in the site investigation report.

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Presidential Documents

Title 3—THE PRESIDENT

Executive Order 11296

EVALUATION OF FLOOD HAZARD IN LOCATING FEDERALLY OWNED OR FINANCED BUILDINGS, ROADS, AND OTHER FACILITIES, AND IN DISPOSING OF FEDERAL LANDS AND PROPERTIES

WHEREAS uneconomic uses of the Nation's flood plains are occurring and potential flood losses are increasing despite substantial efforts to control floods; and

WHEREAS national and regional studies of areas and property subject to flooding indicate a further increase in flood damage potential and flood losses, even with continuing investment in flood protection structures; and

WHEREAS the Federal Government has extensive and continuing programs for the construction of buildings, roads, and other facilities and annually disposes of thousands of acres of Federal lands in flood hazard areas, all of which activities significantly influence patterns of commercial, residential, and industrial development; and

WHEREAS the availability of Federal loans and mortgage insurance and land use planning programs are determining factors in the utilization of lands:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION 1. The heads of the executive agencies shall provide leadership in encouraging a broad and unified effort to prevent uneconomic uses and development of the Nation's flood plains and, in particular, to lessen the risk of flood losses in connection with Federal lands and installations and federally financed or supported improvements. Specifically:

(1) All executive agencies directly responsible for the construction of Federal buildings, structures, roads, or other facilities shall evaluate flood hazards when planning the location of new facilities and, as far as practicable, shall preclude the uneconomic, hazardous, or unnecessary use of flood plains in connection with such facilities. With respect to existing Federally owned properties which have suffered flood damage or which may be subject thereto, the responsible agency head shall require conspicuous delineation of past and probable flood heights so as to assist in creating public awareness of and knowledge about flood hazards. Whenever practical and economically feasible, flood proofing measures shall be applied to existing facilities in order to reduce flood damage potential.

(2) All executive agencies responsible for the administration of Federal grant, loan, or mortgage insurance programs involving the construction of buildings, structures, roads, or other facilities shall evaluate flood hazards in connection with such facilities and, in order to minimize the exposure of facilities to potential flood damage and the need for future Federal expenditures for flood protection and flood disaster relief, shall, as far as practicable, preclude the uneconomic, hazardous, or unnecessary use of flood plains in such connection.

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Figure 7-21. 1. Executive Order 11296
(Part 1 of 2)

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THE PRESIDENT

(3) All executive agencies responsible for the disposal of Federal lands or properties shall evaluate flood hazards in connection with lands or properties proposed for disposal to non-Federal public instrumentalities or private interests and, as may be desirable in order to minimize future Federal expenditures for flood protection and flood disaster relief and as far as practicable, shall attach appropriate restrictions with respect to uses of the lands or properties by the purchaser and his successors and may withhold such lands or properties from disposal. In carrying out this paragraph, each executive agency may make appropriate allowance for any estimated loss in sales price resulting from the incorporation of use restrictions in the disposal documents.

(4) All executive agencies responsible for programs which entail land use planning shall take flood hazards into account when evaluating plans and shall encourage land use appropriate to the degree of hazard involved.

Sec. 2. As may be permitted by law, the head of each executive agency shall issue appropriate rules and regulations to govern the carrying out of the provisions of Section 1 of this order by his agency.

Sec. 3. Requests for flood hazard information may be addressed to the Secretary of the Army or, in the case of lands lying in the basin of the Tennessee River, to the Tennessee Valley Authority. The Secretary of the Tennessee Valley Authority shall provide such information as may be available, including requested guidance on flood proofing. The Department of Agriculture, Department of the Interior, Department of Commerce, Department of Housing and Urban Development, and Office of Emergency Planning, and any other executive agency which may have information and data relating to floods shall cooperate with the Secretary of the Army in providing such information and in developing procedures to process information requests.

Sec. 4. Any requests for appropriations for Federal construction of new buildings, structures, roads, or other facilities transmitted to the Bureau of the Budget by an executive agency shall be accompanied by a statement by the head of the agency on the findings of his agency's evaluation and consideration of flood hazards in the development of such requests.

Sec. 5. As used in this order, the term "executive agency" includes any department, establishment, corporation, or other organizational entity of the executive branch of the Government.

Sec. 6. The executive agencies shall proceed immediately to develop such procedures, regulations, and information as are provided for in, or may be necessary to carry out, the provisions of Sections 1, 2, and 3 of this order. In other respects this order shall take effect on January 1, 1967.

LYNDON B. JOHNSON

THE WHITE HOUSE,
August 10, 1966.

[F.R. Doc. 66-8638, Filed, Aug. 10, 1966; 12:14 p.m.]

FEDERAL REGISTER, VOL. 31, NO. 155—THURSDAY, AUGUST 11, 1966

Figure 2-21.1. Executive Order 11296
(Part 2 of 2)

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SECTION 2. CLASSIFICATION OF ELIGIBLE SITES

24. SITE EVALUATION.

- a. In the evaluation of prospective sites the material referred to in paragraph 23, above, shall be used for guidance. In addition to this guidance, special consideration should be given to both the cost of bringing utilities to the sites inspected, as well as rate schedules for each site. When these costs or rate schedules differ between the sites recommended, they should be thoroughly discussed, showing differences in immediate and long range costs.
- b. Upon completion of the site inspection, the regional office shall evaluate the sites inspected to determine the three which appear to be most advantageous to the Government, price and other factors considered, and indicate the order of preference.
- c. When the sites recommended or the order of preference are other than the three sites offered at the lowest prices, the file shall reflect complete explanation of all the factors other than price which have led to the recommendation.
- d. In determining the offer to sell, acceptance of which would be most advantageous to the Government, all factors considered, the offered price must be weighed to reflect any additional costs to the Government resulting from utilization of a particular site. These additional costs may be in the cost of clearing the site of buildings, removing excess earth or stone, constructing pile foundations, water and sewerage, and additional administrative expense resulting from operating at a remote or inconvenient location, etc. Estimates of these costs shall be made at the time the properties are inspected and included in the report.

25. REVIEW OF ACCEPTABLE OFFERS. In all instances, the offers to sell covering sites determined to be acceptable shall be reviewed and approved in writing by the Regional Counsel for legal sufficiency. Amendment of such offers by the proponent shall be allowed as necessary to correct irregularities.

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SECTION 3. RECOMMENDATIONS

26. GENERAL. When the site investigation has been completed and the report has been prepared in accordance with GSA Form 1433, Specifications for GSA Site Investigation Report, the original and one copy of the report containing the recommendations of the Regional Administrator shall be transmitted to the Commissioner, PBS.
- a. The Regional Administrator shall recommend the selection of that site which in his estimation is the most advantageous to the United States, all factors considered. Alternate second and third choice sites will be recommended.
- b. The Regional Director of the Post Office Department shall be requested to review the site investigation report and the recommendations of the regional office and shall be asked to concur in the recommendations which have been made in case of sites for buildings to be utilized jointly by Post Office Department and other agencies. (See also par. 21, above.) The Regional Director of the Post Office Department shall be requested to forward his recommendations to his Central Office.
27. SITE SELECTION BY THE REGIONAL ADMINISTRATOR. In those cases where the Regional Administrator has been delegated authority to select a site, one copy of the site investigation report, including the recommendations of the Regional Director, PBS, and the official documentation of the site selection executed by the Regional Administrator shall be forwarded to the Commissioner, PBS, as soon as the site has been selected by the Regional Administrator and concurred in by the Post Office Department when postal facilities are involved.
28. TRANSMITTAL OF OFFERS FROM GOVERNMENTAL BODIES TO CENTRAL OFFICE. Copies of all offers to sell, donate, exchange or otherwise provide a site for the proposed building which are received from state or local governmental bodies shall be transmitted to the Central Office with the site investigation reports. All such offers shall be reviewed by the Regional Counsel for legal sufficiency, prior to transmittal to the Central Office with the site investigation report.
29. REVIEW IN PBS. The site investigation report and recommendation of the Regional Administrator shall be reviewed and analyzed by the Office of Space Management, PBS.

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30. RECOMMENDATION FOR SELECTION OF SITE. Upon completion of the analysis of the recommendations of the regional office, including a review of all material contained in the site investigation report, a memorandum shall be prepared by the Office of Space Management, recommending the selection of the site. The Office of Space Management shall obtain the appropriate clearance and approval.
31. SELECTION OF SITE.
 - a. The function of site investigation teams is fact finding and advisory only, and no disclosure of their findings or regional recommendations concerning site selection shall be made. Unless authority has been specifically delegated to the Regional Administrator to select the site, as provided for in par. 27, above, the Commissioner, Public Buildings Service, or the Administrator of General Services, as appropriate, after considering the findings and recommendations of the regional office, will make the final determination in the matter of selection of a site.
 - b. Where the Regional Administrator has authority to select the site and when the necessary funds are authorized, the region will notify the Assistant Administrator by wire of the site selection 48 hours prior to initiating acquisition of the property or making any public disclosure of the site selected.
32. PRESS RELEASE. The release of information to the public through the press or other media and to other interested persons is a part of the functions of the Office of Information. Necessary data will be supplied by the Office of Space Management. In order that the regional office will be informed of the press release and its contents, the Office of Information will send the region a telegram informing it of the contents of the release so that the regions may answer questions with respect to the proposed acquisition without waiting for receipt of a site acquisition directive from the Central Office. (See GSA Administrative Manual (DOA 5410.1), chap. 6.)
33. NOTIFICATION OF UNSUCCESSFUL PROPONENTS. Upon selection of a site, the regional office shall reject all offers received from proponents offering sites other than the one selected.
34. ACCEPTANCE OF OFFERS. Acceptance of offers shall be in accordance with authority contained in chapter 4-14, and procedures prescribed in chapter 3-21 thru 30, below.

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b. The costs and risk of litigation inherent in proceeding to trial. The costs of proceeding to trial include, but are not limited to: Salaries and travel costs of Government personnel participating in pre-trial proceedings, the actual trial, witness fees. Litigation risks involved in proceeding to trial are the possibility of an award in excess of the appraised fair market value and the best offer which has been negotiated, taking into consideration probable testimony by appraisers on behalf of the Government and landowners, and the past history of condemnation awards in the Federal court jurisdiction in which the lands are located, and condemnation awards which have been made in the case of other parcels in the particular project for the property being acquired; and the amount of interest on a deficiency judgment which would result from the anticipated award.

c. The value of improvements to be retained and removed by the owner, net demolition costs to the Government in the absence of removal by the owner, and the value of any rent-free occupancy included as a part of the offer, and any other factors considered appropriate. In order to avoid creation of negotiation patterns and in consideration of the fact that counteroffers, if accepted, must be justified as being just and reasonable, discussions with property owners should be conducted without disclosing either the estimated fair market value of the property or the extent to which authority has been delegated to the Regional Administrator to accept offers executed by the property owner(s). Furthermore, negotiations may extend beyond consideration of price alone and may include, but are not limited to, the right to remove improvements and continued occupancy until the property is needed for Government use.

d. A final counteroffer in the amount of 110 per cent of the appraised fair market value should be made to the owner prior to recommending condemnation.

15. NEGOTIATIONS REPORT. A written record of negotiations with respect to each parcel or ownership will be maintained using a letter form as in figure 3-15. This record will state the chronological history of negotiations, the factors considered in evaluating the landowner's final offer, the recommendation for acceptance or rejection of this offer and justification therefor.
16. TIME ELEMENT IN NEGOTIATION. In order to meet program requirements, the acquisition of the property comprising a site which has been selected must be completed as expeditiously as possible. While it is necessary that the property owner(s) be given a reasonable time within which to execute a contract to sell his property, as a general rule, two personal negotiation contacts should produce an executed contract to sell which is acceptable as to price and other factors or, in the alternative, sufficient information on which to base a recommendation that condemnation action should be instituted. Every effort should be made to prevent the negotiations from continuing over an extended period of time and to this end negotiation contacts shall be scheduled

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so as to provide for completion of this phase of acquisition action within the shortest time.

17. NOTIFICATION PRIOR TO CONDEMNATION. In the event negotiations do not result in the submission of an offer to sell which is acceptable, then condemnation is required. The negotiating realty officer shall advise the owner(s) in writing that, in the absence of an acceptable offer, action will be initiated within ten days to institute condemnation proceedings for the acquisition of the property.
18. DISQUALIFICATION OF GOVERNMENT REPRESENTATIVES. Any interest of the realty officer in a tract of land sought to be acquired or any type of relationship with the owner thereof will disqualify the realty officer in representing the Government in the acquisition of that particular tract. (See ADM 6240.1A.)

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GENERAL SERVICES ADMINISTRATION PUBLIC BUILDINGS SERVICE		NEGOTIATION RECORD (Real Property Acquisition)	
PROJECT		PARCEL	
OWNERS			
NAME	ADDRESS	PHONE NO.	
PERSONS CONTACTED			
NAME	TITLE	DATE	
REMARKS			
ACTION TAKEN AS RESULT OF THIS CONTACT			
SIGNATURE	TITLE	DATE	

GSA FORM 1848

Figure 3-15. Negotiation Record

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PART 3. INTERIM OCCUPANCY

19. OCCUPANCY. Negotiations may be facilitated if the owners or their tenants are advised that they may continue to occupy the real property by approval of the Regional Administrator under a rental agreement for a definite period of time, depending upon the anticipated construction schedule, at the fair rental value. Continued occupancy of real property by the former owners on a nominal or rent-free basis may be considered within the framework of negotiations for an acceptable offer to sell, provided the fair rental value of the premises for the term involved is considered in determining whether the offer which has been obtained exceeds the appraised fair market value, and, if so, by what amount.

20. OUTLEASE NEGOTIATIONS.

a. In discussions with the owner(s) for right-of-entry permits and offers to sell, it should be established whether the owner or his tenant in possession, if any, desires to remain on the premises beyond the date of Government taking. Section 210 (a) (13) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490 (a) (13)) authorizes the Administrator of GSA to enter into leases of Federal building sites and addition to sites, including improvements thereon, until they are needed for construction purposes, at their fair rental value and upon such other terms and conditions as the Administrator deems in the public interest pursuant to the provisions of Section 203 (e) of that Act, and permits negotiations of such leases without public advertising for bids, if the lessee is the former owner from whom the property was acquired by the United States or his tenant in possession, and the lease is negotiated incident to or in connection with the acquisition of the property. Redelelegation of this authority to Regional Administrator is contained in GSA Order PBS 5450.4B.

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b. In view of the above authority for interim occupancy, rental agreements should not be included as part of the condemnation proceedings unless it is recommended by the United States Attorney in charge of the case and agreeable to the Regional Administrator that such use and occupancy of the property for a specified period after title thereto vests in the United States should be a condition of the settlement agreement. The prior approval of the United States Attorney need not be obtained with respect to the leasing of property acquired by voluntary conveyance.

c. Leases may cover a firm period from the date title to the property vests in the United States to a date approximately 60 days prior to the estimated date on which the site will be needed for commencement of construction. Any additional period of occupancy should be subject to termination by GSA on 30 days or less notice, as circumstances may dictate. The estimated date of commencement of construction can be obtained from regional Design and Construction Division on a case-by-case basis.

d. Upon termination of lease, lessee shall be instructed to surrender the keys to Government. Immediately thereafter, the Acquisition Branch of the Space Management Division shall notify the Director of the Office of Regional Data and Financial Management of lease termination. Inspection of the premises shall be made to insure that lessee has yielded the premises in peaceful possession to the Government. Vacant premises shall be secured against vandalism and the elements. "Government Property" signs should be placed on the premises in conspicuous places.

e. Unless the improvements, or any part thereof, are reserved for removal by the owner in the Contract to Sell Real Property or in the condemnation proceedings, their demolition is normally provided for in the construction contract.

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PART 4. CONTRACTS TO SELL REAL PROPERTY

21. FORM.

a. The use of GSA Form 1226, Contract to sell Real Property, is required for all land purchases except when land is purchased from a local urban renewal agency. (See par. 30, below.)

b. When an agreement as to terms has been reached with the owner, a draft of the contract will be prepared with particular attention to the following.

(1) No changes or interlineations in the printed portions of the contract form will be permitted unless authorized by the Central Office.

(2) Insert legal land description of property to be acquired.

(3) The word "none" should be inserted at the appropriate place in the contract form when title is being acquired free and clear of all rights outstanding in third parties and vendor does not except or reserve any rights or interests in the property to be conveyed to the Government.

(4) Particular attention is directed to those instances where the owner desires to offer property to the Government subject to rights outstanding in third parties, and to exceptions and reservations. Exceptions or reservations of crops, timber, buildings and improvements, subsurface rights, or any other interest will be made a part of the contract when appropriate.

(5) When the contract deviates from the standard approved forms or contains any conditions, exception, or reservation contrary to these instructions, the offer assembly will be forwarded to the Central Office for consideration with the recommendations of the Regional Administrator.

22. PROPER USE OF TERMS. When the United States is acquiring title subject to excepted, reserved, or outstanding rights, the contract to sell will differentiate between (a) rights which the vendor is excepting or reserving and which are created for the first time, and (b) rights which third parties have acquired in the past, generally referred to as outstanding rights in third parties. Exceptions or reservations of rights which the vendor may retain without interfering with the construction or operation of the project will be set forth in the contract.

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Any other outstanding rights, subject to which the United States is acquiring title, held by third parties, will be set forth in the contract by a clause following the description beginning "Said premises are to be conveyed subject to".

23. DETERMINATIONS AS TO RESERVATIONS AND/OR EXCEPTIONS.

a. Contracts will not be executed containing reservations or exceptions by owners or subject to outstanding rights in third parties which will interfere with the use of the land for the purpose for which it is to be acquired. In no case will a contract to sell be obtained in which a vendor reserves the right to repurchase the property, or undertakes to convey subject to rights in a third party, except as indicated below.

b. Reservations or exceptions of crops, timber, buildings, and improvements, with the right to remove same during the specified period will be permitted when determined to be in the best interests of the Government.

c. Prior to the time of the selection of the site and approval of the acquisition by the Administrator, or the PBS official to whom such authority has been delegated, a determination will generally have been made as to whether subsurface rights will be acquired or left outstanding. Acquisition will be on the basis of such determination. In any event, lands will not be acquired subject to mineral, oil and gas rights, or other mineral interests unless approved by the Central Office.

24. RESERVATION OF GROWING CROPS. The reservation by the owners of growing crops should be encouraged in order to conserve land acquisition funds and to avoid the cost incident to disposal of crops by the Government whenever it has been determined that possession of the land will not be required prior to the harvest season.

25. RESERVATION OF BUILDINGS AND IMPROVEMENTS. The reservation of the right to remove buildings and improvements by vendors will be permitted where the contracting office has determined that they will not be needed for the project.

26. RESERVATION OF TIMBER. The reservation of timber or the acquisition of land subject to timber deeds or leases will be permitted only with the express approval of the Regional Administrator.

27. CONSIDERATION FOR RESERVATIONS OR EXCEPTIONS. The consideration to the Government for reservations or exceptions of crops, timber, buildings or improvements will be an amount not less than the appraised salvage

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value of the buildings or improvements, whichever are reserved, and such amount will be taken into consideration in arriving at the purchase price of the land being acquired.

28. RESERVATION CLAUSE IN CONTRACT.

a. Where a reservation of growing crops, buildings and improvements, or timber, is permitted, an appropriate reservation clause shall be inserted in the contract.

b. In drafting the contract to sell it should contain, where applicable, the standard "subject to" clause, i. e., "subject to existing easements, if any, for public roads and highways, public utilities, railroads, and pipe lines."

29. EXECUTION OF CONTRACTS TO SELL REAL PROPERTY.

a. Every effort should be made to have the vendor's name set forth in the contract in the exact way in which it appears on the title records.

b. When it is necessary for a corporate agent, fiduciary, or any person other than an individual owner to execute the contract, satisfactory evidence of the authority to act for the owner must be attached to each of the copies of the contract. The joinder of the spouse in the execution of the contract will depend on the laws of the State in which the property is located.

c. When it is necessary to attach extra sheets to the contract in order to include a full legal description or terms of reservations, exceptions, or outstanding rights in third parties, such additional sheets must be securely attached and initialed by all parties signing the contract and clearly made a part thereof.

d. The name and address of the person or persons to whom the contract is to be sent must be accurately set forth. The address where the vendor can be reached after he vacates the property, if different from the address to which the contract is sent, should be obtained.

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30. EXECUTION OF CONTRACT FOR THE SALE OF LAND LOCATED IN AN URBAN RENEWAL AREA TO THE UNITED STATES. The Housing and Home Finance Agency, Urban Renewal Administration, has concurred in the contents of GSA Form 1992, Contract for the Sale of Land Located in an Urban Renewal Area to the United States, and has issued instructions for the use of the form to its regional offices.

a. Prior to entry into a contract with a local public agency to acquire land within an urban renewal area, the Urban Renewal Plan must be carefully reviewed by the Design and Construction Division or the Office of Design, Central Office, to determine that GSA can comply with all provisions of the Plan, giving special attention to the following: zoning, building or housing codes, floor area ratios, building coverage, building envelope, setback, arcade, height, pedestrian walkways, ratio of parking to building occupancy (offstreet and area), loading area, exterior signs, lighting, curbs, fencing, and landscaping.

b. If it is determined that any provision of the Urban Renewal Plan cannot be complied with, the Plan must be amended to eliminate the applicability of the objectionable provision to the property being acquired, prior to the time that the contract is entered into. Some Urban Renewal Plans permit a particular provision of the Plan to be waived by the local public agency insofar as it may affect an identified property without formally amending the Plan. However, the waiver must be obtained prior to execution of the contract.

c. All the blank spaces in GSA Form 1992 are to be carefully filled in on all copies prior to execution. While the information to be inserted in the blanks is self-explanatory, in preparing the form particular attention is invited to:

(1) The first blank in the first Whereas clause, page 1. Here is to be inserted the name of the State statute pursuant to which the urban renewal program is operative.

(2) Article I, Sec. 2, "Conveyance." In this section must be set forth in full detail all:

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(a) Easements with respect to the property which are to be continued, are newly created, or reserved. The easements, if any, are to be fully described in "Schedule B" and also are to be shown on the plat attached, marked "Schedule C."

(b) Any additional reservations, encumbrances, or exceptions, if any, to which the conveyance is to be expressly made subject.

(c) All other terms and covenants that are required by the terms of the contract to be incorporated into the deed, viz., "Time for Construction," Article III, Sec. 3, and "Duration of Covenants," Article IV, Sec. 2. When necessary, an extra page or pages may be added and inserted to set forth the information. The pages should be numbered 1A, 1B, 1C, etc.

d. In those instances where funds have not been appropriated with which to commence construction of the Federal building, the first sentence of Sec. 3 of Article III ("Time for Construction") must be modified, in substance, to state that the Government shall commence construction within "_____ months from the date that funds for such construction are appropriated * * *." The statement in GSA Form 1992 that construction shall commence within _____ months from "the date of the deed" should then be stricken.

e. Where the contract provides that the local urban renewal agency is to clear the site and perform demolition work and title is conveyed to the Government prior to the completion of the work, the local agency must agree to indemnify and save the Government harmless from any and all claims and demands arising directly or indirectly from the activities of the local agency and its contractors in completing the work.

f. Attention is invited to the fact that Article VI, Sec. 7, of GSA Form 1992 requires on lines one and four thereof that certain words be deleted by striking out the inapplicable words.

g. GSA Form 1992 does not contain an Article entitled "Special Provisions." However, when necessary, a separate Article can be

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added to the agreement for such purpose and the appropriate number assigned thereto. The "Special Provisions" Article should contain those agreements reached between the parties relating to the requirements of a particular project, such as an agreement that the local public agency, without expense to the Government, will construct an overhead passageway or pedestrian walkway for entry into the building.

h. Necessary action should be taken to assure that sufficient copies of the following four (4) schedules are prepared and attached to GSA Form 1992, marked as follows:

Schedule A - Urban Renewal Plan (with amendments, if any)

Schedule B - Description of Property

Schedule C - Plat

Schedule D - GSA Form 1714

31. ACCEPTANCE AND DISTRIBUTION. The acceptance of offers shall be in accordance with authority contained in chap. 4 of this handbook. The contract shall be transmitted to the owner by registered mail with return receipt requested. One conformed copy of the contract shall be forwarded to the Site Acquisition Division, Office of Space Management, PBS.

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Figure 4-10.2. Format of Letter to Assistant Attorney
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CHAPTER 4. VOLUNTARY CONVEYANCES

PART 1. PURCHASE

1. GENERAL. Upon receipt of a directive to proceed with an acquisition, the Regional Administrator shall take action to acquire the site in the manner prescribed in chap. 3 of this handbook. This chapter prescribes authorities to accept offers by executing the Form 1226 (Contract to Sell Real Property) and sets forth requirements and procedures necessary to effect payments to the owner and to close the transaction.

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PART 2. PROCUREMENT OF TITLE EVIDENCE

2. GENERAL. Public Law 277, 87th Congress, approved September 22, 1961, (75 Stat. 577), repealed the proviso in the third full paragraph of page 941 of volume 25 of the Statutes at Large, in the Act of March 2, 1899, as amended (40 U.S.C. 256). Accordingly, funds appropriated for the acquisition of sites for public buildings are now available to pay the cost of title evidence in the same manner as those funds have heretofore been available to defray the costs of appraisals, surveys, and other incidental land acquisition expenses. It has been determined that title evidence will be obtained by GSA to the extent and pursuant to the procedures hereinafter provided.
3. TITLE EVIDENCE.
 - a. Promptly upon receipt of the directive to proceed with the acquisition of real property or interests therein (hereinafter collectively called "real property"), including real property to be acquired by donation or exchange, the owner of the real property involved should be contacted and informed concerning the intention of the Government to acquire the property and should be requested to furnish such title evidence as may be in his possession or available to him. Depending on whether the owner does or does not make available any title evidence, the following action should be taken:
 - (1) If title evidence is obtained from the landowner it should be reviewed by the Regional Counsel to determine whether it meets the "Standards for the Preparation of Title Evidence in Land Acquisition by the U.S." 1962, provided by the Department of Justice (hereinafter referred to as Standards). If Regional Counsel determines that the title evidence meets the Regulations of the Department of Justice and is of a type that can be extended to a current date (usually only an abstract of title is susceptible to extension), the title evidence should be so extended.
 - (2) If title evidence is obtained from the landowner and Regional Counsel determines that, while it does not meet the Standards, it can be amended or supplemented to meet such Standards and is of a type that can be extended to a current date, the title evidence should be amended or supplemented to meet the Standards and extended to a current date.
 - (3) If (a) title evidence is obtained from the landowner that does not meet the Standards and it is impracticable to have it amended or supplemented to meet such Standards even though

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it can be extended to a current date, or (b) title evidence is obtained from the landowner that meets the Standards but is not of a type that can be extended to a current date, or (c) no title evidence is obtained from the landowner, one of the types of title evidence specified in the Standards should be obtained. Of those acceptable types of title evidence listed, certificates of title, title insurance policies, or abstracts of title are customarily used.

4. SOURCE OF TITLE EVIDENCE.

a. After making the determination as to the title evidence required, ascertain the names and addresses of title companies and abstractors available to furnish the necessary title evidence and determine whether such companies or abstractors have been approved by the Attorney General. The Directory of the American Title Association, copies of which may be obtained upon request to the Association at 3608 Guardian Building, Detroit 26, Michigan, or to any major title insurance company, lists by states those abstract and title companies which are members of the Association and which furnish abstracts, certificates of title, and policies of title insurance. These companies are generally acceptable to the Attorney General. However, advice as to which available title companies or abstractors are acceptable to the Attorney General may be obtained from the United States Attorney within whose district the real property is located. It is considered that generally the cost of certificates of title or title insurance is more economical than the cost of abstracts of title.

b. In the majority of the States either certificates of title or title insurance policies are obtainable and the premium for issuance of such certificates or policies is based on a schedule of fees approved by the State Insurance Commission or some similar State agency. Most State Insurance Commissions have recognized and approved the forms of certificates of title and title insurance policies prescribed by the Attorney General and have authorized their use in lieu of owners' policies.

5. COST AND TIME CONSIDERATIONS. Estimate the cost and time involved in the procurement of the necessary title evidence in order to determine which type of title evidence is more economical. In determining whether abstracts of title or certificates of title or title insurance should be obtained, consideration should be given to the estimated man hours involved in the examination by both the regional office and the Department of Justice personnel. In major projects it may be

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desirable at times to contract for title evidence for the project as a whole rather than for each tract in the project in order to maintain the acquisition schedule.

6. ACCEPTABLE FORMS OF TITLE EVIDENCE.

a. Certificates of Title and Title Insurance Policies. Certificates of title and title insurance policies must be in a form acceptable to the Attorney General. Forms of a certificate of title and a title policy which have been approved by the Attorney General appear in pages 13-18, respectively of the Standards.

(1) Certificates of title and title insurance policies should be based on a search of all records affecting the title to the land and be unqualified as to the period of search. In the event that it is not the practice of the local title companies to issue certificates of title or title insurance policies unqualified as to the period of search, or if certificates of title or title insurance policies unqualified as to the period of search can be obtained but the cost thereof or the time involved in obtaining such a certificate or policy make it inadvisable to obtain such a certificate or policy, the Regional Director, FBS, should advise the Assistant Commissioner for Space Management in order that all pertinent facts can be referred to the Department of Justice for consideration.

(2) As stated on page 9 in the Standards "A certificate of title or title insurance policy by one title company for a single acquisition valued at more than 25 per cent of the admitted assets (after deducting existing liabilities secured or unsecured and excluding any trust or escrow funds) of the issuing company is not acceptable." Where title companies will issue certificates of title or title insurance policies for less than the full purchase price of the property, the Standards provide "Certificates of title or title insurance policies shall not limit the liability of the title company to a sum less than 50 per cent of the reasonable value of the property. As to acquisitions valued at more than \$50,000, the limitations of liability of the issuing title company under the certificate of title or title insurance policy may be limited to 50 percent of the first \$50,000 and 25 per cent of that portion of the value in excess of that amount." Where title companies will not issue certificates of title or title insurance policies for less than the full purchase price of the property, certificates or policies for the full amount of the purchase price may be obtained.

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(3) Interim binders or preliminary reports supplemented by a title insurance policy in the form approved by the Attorney General are acceptable in those States where certificates of title may not be issued. No substantial variation in Form 29 of the Standards will be acceptable to the Attorney General without his prior approval. The interim binder or preliminary report must contain full information on all matters set forth in the binder as affecting the title in sufficient detail so that the nature and extent of such matters and their effect on the validity of the title of the land described therein can be determined.

(4) Generally, it is not necessary to obtain a final certificate of title when real property is being acquired in condemnation proceedings. However, it may be necessary that an intermediate certificate of title be obtained. Regional offices should be governed by the necessity for obtaining an intermediate or final certificate of title when the real property is being condemned.

b. Abstracts of Title. Abstracts of title, including the form and content, and period of search, shall comply with the Standards. Abstracts may be prepared by abstractors acceptable to the Attorney General or by qualified and competent abstractors employed by a department or agency of the Government who are approved by the Attorney General.

7. EVIDENCE OF TITLE FOR EASEMENTS. The standards and requirements as to title evidence set forth above will be observed in the acquisition of all easements except where, in appropriate cases, a waiver of the opinion of the Attorney General is to be requested under the provisions of 40 U.S.C. 255. In requesting the Attorney General for a waiver of a title opinion in connection with the acquisition of an easement it is necessary to inform the Attorney General of the purpose for which the easement is being acquired and the estimated cost of any improvements to be constructed, and to furnish a certification by a title company, abstractor or qualified Government employee concerning the status and extent of the title of the landowner who will grant the easement. Easements costing \$100 or less do not require a title opinion from the Attorney General provided such easements are acquired in accordance with the regulations in GSA Handbook, CSL P 5000.2, CHGE 2. The certification should state the landowner's period of ownership, outstanding rights such as leases and other easements, encroachments, mortgages, and tax or other liens and encumbrances.

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8. CONTRACTING FOR TITLE EVIDENCE.

a. Title evidence shall be procured by advertising as provided in section 303 of the Federal Property and Administrative Services Act of 1949, as amended, unless the procurement by negotiation is authorized by any of the applicable exceptions to advertising set forth in section 302 (c) of such Act. Procurement by formal advertising shall be performed in accordance with the Federal Procurement Regulations, Part 1-2, as implemented and supplemented by the GSPR, Part 5-2. Procurement by negotiation shall be performed in accordance with the Federal Procurement Regulations, Part 1-3, as implemented and supplemented by GSPR, Part 5-3.

b. When soliciting proposals to furnish title evidence, title companies and abstractors should be informed when appropriate, that time is of the essence and that ability to comply with delivery requirements will be a decisive factor in selecting the contractor.

c. Contracts for title evidence may provide for a specific or a specified number of abstracts, preliminary certificates of title or policies of title insurance and necessary continuations of final certificates at a stated price per abstract, per certificate of title, or per policy of title insurance. If this basis of contracting is not possible, contracts for abstracts may be made on a per-item or per-page basis and contracts for certificates of title or policies of title insurance may provide for payment in accordance with local rate schedules.

9. PAYMENT FOR TITLE EVIDENCE.

a. The abstractor or title company shall, in all cases, submit an invoice for services rendered. The invoice must specify the particular type of title evidence furnished, name of landowner, name of project, and contract number.

b. Title evidence furnished pursuant to a contract therefor shall be reviewed by Regional Counsel prior to payment for such title evidence to insure that the title evidence does not include erroneous or superfluous material and invoices are not excessive. Where erroneous or superfluous material is included, the invoices involved shall be corrected so that payment for such material is not made.

c. Payment for title evidence will be made from available site funds for the project to which the title evidence pertains upon certification by Regional Counsel that there has been full compliance with the contract specifications.

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10. APPROVAL OF TITLE BY THE ATTORNEY GENERAL. Section 355 of the Revised Statutes of the United States, as amended (40 U.S.C. 255), requires the written opinion of the Attorney General in favor of the validity of the title to land as a prerequisite to the expenditure of public funds thereon. Title evidence will be submitted to the Attorney General as hereinafter outlined.
- 10.1 TRANSMITTAL OF TITLE EVIDENCE TO THE DEPARTMENT OF JUSTICE. Abstracts of title, certificates of title, and title insurance policies, including interim binders and intermediate certificates will be transmitted by the Regional Administrator to the Assistant Attorney General, Lands Division, Department of Justice, Washington 25, D.C., for the necessary title opinions in accordance with pars. 10.2 through 10.6, below. It is not necessary to have an executed contract to sell real property in order to request preliminary title opinion from the Department of Justice.
- 10.2 ABSTRACTS OF TITLE.
 - a. As soon as an abstract of title is obtained and reviewed as to form and substance by the regional office, with such assistance from the Regional Counsel as may be required, the abstract will be transmitted to the Department of Justice as prescribed in par. 10.1, above, with a request for examination and preliminary title opinion. A copy of the transmittal letter shall be forwarded to the Site Acquisition Division, Central Office. Title evidence when submitted to the Department of Justice will be accompanied by a copy of the executed contract to sell real property, if such contract has been obtained, a map, plat, or survey of the property, and any other pertinent miscellaneous documents such as affidavits, certified copies of pertinent portions of articles of incorporation, resolutions authorizing sale, etc. (See figure 4-10.2, below.)
 - b. In those cases involving corporations, fiduciaries, etc., where the record title holder is disclosed to be a guardian, trustee, administrator, executor, court commissioner, or other fiduciary, a municipality or other political subdivision, a corporation, religious body, eleemosynary or other non-profit corporation or organization, the regional office, with the assistance of the Regional Counsel, if needed, will ascertain whether such person or persons acting in a representative capacity has legal authority to convey valid title to the United States. A statement setting out such authority, accompanied by a citation of the source of such authority, and any documents such as a charter or bylaws, or excerpts therefrom, should accompany the title evidence transmitted to the Department of Justice for opinion, as required by 10.2a, above.

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c. The Department of Justice will examine the abstract of title, prepare a preliminary title opinion and return the title papers and original preliminary opinion of title to the regional office from which the assembly was received. The Department of Justice will also transmit a copy of the preliminary title opinion to the Assistant Commissioner for Space Management, PBS.

10.3 CERTIFICATES OF TITLE, REPORTS OF TITLE, AND INTERIM TITLE INSURANCE BINDERS.

a. As soon as a certificate of title, report of title, or an interim title insurance binder in the prescribed form is received, the title objections set forth therein will be reviewed by the regional office, with such assistance from the Regional Counsel as may be required. If it appears probable that the title objections set forth can be eliminated, the following action should be taken.

- (1) Initiate all possible curative actions.
- (2) Taxes, assessments for improvements and outstanding bonds.

Where the certificate or interim binder reports liens of taxes, assessments, bonds, indebtedness of a road improvement, school, drainage, or other type of special improvement district, the regional office with the assistance of the Regional Counsel, if required, should ascertain the statute or statutes under which the taxing authority was created, its bonds issued, and taxes levied, as well as the amount of taxes and assessments levied and bonds issued, together with any and all pertinent information deemed necessary to enable an examining attorney to determine the nature and legality of the lien in question. If bonds or tax liens by a district are involved, the required data should also include information as to whether the bonds or taxes of the district become a lien annually at the same time that the lien of ad valorem taxes become a lien and that the lien is of the same nature as the lien of ad valorem taxes.

- (3) Restrictive covenants, reservations, or conditions.

Where a title certificate or interim binder discloses any outstanding covenant, reservation, or condition which limits the use of the land, such certificate or binder should have attached thereto, as an exhibit, an abstract of the instrument which

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created the reported limitation. In transmitting such title certificate to the Department of Justice, the cover letter should recite (a) whether a release has been or can be obtained from the person or persons who created the limitation, if the regional office concludes that such limitation will interfere with the contemplated use of the land, or (b) if a release cannot be obtained, sufficient information on which to base a determination whether the covenant or condition will interfere with the proposed use of the land, and if so, whether an administrative waiver will be issued.

(4) Transmit the original and one copy of the title certificate, report, or interim binder direct to the Department of Justice, as required, and with the enclosure as enumerated in 10.2a, above. A copy of the transmittal letter will be forwarded to the Site Acquisition Division, Central Office.

b. The Department of Justice, after examining the title certificate, or interim binder for title insurance, or title report, will prepare a preliminary title opinion and return the original preliminary title opinion, together with all title papers, to the regional office from which the assembly was received. The Department of Justice will also transmit a copy of such opinion to the Assistant Commissioner for Space Management, PBS.

10.4 INTERMEDIATE TITLE CERTIFICATE OR BINDER.

a. In cases where the record title is vested in the estate of a deceased person, the preliminary certificate or interim binder is generally issued in the name of such estate. The title company should be requested to advise the regional office of the curative action or matter which the company will require in order to issue another preliminary certificate, which is sometimes called an intermediate title certificate or binder, finding title vested in specified heirs of the decedent. (A Treasurer's check can be issued only to specified payees in being.)

b. Where the curative action referred to in 10.4a, above, does not require a judicial proceeding, then all necessary curative action should be completed, and an intermediate certificate or binder should be obtained showing title in the heirs of the deceased record owner, before transmitting the initial title papers together with the intermediate certificate to the Department of Justice, as required in 10.1, above.

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c. Where a judicial proceeding is required, the vendor should be requested to take immediate action, and upon the completion thereof, the intermediate certificate or binder, as required in 10.4b, above, should be obtained and transmitted. If such action cannot be completed within a reasonable time, or if such action will result in delay of a construction contract award, condemnation should be recommended in accordance with the requirements of chap. 5, below.

10.5 WHERE VENDOR IS NOT TITLE HOLDER BUT PURCHASER UNDER A SALES CONTRACT.

Where the Government's vendor is not the record title holder but is the purchaser under a sales contract, recorded or unrecorded, the preliminary title certificate or interim binder will report title in the record title holder. In transmitting such a title certificate to the Department of Justice for opinion, as required in 10.1, above, the transmittal letter should request the opinion of the Attorney General to find that valid title can be conveyed by the Government's vendor, subject to the outstanding right of the record title holder and the requirement that a deed of conveyance be obtained from the record title holder to the Government's vendor.

10.6 REVIEW OF PRELIMINARY TITLE OPINION BY REGIONAL OFFICE. Upon receipt of the Attorney General's preliminary opinion of title, the entire file relating to the acquisition will be reviewed by the regional office, with such assistance from the Regional Counsel as may be required, to ascertain whether there are any conditions to be performed or requirements to be met by the vendor and the Government, and what objections, other than those which can be removed by payment of money or cleared at the time of the closing, are to be eliminated pursuant to the requirements contained in the Attorney General's opinion before valid title may vest in the United States.

10.7 CURATIVE ACTION.

a. Upon completion of the review required by 10.6, above, the character and amount of all outstanding interests in and liens and claims against the real property which are to be satisfied out of the purchase price, the curative action that must be taken, and the curative data that must be obtained in order to cure all objections to the title will be determined. This should be done with particular reference to the objections and requirements contained in the Attorney General's opinion.

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b. In those cases in which the title evidence will consist of a title certificate or title insurance policy, approval of the title company must be obtained as to all curative material obtained to eliminate all of the objections in the title certificate or policy except those objections which have been waived, or possessory rights which can be eliminated by the execution of a Certificate of Inspection and Possession, or can be cleared at the time of the closing.

c. In all other cases, curative action must be taken and curative data must be obtained for the purpose of eliminating all of the objections, and the requirements set out in the Attorney General's preliminary opinion, except those objections which have been waived, or can be eliminated by the execution of a Certificate of Inspection and Possession, or can be cleared at the time of the closing.

d. If it develops that certain title objections cannot be eliminated, or curative action will involve undue expense or delay, or will require lengthy judicial proceedings to eliminate such objections, or will result in delay of a construction contract award, condemnation should be recommended in accordance with the requirements of chap. 5, below.

e. If any question should arise as to the sufficiency of the curative matter obtained as required in 10.7c, above, or if any difficult or complicated question of law may arise in eliminating any objection or requirement contained in the Attorney General's opinion, which cannot be resolved, such question should be referred by the Regional Administrator to the Department of Justice, with a complete statement of facts and references to the provisions of applicable statutes and pertinent decisions of Federal and State Courts, if any, on the question involved. In such cases, the determination of the Attorney General will be accepted as final and binding. A copy of the referral letter shall be forwarded to the Site Acquisition Division, Central Office.

10.8 CLOSING INSTRUCTIONS. All regional offices are authorized to close purchase acquisitions and secure final title opinions from the Department of Justice. Instructions for closing are contained in GSA HB, CSL P 5000.2, CHGE 2, dated August 15, 1963.

10.9 FINAL OPINION OF THE ATTORNEY GENERAL. After closing of the purchase, all pertinent documents, as set forth in Part 2, Section 1, Paragraph 17d of GSA HB, CSL P 5000.2, shall be forwarded by the regional offices to the Department of Justice for final title opinion. They should be requested to forward the final opinion to the GSA Central Office with a copy to the regional office.

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CHAPTER 3. ACTION GUIDES FOR THE ACQUISITION OF REAL PROPERTY

PART 1. ACTIONS PRELIMINARY TO NEGOTIATIONS

1. ACQUISITION BY VOLUNTARY CONVEYANCE. Whenever possible, title to real property will be acquired by voluntary conveyance in accordance with the procedure set forth in chapter 2, at a price compatible with appraisals made or procured in accordance with GSA Handbook FBS P 1005.2B. Negotiation leading to the acquisition of real property shall, whenever possible, be conducted on a face-to-face basis by the realty officer with the owner. Owners or persons occupying real property under arrangement with owners will not be required to relinquish possession without their consent until actual payment has been made to the parties in interest pursuant to a purchase contract, or a Declaration of Taking has been filed in conjunction with a condemnation proceeding and the Government's estimate of just compensation deposited in the registry of the court.
2. DESIGNATION OF GSA REPRESENTATIVE. The GSA representative contacting owners for the purpose of acquiring their real property is designated as "realty officer."
3. AUTHORITY TO INITIATE ACTION TO ACQUIRE REAL PROPERTY. Action to acquire real property begins on receipt of a site acquisition directive from the Administrator or Commissioner, FBS.
4. GENERAL. Upon receipt of a site acquisition directive, the regional office concerned will proceed to notify owners and acquire ownership data, legal descriptions, appraisals, survey data and title evidence.
5. OWNERSHIP DATA. Determine ownership of property to be acquired and procure legal description. Obtain from the official records (Registry of Deeds, Land Court, and/or Tax Assessor) identity of property owner, together with legal description, including book and page number. The legal description is necessary to properly contract for appraisal, title evidence, and survey. A plot plan is usually obtainable from the Tax Assessor or the City Clerk, if it is not contained in and made a part of the legal description obtained from the Registry of Deeds or Land Court records.
6. NOTIFICATION OF OWNERS.
 - a. Contact owner(s) to discuss proposed acquisition, and obtain right-of-entry permit(s). When a site has been selected and approved for acquisition it is usually of public comment and record well in advance of the initial personal contact with the owner by the GSA representatives. Therefore, this contact with the owner is for the most part a confirmation of public information. The owner will usually have questions concerning (1) when the Government will acquire; (2) how long the owner can remain on the site; (3) how much the Government will pay for the property; and

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(4) who sets the price the Government will pay, etc. Since it must be assumed that each property owner is an unwilling seller and sensitive to the action to acquire his property, extreme tact should be employed in order to effect and maintain good public relations. At this state of acquisition, answers can only be given as to procedural actions which the Government will effect, such as making the survey, preparing title evidence, and obtaining the appraisal report. It is advisable to inform the owner that after title vests in the Government, arrangements by lease agreement can be made with the Government to permit occupancy until such time as the Government requires physical possession of the property. A clear, concise and unevasive discussion with the owner is necessary to gain the owner's confidence and is a prime factor in subsequent successful negotiations. The conclusion of the initial discussion with the owner should result in obtaining an executed right-of-entry permit for the purpose of making an appraisal, topographical and/or boundary survey, and to conduct such test borings as may be required.

b. At the time the proposed acquisition is discussed with the property owner it is appropriate to provide him with a GSA Form 1226, Contract to Sell Real Property, explaining that this form is being provided for his attorney and appraiser in the event he wishes to avail himself of the professional services of those individuals. The owner should also be advised that he will be notified at the earliest possible date when he will again be contacted for the initiation of negotiations for the sale of the property to the Government.

c. In the event it is not possible to contact the owner personally to discuss the proposed acquisition and obtain a right-of-entry permit, the contact may be made by a letter provided the letter adequately explains the project and the proposed acquisition consistent with a and b, above.

7. APPRAISAL DATA.

a. In every acquisition of real property a determination of the appraised fair market value of such property shall be made prior to the acceptance of any offer to sell. After a site has been selected and funds are available, an appraisal of the property shall be made for the purpose of determining the fair market value of the various parcels comprising the site and the just compensation to which the various owners are entitled.

b. Order appraisal by using GSA Form 66, Request for Valuation Service.

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As attachments thereto include copy of legal description, plot plan, and site plan of land to be appraised, together with right-of-entry permit. Request therein that the name of appraiser be furnished so that the owner(s) may be notified.

8. TOPOGRAPHICAL AND BOUNDARY SURVEY. Request topographical and boundary survey by memorandum to Design and Construction Division (attaching description, plot plan, site plan, and right-of-entry permit). The survey will include individual parcels, if any, with respective metes and bounds description when necessary or appropriate. Request name of surveyor be furnished Acquisition Branch so that owner(s) may be notified. The original tracing of the survey drawing, as well as copy of metes and bounds description, will be forwarded directly by regional Design and Construction Division to the Office of Design and Construction in Central Office for reproduction and transmittal to Site Acquisition Division, Office of Space Management, Central Office. The topographical and boundary survey will be prepared in such a manner as to permit the specific legal description set out in the title evidence to be readily checked and identified thereon. Six copies of survey drawing and one copy of metes and bounds description, if such description was obtained, are to be forwarded by Design and Construction Division to Acquisition Branch, Space Management Division. In the interest of expediting acquisition action, the Acquisition Branch, Space Management Division, can contract for the necessary surveys and such action is appropriate provided it is coordinated with the regional Design and Construction Division.
9. TITLE EVIDENCE CONTRACT. Contract for title evidence. Title evidence shall be obtained in accordance with chap. 4-2 thru 10, below.

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PART 2. NEGOTIATIONS FOR OFFERS TO SELL REAL PROPERTY

10. JUST COMPENSATION.

- a. Negotiations by realty officers of GSA for the acquisition of real property or interests therein, shall be at all times directed to accomplish the end result that the property owner is paid just compensation, and that any settlement or offer to sell which is accepted represents compensation which is just and fair to the owner. The realty officer-negotiator has a prime opportunity to create good public relations for the General Services Administration through his conduct. Patient explanations and courteous treatment of property owners will win respect for GSA and will do much to insure the success of the real property acquisition program. The personal contacts of the realty officer and his conduct thereof will be considered by the public to represent the policies of GSA.
- b. Negotiations shall not be opened with any property owner whose property will be affected by the proposed acquisition until the appraisal of the site has been reviewed and approved. The negotiating realty officer upon his assignment to handle the acquisition of the property shall study the appraisal of the site and review it carefully with the Appraisal Branch of the Space Management Division. The realty officer to whom the acquisition responsibility is assigned shall become fully informed as to all available information which might have any effect upon the value of the property to be acquired and be entirely familiar with the project and the owner's individual property before initiating negotiation.
- c. Care should be exercised at all times by the negotiating realty officer to completely and honestly protect the interests of property owners with whom he is negotiating who may be unfamiliar or inexperienced in real estate transactions and real estate values.
- d. The negotiating realty officer will enter into realistic negotiations so as to acquire the property at a price consistent with that price which is considered to be just compensation for the property rights being acquired. Consistent with the above, original offers should be made at a price which, should they be accepted by the property owners, constitute just and reasonable amounts. At the same time, the original offers shall leave room for true negotiation.
- e. If during the course of negotiations it appears that certain factors which would have an effect on the appraised fair market value of the property were not considered by the appraiser, proper weight and consideration should be given to those matters and, if necessary, the

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appraiser should be asked to consider the factors which have not been previously considered and determine the effect of the consideration of these factors on the appraised fair market value. If necessary, the property should be reappraised.

11. ALL PARTIES IN INTEREST. The interest of both owners and tenants having a compensable leasehold interest should be considered. Such tenants are proper parties to the transaction but every effort should be made to have the owner and tenant handle the matter as a private transaction between themselves so that the entire purchase price may be paid to the owner. Where this cannot be arranged, payment for the tenant's interest can be made to him in the closing of the purchase transaction. This policy is also applicable to any third party having an interest in the tract.
12. COERCIVE TACTICS PROHIBITED. Discussions with owners will be conducted in a fair and courteous manner and the realty officer must not under any circumstances resort to coercion or threats of condemnation proceedings.
13. APPRAISAL DISCUSSION. All terms and conditions agreed to by the realty officer and the vendor during the course of the negotiations must be included in the contract to sell real property executed by the vendor. The estimated fair market value stated in the appraisal and the details of the preparation of the appraisal will not be disclosed. Although appraisal reports are not available for inspection by the owner, the several elements of value considered by the appraiser may be discussed with the owner to satisfy him that all elements of compensable damages have been considered in arriving at an overall value for the property being acquired.
14. COUNTEROFFERS. If, after negotiations, agreement cannot be reached with a property owner as to price within the appraised fair market value, the lowest offer which has been obtained from the owner may be considered on the basis of the following factors:
 - a. The nature of the appraisal process, where the fair market value of a property is to a substantial degree based upon the interpretation of the real estate market, with due recognition being given to the fact that two equally competent appraisers may have a reasonable divergence in their opinions of value. Since the negotiations which have been conducted with the property owner will be based on the fair market value estimate of only one appraiser, it must be recognized that the opinion of fair market value of a second equally qualified appraiser might be higher or lower than that of the appraiser who has actually appraised the property.

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- 10.10. CLOSING ATTORNEY'S BOND. The attorneys in the regional office authorized to perform closing of purchase acquisitions will be bonded in accordance with provisions of GSA order CSL 5000.3, dated September 12, 1963.

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Honorable Ramsey Clark
Assistant Attorney General
Lands Division
Department of Justice
Washington 25, D.C.

Dear Mr. Clark:

In connection with the acquisition of certain land as a site for a Federal Office Building at _____, _____, copies of the following documents are enclosed.

(List documents which are being transmitted as
set forth in par. 10.2 of this chap.)

When the requisite examination of title to the above-described land has been made, it is requested that you transmit to the Regional Administrator, General Services Administration, _____ (address) _____, the opinion of the Attorney General on the validity of the title to the land, together with the documents in the case.

Sincerely yours,

Regional Administrator
General Services Administration

Enclosures

Figure 4-10.2. Format of Letter to Assistant
Attorney General

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PART 3. RESERVATIONS BY OWNERS

11. RESERVATIONS. The procedure governing the reservation by owners of crops, timber, buildings, or improvements and retention of possession by owners is set forth in detail in chap. 3, above.
12. RESERVATION AFTER EXECUTION OF CONTRACT TO SELL (Form 1226). When owners wish to remove crops, timber, buildings, or improvements after a contract to sell has been entered into, but prior to the vesting of title to the property in the United States, and the owners are agreeable to a reduction in the agreed selling price of an amount not less than the appraised fair market value for off-site use or salvage of buildings or improvements, and such action is determined to be in the best interest of the Government, the contract to sell may be amended accordingly.

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PART 4. OFFERS TO SELL REAL PROPERTY

13. General. When a satisfactory agreement as to price is reached, the execution of the contract to sell real property will be processed in the manner prescribed in chap. 3, above.

14. Authority to accept offers.

a. The Regional Administrator may accept any reasonable offer if the total purchase price does not exceed \$10,000, provided such acceptance does not exceed the limit of funds available for site acquisition.

b. The Regional Administrator may accept any offer where the total purchase price does not exceed 110 percent of the appraised fair market value or estimated just compensation, provided such acceptance does not obligate funds in excess of the funds available for site acquisition.

c. Prior to the acceptance of an offer which exceeds the appraised fair market value of the property being acquired, the file shall be documented to show the facts which justify the acceptance of the offer, with due consideration being given to the factors set forth in chap. 3-14, above.

d. Offers which exceed the limitations of authority as set forth in a and b, above, shall be submitted to the Acquisition Division, Office of Space Management, PBS, with the Regional Administrator's recommendation as to whether they shall be accepted or condemnation proceedings instituted. In the event condemnation is recommended, a condemnation assembly shall be prepared in accordance with chap. 5, below.

15. No acceptable offer - condemnation. When a satisfactory offer to sell cannot be obtained, the Regional Administrator will request the Central Office to take action to institute condemnation proceedings. (See chap. 5, below, for condemnation procedure.)

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PART 5. VACATION OF PROPERTY

16. VACATION OF PROPERTY. Owners and tenants will be informed that the Government will not require them to surrender possession until the site is actually needed for construction, provided a satisfactory rental agreement can be reached subsequent to vesting title in the United States.
17. NOTICE OF VACATION. Owners and tenants will be instructed to notify the regional office in writing as soon as they vacate their property, to turn in their keys in order that the building may be kept under lock, and to keep the regional office advised of any changes in address in order to expedite title clearance and payment.
18. INSPECTION OF PROPERTY.
 - a. As soon as a landowner or tenant gives notification that he is vacating his property, or as soon as this information is obtained from any other source, the Regional Administrator will have a member of his staff make a personal inspection of the property and make a report thereon. (GSA Form 1939, Report on Vacation of Property). The inspection will be made with a view to determining whether all buildings, improvements, and crops on the land to be acquired, as listed in the appraisal report, are still on the land and in substantially the same condition as they were on the date of the appraisal.
 - b. When buildings, improvements, and crops have been removed under a reservation by the owner, the report of the inspection should so state.
 - c. When buildings, improvements and crops have been removed or destroyed in the conduct of construction work, and appropriate statement should be included in the report of the inspection.
 - d. The inspection should determine whether the property is wholly unoccupied and vacant and whether there is evidence of present use.
 - e. The inspection report should be retained in the real estate files of the regional office for reference as may be required.
19. NOTIFICATION TO ALL UTILITY COMPANIES (IMPROVED PROPERTY). Immediately subsequent to transmittal of the condemnation assembly to Central Office and prior to closing of voluntary conveyances, the regional office shall notify those public utility companies furnishing the premises with water, gas, electricity, heat, or other service that GSA does not assume responsibility for the payment of charges for such services for and period either before or after title to the land vests in the United States.

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PART 6. DONATIONS

20. GENERAL. The General Services Administration may accept on behalf of the United States donations of sites for public buildings. Donations may also be accepted for other purposes. Such cases should be submitted by the Regional Administrator to the Assistant Commissioner for Space Management for decision as to whether the donation is to be accepted. Each case is to be supported by a full statement of facts and the recommendations of the Regional Administrator.
21. TITLE EVIDENCE. Promptly after acceptance of the offer of donation by the United States, the donor shall deliver or cause to be delivered to the United States, without cost to the United States, any and all abstracts, certificates of title, or other evidence of title available to the donor or in his possession.
22. TITLE CLEARANCE. Title clearance and closing of donations are processed in the same manner as in purchase cases.

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PART 7. EXCHANGES

23. GENERAL. An exchange is a transaction in which Government-owned property or interests therein is traded for other real property or interests therein owned by another party. In the event the properties or interests to be exchanged are of unequal value and the property or interest offered is of lesser value, a supplemental monetary payment of the difference in values may be made. If the property or interests offered by the Government is of lesser value and the other party declines to waive payment of the differences in values, the Government may make a supplementary payment of the difference in values if funds are available for such purpose.
24. AUTHORITY FOR EXCHANGES. The Public Buildings Act of 1959 authorizes in certain instances, exchanges of sites or buildings and sites theretofore acquired for new sites. The Federal Property and Administrative Services Act of 1949 (Sec. 210(a)(12)) also authorized exchanges of real estate and interests therein in the circumstances set forth in such section.
25. PROCEDURE. Exchanges are handled in the same manner as outlined above for the acquisition of a site which involves the payment of monetary consideration. The exchange agreement shall describe the offered land and Government-owned property to be conveyed in exchange therefor, as well as any supplemental monetary consideration to be paid by either party, if such is involved. Review and approval of the Commissioner, PBS, is required on all exchanges of buildings or sites. The deed conveying the Government-owned property shall be prepared in the Regional Office for signature by the Regional Administrator or his designee.
26. TITLE EVIDENCE. Title evidence shall be obtained as provided in pars. 3 thru 13, above.
27. TITLE CLEARANCE. Title clearance and closing of exchange cases are processed in the same manner as in purchase cases.

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PART 8. TRANSFER OF EXCESS REAL PROPERTY TO GSA

28. GENERAL. This chapter prescribes the procedures governing transfer to GSA from other Federal agencies of excess real and related personal property which is determined to be suitable for office, storage, or related facilities, or for a Federal building project, under the provisions of section 202(a) of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended (40 U.S.C. 483(a)), and the regulations of GSA issued thereunder.
29. BACKGROUND.
- a. Subpart 101-47.201-2 of the Federal Property Management Regulations (FPMR) requires that each Federal agency, so far as practicable, fulfill its needs for real property by utilization of excess real property. An agency having a fully justified need for such property is required by FPMR § 101-47.203-7 to prepare and submit to the proper GSA regional office GSA Form 1334, Request for Transfer of Excess Real Property and Related Personal Property.
 - b. For purposes of this chapter, the various Services of GSA having a program requirement for the use of excess real property and related personal property, including but not limited to land, buildings, improvements and appurtenances, are to be considered the same as any other Federal agency having similar requirements, provided, however, that the Public Buildings Service is responsible for initiating the request for transfer and submitting it to the Utilization and Disposal Service for appropriate action.
 - c. In applying for such property, GSA Form 1334 shall be prepared pursuant to FPMR § 101-47.4904-1 and the time limits prescribed in FPMR § 101-47.203-5 shall be observed. Each request shall meet the tests and guidelines as to program need enunciated in FPMR § 101-47.201-2. General principles to be considered regarding reimbursement are set forth in FPMR § 101-47.203-7(f).

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30. PROCEDURES.

a. Notice of Availability and Determination of Need. The HB, Excess and Surplus Real Property (UDS P 4000.1, chap. 2-26a(2)), provides that promptly upon receipt of a report of excess real property and prior to circularization to other Federal agencies of a notice of availability of excess property by the regional Utilization and Disposal Service, a determination shall be made by the Regional Director, PBS, in coordination with the Regional Director, UDS, as to whether there is a need for the property, or portion thereof, within the region for a program activity of GSA (see FPMR § 101-20.102). Such determination shall be subject to approval of the Regional Administrator and, where the property is suitable for a site or portion of a site for a proposed Federal building, by the Commissioner, PBS.

b. Justification Supporting Determination. The justification supporting the determination under a, above, shall include the statement that:

(1) There is a potential permanent need for the property, subject to physical inspection, to carry out the program of the region; or

(2) There is a potential temporary need for the property, subject to physical inspection, to carry out the program of the region; or

(3) GSA does not have a current or projected need for the property on a permanent or conditional basis, although it may be suitable for office, storage, or related use.

c. Where Potential Need Exists. If the Regional Director, PBS, has determined that there is a potential need for the property and acquisition by GSA may be justified, the following actions shall be taken:

(1) The Regional Director, PBS, or his designee, will participate with UDS in inspections of the property.

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(2) The data contained in the inspection report shall be reviewed by the Regional Director, PBS, and shall be considered in developing a final justification for transfer of the property to GSA. The final justification to acquire the property will include the evaluation required by the HB, Space Requirements and Project Development (PBS P 7000.6, chap. 3, part 4), if appropriate, and a detailed plan for the proposed utilization of the property including the estimated costs of repairs and improvements, maintenance, and operations.

(3) If a current community plan does not contemplate transfer of the property as a part of the long-range plan, or if no community plan has been developed, the justification shall include a new or updated community plan which relates the long-range plans to the availability of the property in question.

(4) If the program to be served by the property is scheduled for substantial curtailment or termination at a relatively early date, the justification shall include a determination as to whether the temporary transfer of such property would fulfill the needs of GSA and, in this event, the time which will elapse before the property could be released for further utilization or disposal.

d. Extent of Reimbursement. The extent of reimbursement for excess property shall be determined by the Regional Director, UDS, in coordination with the Regional Director, PBS, in accordance with the agreement between the Director, Bureau of the Budget, and the Administrator of General Services as prescribed in FPMR § 101-47.203-7(f). Such determination shall be approved by the Regional Administrator. Any necessary documentation or certification required to be furnished by the requesting agency with respect to proposed transfers without reimbursement should be furnished by the Commissioner, PBS, or his designee, in coordination with the Assistant Administrator for Finance and Administration, or his designee (not below Central Office level).

e. Transfer Requests. After a proposed transfer of excess property (1) for assignment for office, storage, or related use, or

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(2) for the site or a portion of a site for a building project, has been fully justified and documented by the Regional Director, PBS, in coordination with the Regional Director, UDS, the Acquisition Branch, regional Space Management Division, shall take the following actions:

(1) Prepare an original and four copies of GSA Form 1334, Request for Transfer of Excess Real Property and Related Personal Property, with supporting documentation. Instructions for the preparation of GSA Form 1334 are set forth in FPMR § 101-47.4904-1. The funding information in Block 9 of the form shall be left blank for final determination in the Central Office.

(2) Forward the prepared GSA Form 1334 to the regional UDS for insertion in the appropriate block on the face of the form by that Service, and return, of the following information:

(a) Acquisition cost of the property.

(b) Appraised fair market value of the property, regardless of whether it is to be transferred with or without reimbursement.

(c) The amount representing the extent of reimbursement to be required, whether it be zero, the full appraised fair market value of the property or 50 percent of that sum.

(3) When regional UDS has returned the GSA Form 1334 with the information required by e(2) above, prepare a memorandum to the Assistant Commissioner for Space Management, PBS, for approval and signature of the Regional Administrator or his designee, enclosing the form for continuing action by the Central Office. When signing the memorandum, the Regional Administrator or his designee shall also execute the Certification in Block 10 of the form. The signed Certification shall indicate the title of the official who executed it and shall be dated.

f. Central Office Approval. The Site Acquisition Division will take the following action on each GSA Form 1334 that is received:

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- (1) If the property proposed for transfer is to be used by PBS for assignment to another Federal agency or to a constituent Service of GSA in its present condition, e.g., land and buildings for Federal Supply Service warehousing, the Space Requirements Division, Assignment and Utilization Division, and the Service of GSA that will use the property, will review the GSA Form 1334 and attachments to verify the need for the property and the sufficiency of the documentation to justify the proposed transfer (see FPMR § 101-47.201-1 and § 101-47.201-2). The Office of Buildings Management will review the GSA Form 1334 and ascertain the availability and identity of funds for continued maintenance, repair, and operation of the property, or for any proposed alterations and improvements, and will furnish this information to the Office of Space Management.
- (2) If the property is to be used as a site for a Federal building or for an addition to the site of a Federal building, the Office of Design will affirm that such property is suitable for the proposed building, after which the Director, Site Acquisition Division, and the Director, Space Requirements Division, will review the GSA Form 1334 and attachments to determine the sufficiency of the documentation to justify the proposed transfer (see FPMR § 101-47.201-1 and § 101-47.201-2).
- (3) If on the basis of action taken under (1) or (2), above, a determination is made to acquire the property by transfer, the Director, Site Acquisition Division, will confer with the Assistant Administrator for Finance and Administration to determine whether funds are available to reimburse for the property, as prescribed in e(2)(c), above.
- (4) After a determination has been made as required in (3), above, the Director, Site Acquisition Division, will complete the GSA Form 1334 as follows:
 - (a) Indicate by a check mark in the appropriate square in Block 9 of the GSA Form 1334 whether or not funds are available for reimbursement for the transfer of the property

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therein identified, and thereafter remove the fourth copy of the form for the files of the Site Acquisition Division.

(b) In the event funds are available for reimbursement as required under the provisions of FPMR § 101-47.203-7(f), and if the appraised fair market value of the property does not exceed \$100,000, prepare and properly coordinate a memorandum to the Regional Administrator for signature of the Assistant Commissioner for Space Management, returning the original and first three copies of GSA Form 1334 and requesting him to effect the transfer.

(c) In the event the property is to be transferred without reimbursement, and if the appraised fair market value of the property does not exceed \$100,000, prepare a memorandum to the Regional Administrator in accordance with the procedure in (b), above, and in addition furnish him in the memorandum or as an attachment or attachments to the GSA Form 1334 the certification and documents required under d, above.

(d) In the event the transfer involves land, which together with any improvements thereon, has a total appraised fair market value of \$100,000 or more, regardless of whether or not reimbursement is to be made, prepare a memorandum from the Commissioner, PBS, to the Commissioner, UDS, requesting the transfer and transmitting the original and three copies of the GSA Form 1334, together with the documentation required.

31. RIGHT OF ENTRY. If it is necessary to enter on excess property pending consummation of an approved transfer to prepare a topographical or a boundary survey, or to conduct test borings, or for other purposes, the Regional Director, PBS, may obtain a right of entry permit for such purposes from the agency having control and accountability for such property.

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32. CONSUMMATION OF TRANSFER.

a. Actions required to determine the need for excess real property and to justify its transfer to GSA shall be accomplished by PBS with least possible delay. Where there is unavoidable delay in requesting the transfer, the Regional Director, UDS, shall be informed of the reasons and the estimated date on which he may expect to receive the GSA Form 1334. When the GSA Form 1334 has been fully executed and submitted to UDS, and the Regional Administrator has either received Central Office approval for the transfer or may authorize such transfer under delegated authority from the Central Office, the Regional Director, UDS, will write a letter to the transferor agency authorizing it to transfer the property to GSA. The Regional Director, UDS, will forward a copy of the letter of authorization to the Regional Director, PBS. When available, he will also forward to the Regional Director, PBS, the original document transferring the property to GSA for submission to the Central Office in accordance with par. 33, below.

b. As soon as real property is transferred to GSA from another Federal agency, the Acquisition Branch of the regional Space Management Division shall prepare an original and five copies of GSA Form 1011, Acquisition of Real Property Advice, to place the property in GSA's inventory of real property holdings. Distribution of the GSA Form 1011 shall be as follows:

- (1) The original shall be sent to the Director of Regional Data and Financial Management.
- (2) Copy number 1 shall be sent to the Regional Director, UDS.
- (3) Copy number 2 shall be retained in the files of the regional Space Management Division.
- (4) The remaining copies shall be forwarded to the Central Office for distribution as follows:
 - (a) Office of Buildings Management - 1 copy.

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- (b) Office of Space Management - 2 copies -
(1 copy for Site Acquisition Division
1 copy for Assignment and Utilization Division).

33. EVIDENCE OF JURISDICTIONAL TRANSFERS. The Site Acquisition Division, Central Office, will document the transfer of Government-owned real property from other Federal agencies to GSA in the same manner as it documents the acquisition of title to real property by purchase, condemnation, or other method, and will subsequently forward such documentation to the National Archives and Records Service for permanent retention. As soon as a transfer of Government-owned property is consummated, the Acquisition Branch of the regional Space Management Division will assemble and forward to the Site Acquisition Division, Central Office, the following:
- a. Standard Form 118, Report of Excess Real Property, with accompanying schedules and supporting papers.
 - b. Copy of letter to the transferor agency authorizing it to transfer the property.
 - c. Original document transferring the property to GSA, showing the specific date and hour of acceptance of custody and accountability by PBS, GSA.
 - d. If reimbursement was required, copy of the letter from the transferor agency stating that such reimbursement has been received.
 - e. Copy of inspection report(s).
 - f. Boundary and topographical surveys, if obtained.
 - g. Copies of any existing permits, licenses, leases, or easements affecting the property.
34. FORMS. This chapter requires the use of GSA Form 1334, Request for Transfer of Excess Real Property and Related Personal Property, and GSA Form 1011, Acquisition of Real Property Advice. Copies of both forms may be requisitioned in the usual manner.

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35. thru 45. RESERVED.

27 and 28

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PART 9. ACQUISITION OF REAL PROPERTY ADVICE

46. GENERAL. This part provides for the preparation and use of GSA Form 1011, Acquisition of Real Property Advice, as a notification to the Office of Regional Data and Financial Management and the Regional Director, PBS, of transactions affecting the real property inventory.
47. RESPONSIBILITY FOR PREPARATION. Upon receipt of notification from the Attorney General of the vesting of a valid title to real property in the United States by deed of conveyance or condemnation proceeding, the Site Acquisition Division, Office of Space Management, shall report the vesting of title by preparing and distributing the required acquisition advice. The original and two copies will be signed by the Assistant Commissioner for Space Management or by his delegates.
48. DISTRIBUTION OF COPIES. The original of all GSA Forms 1011 shall be forwarded to the Office of Regional Data and Financial Management and a signed copy to the regional Space Management Division. The preparing office will file the signed copy No. 2 for reference and record purposes. The regional Space Management Division shall make such further distribution of copies within the region as may be required.

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CHAPTER 5. CONDEMNATION

PART 1. GENERAL

1. DEFINITION. Condemnation is the exercise by the Government of its inherent power to take private property for public purposes. This power is commonly known as the right of eminent domain. The Constitution provides that a person cannot be deprived of his property without due process of law, nor can his property be taken for public purposes without just compensation. The Attorney General upon the request of the Administrator is charged by law to institute proceedings to condemn property and to prosecute such proceedings to completion.
2. CONDEMNATION - WHEN UNDERTAKEN. Whenever practicable, title to real property will be acquired by voluntary conveyance at the fair market value as established by appraisals. However, condemnation may be undertaken:
 - a. When offers have been accepted but title defects preclude acquisition by voluntary conveyance.
 - b. When it has been determined, due to title defects, that a valid offer to sell may not be obtained
 - c. When multiple ownership is involved and it becomes obvious after negotiations that further negotiations would serve no useful purpose
 - d. When the Government has immediate need for possession of, or title to the site, or both, and factors involved in a voluntary conveyance preclude immediate possession of title, or site, or both.
 - e. When a satisfactory offer to sell cannot be obtained from the owners of the property.
3. NOTICE TO LANDOWNERS. Whenever condemnation is necessary, all affected landowners and tenants will be informed by the regional office of the action being taken, the necessity therefor and the procedure to be followed by the Government in acquiring the lands through condemnation proceedings.
4. COOPERATION AND ASSISTANCE - UNITED STATES ATTORNEY.
 - a. It is emphasized that close cooperation and collaboration must exist between GSA personnel and the Department of Justice.

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All discussions with landowners subsequent to the filing of a condemnation action will be under the direction of the United States Attorney.

b. Regional offices, including the regional counsel, will render all possible assistance to the United States Attorney in preparing condemnation proceedings for trial and in conducting such trials. Upon request of a United States Attorney or his representative, regional offices will:

- (1) Prepare necessary exhibits for trial.
 - (2) Obtain expert witnesses and assist in preparing them for trial.
 - (3) Take necessary action to insure presence of witnesses at the trial.
 - (4) Be represented at the trial by some person thoroughly familiar with the details of the property being condemned.
5. TITLE EVIDENCE. It is the responsibility of GSA to obtain the title evidence to property being acquired by condemnation and the title evidence will be obtained in the manner prescribed in chap. 4 of this HB.
6. MAPS AND DESCRIPTIONS. The preparation of necessary maps and descriptions is the responsibility of GSA.

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PART 2. CONDEMNATION ASSEMBLY

7. ASSEMBLY. The request of the Regional Administrator that condemnation proceedings be instituted shall be accompanied by such of the instruments described in this section as have not previously been submitted to the Site Acquisition Division, Office of Space Management. Efforts should be made to submit at the same time the assemblies on all tracts on the project that are to be condemned.
8. LETTER OF TRANSMITTAL - CONTENTS. All requests from the Regional Administrator will include the following:
 - a. A statement justifying the need for condemnation.
 - b. Estimated fair market value of the property being acquired.
 - c. Information as to whether the real property to be condemned is vacant or occupied.
 - d. A statement as to whether immediate possession is required and why.
 - e. A statement as to date occupants will be required to vacate the premises.
 - f. A written, detailed record of negotiations with respect to each parcel or ownership, as evidenced by executed copies of GSA Form 1848, Negotiations Record.
 - g. If severance damage is involved, a detailed statement of facts and justification for severance allowed, including reference to the appraisal report.
 - h. Description of the land to be acquired, conforming to the plat of survey.
 - i. Survey plat showing the land.
 - j. A statement of the estate or interest to be acquired in the land.
 - k. List of purported owners and lessees and their addresses.
 - l. Offer to sell (if any) obtained from owners.
 - m. Approved appraisal report (three copies).

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n. Title evidence.

o. If condemnation is for title defect, a report on curative efforts taken.

p. If condemnation is for the purpose of acquiring immediate possession, so that the Government may enter upon the property, a report of the region's efforts to obtain consent to entry from the property owner.

q. If condemnation is for the purpose of acquiring immediate possession, a report of the region's ability to pursue settlement negotiations with the property owner.

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PART 3. DECLARATION OF TAKING

9. DECLARATION OF TAKING. If the Government has need for immediate acquisition of title, a Declaration of Taking will be prepared by the Central Office, signed by the Administrator or Commissioner, PBS, and transmitted to the Department of Justice for filing, together with a check in the amount of estimated just compensation for the property being taken. Upon the filing of the Declaration of Taking and payment of the estimated compensation into court, title vests in the United States and it becomes committed to pay whatever amount may finally be awarded in the proceeding. A copy of the Declaration of Taking, together with the judgment thereon, shall be furnished the regional office.
10. POSSESSION. Upon the filing of a Declaration of Taking the court is authorized to fix the time within which, and the terms upon which, the parties in possession shall be required to surrender possession to the Government. The Department of Justice will be requested to have the United States Attorney obtain an appropriate order of possession or a right-of-entry, depending upon the needs involved.
11. ACQUISITION OF REAL PROPERTY ADVICE. GSA Form 1011, Acquisition of Real Property Advice, will be used for reporting the vesting of title in the United States in a condemnation proceeding. See chap. 4-50 thru 52 for detailed procedure pertaining thereto.

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PART 4. STIPULATIONS

12. GENERAL. Regional offices may conduct discussions, at the direction of the United States Attorney, for offers of settlement with the landowners and other interested parties defendant as to the amount of compensation to be paid. When a satisfactory agreement as to the price is reached, the execution of a stipulation, in such a form as is approved by the United States Attorney, may be procured.

13. APPROVAL OF STIPULATIONS.

a. Where the amount of the offer of settlement does not exceed 110 percent of the Government's appraisal, the offer will be delivered to the U. S. Attorney for appropriate action. This is in accordance with the authority contained in chap. 4-14, above. The regional office will inform the Site Acquisition Division, Office of Space Management, PBS, of such action.

b. Where the gross amount of the offer of settlement exceeds fair market value of the property as established by the GSA appraisal but is not in excess of \$10,000, Regional Administrators are authorized to recommend acceptance or rejection of such settlement offers received from United States Attorneys. Due regard will be given to the appraised fair market value of the property and the views of United States Attorneys as to probable minimum trial costs and risk factors.

c. Regional office recommendations on offers of settlement not covered by a and b, above, shall be forwarded to the Site Acquisition Division, Office of Space Management, PBS, together with a full statement of the facts as follows:

- (1) The amount of the proposed settlement.
- (2) The appraised valuation of GSA and the Department of Justice appraisers, if any have been procured by that Department.
- (3) The appraised valuation by the owners' real estate experts, or other witnesses who may testify for owners, if such can be ascertained.
- (4) Recommendations of the U. S. Attorney as to acceptance of the proposed settlement.

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- (5) The recommendations of the Regional Administrator as to whether the offer of settlement should be approved or disapproved.
 - (6) Such other matters as should be considered in determining whether the proposed settlement is satisfactory.
 - (7) The report should contain the information required in tabulated form. For each item the statement should be short and concise; lengthy reports are not required.
- d. All settlements negotiated for the acquisition of real property will include all claims of any nature arising as a result of the acquisition of the estate recited in the condemnation complaint.
 - e. Owners will be advised during negotiations for settlement that their offers of settlement are not binding on the Government until accepted by a duly authorized representative of the Department of Justice.
14. RESERVATIONS BY OWNERS. Whenever landowners are to be permitted to remove crops, timber, buildings, or improvements on land (by approval of the Regional Administrator), the stipulation for settlement should include a reservation or exception of these items, together with the right to remove the same. The stipulation should specify the date on or before which the same shall be removed and should provide that if the crops, timber, buildings, or improvements are not removed on or before said date, the right of removal shall terminate automatically and the Government shall have an indefeasible title to these items without further notice. The consideration to the Government for the reservation will be in an amount not less than the appraised salvage value of the buildings and improvements whichever are reserved, and such amount will be considered in arriving at the price fixed in the stipulation as the value of the property being acquired.
15. OCCUPANCY. Whenever landowners or their tenants in possession are to be permitted to remain on the property (by approval of the Regional Administrator), the terms and conditions under which they are to remain in possession shall be stated in a lease agreement or stipulation.

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PART 5. AWARDS

16. GENERAL. It is the practice of the Department of Justice to have judgment entered on court awards which do not exceed the amount deposited in the registry of the Court as estimated just compensation for the property being acquired, without reference to GSA. Where the amount of the award is in excess of the amount deposited, the Department of Justice will notify the Central Office. A check in the amount of the deficiency will be promptly forwarded by the Central Office to the Department of Justice for deposit in the registry of the Court.
17. RECOMMENDATION OF APPEAL. Where the Court award is considered unreasonable and the Department of Justice considers that the facts warrant an appeal or a motion for a new trial, the Department of Justice may request the views and recommendations of GSA thereon. These recommendations, if requested, will be submitted to the Department of Justice by the Central Office.

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PART 6. VACATION OF PROPERTY

18. APPRAISALS PRIOR TO VACATION. In condemnation proceedings there may be cases in which appraisals will not have been completed at the time the condemnation proceedings are filed. In such cases buildings and improvements will not be removed or destroyed until appraisals have been completed and photographs have been procured.
19. PROCEDURES IN VACATING PROPERTY. Procedures for vacating property by owners and tenants are outlined in chap. 4-16 thru 19, above.

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CHAPTER 6. ACQUISITION OF EASEMENTS

1. GENERAL. Easements for rights-of-way for access roadways, utility lines, and other service facilities required in the administration of Federal building sites, together with necessary evidence of title, will be obtained in accordance with the applicable provisions of chap. 4, above.
2. FORM OF EASEMENTS. Forms prescribed by the Regional Counsel shall be used for the acquisition of easements. The requirements as to title evidence set forth in chap. 4-2 thru 10, above, will be followed in the acquisition of all easements, except where, in appropriate cases, a waiver of the opinion of the Attorney General is to be requested under the provisions of 40 U.S.C. 255. In requesting the Attorney General for a waiver of title opinion in connection with the acquisition of an easement, it is necessary to inform the Attorney General of the purpose for which the easement is being acquired and the estimated cost of any improvements to be constructed, and to furnish a certification by a title company, abstractor, or qualified Government employee concerning the status and extent of the title of the landowner who will grant the easement. The certification should state the landowner's period of ownership, outstanding rights, such as leases and other easements, encroachments, mortgages, and tax or other liens and encumbrances. Easements costing \$100 or less do not require a title opinion from the Attorney General.
3. CONDEMNATION. Whenever it is necessary to resort to condemnation of easements the procedure contained in chap. 5, above, will be followed.
4. CLOSING EASEMENT ACQUISITIONS. The closing of easement purchase acquisitions shall be performed by the regional office in accordance with the provisions of HB, Office of General Counsel, CSL P 5000.2, CHGE 2, chap. 8, dated August 15, 1963.

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Figure 7-3. Sample Condemnation Assembly

CHAPTER 7. CONDEMNATION

1. General. Condemnation is the exercise by the Government of its inherent power to take private property for public purpose. This power is commonly known as the right of eminent domain. The Constitution provides that a person cannot be deprived of his property without due process of law, nor can his property be taken for public purposes without just compensation. The Attorney General, upon the request of the Regional Administrator, is charged by law to institute proceedings to condemn property and to prosecute such proceedings to completion.

2. When undertaken. Whenever practicable, title to real property will be acquired by voluntary conveyance at the fair market value as established by appraisals. However, condemnation may be undertaken:

a. When offers have been accepted but title defects preclude acquisition by voluntary conveyance.

b. When it has been determined, due to title defects, that a valid offer to sell cannot be obtained.

c. When multiple ownership is involved and it becomes obvious after negotiations that further negotiations would serve no useful purpose.

d. When the Government has immediate need for possession of, or title to the site, or both, and factors involved in a voluntary conveyance preclude immediate possession of title, or site, or both.

e. When a satisfactory offer to sell cannot be obtained from the owners of the property.

3. Regional authority. In those cases where the regions are unable to obtain acceptable agreements for voluntary conveyance at prices less than 115 percent of the AFMV, they will submit the lowest obtained offer along with the Regional Administrator's recommendations regarding the advisability of acquiring the property by condemnation or of accepting the lowest obtained offer to the Central Office. These will be reviewed by Central Office and an action paper will be prepared authorizing the region to either accept the offer or to initiate a condemnation action. If a condemnation action is authorized, the request for the action will be forwarded directly by the Regional Administrator to the Department of Justice after the 10-day notice to owner expires. (See ch. 4-16). The request for condemnation action will indicate the authorization of the Commissioner, PBS, and must be initialed by letter to the Attorney General of the United States. A sample format of the letter and condemnation assembly is included as fig. 7-3 (see par. 9 below).

4. Appraisal update. Appraisal reports for properties being condemned must be current and updated to the date the Declaration of Taking is filed. Normally, it will be necessary to update appraisals that are over six months old prior to submitting the condemnation request to the Attorney General. Second appraisals will be obtained by GSA only when (1) the properties being condemned are estimated to have a value in excess of \$50,000 and (2) the Department of Justice reviewing appraiser specifically determines that such action is necessary. When the United States Attorney or other representative of the Department of Justice requests a second appraisal, the request should be reviewed and coordinated with appropriate Central Office officials of the Department of Justice. If following the review it is determined that the second appraisal is necessary, the appraisal will be obtained.

5. Notice to landowners and tenants. Whenever condemnation is necessary, all affected landowners and tenants will be informed in writing by the regional office of the action being taken, the necessity therefore, and the procedure to be followed by the Government in acquiring the lands through condemnation proceedings. (See ch. 1-13 for details).

6. Cooperation and assistance - United States Attorney.

a. It is emphasized that close cooperation and collaboration must exist between GSA personnel and the Department of Justice. All discussions with landowners subsequent to the filing of a condemnation action will be under the direction of the United States Attorney.

b. Regional offices, including regional counsel, will render all possible assistance to the United States Attorney in preparing condemnation proceedings for trial and in conducting such trials. Upon request of a United States Attorney or his representative, regional office will:

- (1) Prepare necessary exhibits for trial.
- (2) Obtain expert witnesses and assist in preparing them for trial.
- (3) Take necessary action to insure presence of witnesses at the trial.
- (4) Be represented at the Trial by some person thoroughly familiar with the details of the property being condemned.

7. Title evidence. It is the responsibility of GSA to obtain the title evidence to property being acquired by condemnation and the title evidence will be obtained in the manner prescribed in ch. 5 of the HB. There are four areas where care must be taken to insure that all persons having an interest in the property including those owning an estate

as well as those having a lien or encumbrance on the land are named as defendants in the proceeding. These are as follows:

(1) All title evidence must comply with the "Standards" mentioned in ch. 5-1a and name all known parties having an interest in the property.

(2) The Declaration of Takings forwarded by the regional office to the Department of Justice must name all such parties as defendants.

(3) Title evidence must be continued to the date of taking to disclose the state of title at the time of the taking and furnished to the United States Attorney.

(4) Immediately following the date of taking, a Certificate of Inspection and Possession must be prepared and furnished to the United States Attorney. The Certificate identifies parties in possession as well as those who may have mechanics' or materialmans' liens on the property.

8. Maps and descriptions. The preparation of necessary maps and descriptions is the responsibility of GSA.

9. Condemnation assembly. The request of the Regional Administrator that condemnation proceedings be instituted shall be accompanied by the instruments described below. Efforts should be made to submit at the same time the assemblies on all tracts on the project that are to be condemned. The condemnation assembly is to be furnished directly to the Department of Justice with a copy sent to the Office of Space Planning and Management. It must consist of the following:

a. Original and four copies of the transmittal letter (see par. 10 below and fig. 7-3 for sample format request for condemnation letter), the Declaration of Taking, and summary of site data (see sample Information Sheet).

b. Original and enough copies of each Schedule to provide one copy for each defendant plus 10 additional copies. Schedule A cites the authorities under which the property is being acquired and the public uses for which it is intended. Schedule B contains the metes and bounds description of the property (which must conform to the survey), the names and addresses of purported owners, the estimated compensation deposited into the registry of the court, and the estate taken. Schedule B must contain a separate page for each parcel being acquired. Schedule C is a plat of the land being acquired with the parcels being condemned clearly defined showing metes and bounds, ownerships, parcel numbers, and parcel areas in acres or square feet.

c. Two copies of title evidence, appraisal reports, records of negotiations, and other pertinent correspondence.

10. Letter of transmittal - contents. All requests from the Regional Administrator will include the following:

- a. A statement justifying the need for condemnation.
- b. Estimated fair market value of the property being acquired.
- c. Information as to whether the real property to be condemned is vacant or occupied.
- d. A statement as to whether immediate possession is required and why.
- e. A statement as to date occupants will be required to vacate the premises.
- f. A written, detailed record of negotiations with respect to each parcel or ownership, as evidenced by executed copies of GSA Form 1848, Negotiations Record.
- g. If severance damage is involved, a detailed statement of facts and justification for severance allowed, including reference to the appraisal report.
- h. Description of the land to be acquired, conforming to the plat of survey.
 - i. Survey plat showing the land.
- j. A statement of the estate or interest to be acquired in the land.
- k. List of purported owners and tenants and their addresses, as well as the names and addresses of attorneys representing the owners and tenants.
 - l. Offer to sell (if any) obtained from owners.
 - m. Approved appraisal report (three copies).
 - n. Title evidence.
 - o. If condemnation is for title defects, a report on curative efforts taken.

p. If condemnation is for the purpose of acquiring immediate possession, so that the Government may enter upon the property, a report of the region's efforts to obtain right of entry from the property owner, and the region's ability to pursue settlement negotiations with the property owner.

q. Either a negative declaration of the environmental assessment or a statement that the 30-day waiting period after filing the final environmental impact statement with the Council on Environmental Quality has elapsed.

11. Declaration of taking. If the Government has need for immediate acquisition of title, a Declaration of Taking will be prepared, signed by the Regional Administrator, and transmitted to the Department of Justice for filing, together with a check in the amount of estimated just compensation for the property being taken. Upon the filing of the Declaration of Taking and payment of the estimated compensation into court, title vests in the United States and it becomes committed to pay whatever amount may finally be awarded in the proceeding. A copy of the Declaration of Taking, together with the judgment thereon, shall be furnished Central Office.

12. Possession. Upon the filing of a Declaration of Taking the court is authorized to fix the time within which, and the terms upon which, the parties in possession shall be required to surrender possession to the Government. The Department of Justice will be requested to have the United States Attorney obtain an appropriate order of possession or a right-of-entry depending upon the needs involved.

13. Real Property Acquisition Advice. GSA Form 1011, Real Property Acquisition Advice, will be used for reporting the vesting of title in the United States in a condemnation proceeding. It will be prepared by the Central Office upon receipt of the condemnation assembly documents from the regional office (see ch. 6 for further details).

14. Stipulations. At the direction of the United States Attorney, regional offices may conduct discussions for offers of settlement with the landowners and other interested parties defendant as to the amount of compensation to be paid. When a satisfactory agreement as to the price is reached, the execution of a stipulation, in such a form as is approved by the United States Attorney, may be procured.

15. Approval of stipulations.

a. Where the amount of the offer of settlement exceeds 115 percent of the fair market value of the property as established by the GSA appraisal the Regional Administrators are authorized to recommend acceptance or rejection of such settlement offers received from United States Attorneys. Due regard will be given to the appraised fair market

value of the property and the views of United States Attorneys as to probable minimum trial costs and risk factors.

b. A copy of all regional office recommendations on offers of settlement shall be forwarded to the Acquisition Division, Office of Space Planning and Management, PBS, together with a statement of the facts as follows:

- (1) The amount of the proposed settlement.
- (2) The appraised valuation of GSA and the Department of Justice appraisers, if any have been procured by that Department.
- (3) The appraised valuation by the owners' real estate experts, or other witnesses who may testify for owners, if such can be ascertained.
- (4) Recommendations of the U.S. Attorney as to acceptance of the proposed settlement.
- (5) The recommendations of the Regional Administrator as to whether the offer of settlement should be approved or disapproved.
- (6) Such other matters as were considered in determining the proposed settlement was satisfactory.
- (7) The information statement submitted should be short and concise; lengthy reports are not required.

d. All settlements negotiated for the acquisition of real property will include all claims of any nature arising as a result of the acquisition of the estate recited in the condemnation complaint.

e. Owners will be advised during negotiations for settlement that their offers of settlement are not binding on the Government until accepted by a duly authorized representative of the Department of Justice.

16. Reservations by owners. Whenever landowners are to be permitted to remove crops, timber, buildings, or improvements on land (by approval of the Regional Administrator), the stipulation for settlement should include a reservation or exception of these items, together with the right to remove the same. The stipulation should specify the date on or before which the same shall be removed and should provide that if the crops, timber, buildings, or improvements are not removed on or before said date, the right of removal shall terminate automatically and the Government shall have an indefeasible title to these items without further notice. The consideration to the Government for the reservation will be in an amount not less than the appraised salvage value of the

buildings and improvements, whichever are reserved, and such amount will be considered in arriving at the price fixed in the stipulation as the value of the property being acquired.

17. Occupancy. Whenever landowners or their tenants in possession are to be permitted to remain on the property (by approval of the Regional Administrator), the terms and conditions under which they are to remain in possession shall be stated in a lease agreement or stipulation.

18. Awards. It is the practice of the Department of Justice to have judgment entered on court awards which do not exceed the amount deposited in the registry of the Court as estimated just compensation for the property for the property being acquired, without reference to GSA. Where the amount of the award is in excess of the amount deposited, the Department of Justice will notify the concerned regional office. A check in the amount of the deficiency will be promptly forwarded to the Department of Justice for deposit in the registry of the Court.

19. Recommendation of appeal. Where the Court award is considered unreasonable and the Department of Justice considers that the facts warrant an appeal or a motion for a new trial, the Department of Justice may request the views and recommendations of GSA thereon. These recommendations, if requested, will be submitted to the Department of Justice by the Regional Administrator.

20. Appraisals prior to vacation. In condemnation proceedings there may be cases in which appraisals will not have been completed at the time the condemnation proceedings are filed. In such cases buildings and improvements will not be removed or destroyed until appraisals have been completed and photographs have been procured.

21. Procedures in vacating property. Procedures for vacating property by owners and tenants are outlined in ch. 6-6 through 9, above.

(Date) _____

Honorable _____
Attorney General of the United States
Department of Justice
Washington, DC 20530

Dear Mr. _____:

Pursuant to the authority delegated to me by the Administrator of General Services and the authorities contained in the Acts set forth in Schedule "A" of the enclosed declaration of taking, it is requested that a condemnation proceeding be instituted and the declaration of taking be filed for the acquisition of certain real property described in Schedule "B" of the declaration of taking, which instrument also sets forth the estate to be acquired. It is determined to be necessary and advantageous to the Government to acquire this property as a portion of the site for the new Federal Building in _____ (City) _____, _____ (State) _____.

The sum estimated to be just compensation for the property taken is _____ (\$ _____). A check for this amount for deposit into the registry of the court upon the filing of the declaration of taking has been requested from our Finance Office and, upon receipt, will be forwarded to the U.S. Attorney, _____ (Address) _____.

It is necessary to acquire Parcel(s) No(s). _____ by condemnation because of the existence of title defects (or, inability to obtain an acceptable offer as to price, etc.).

It is requested that the court be petitioned to issue an appropriate order granting _____ (immediate) _____ possession of the property to the United States by _____ (date) _____.

Please have the United States Attorney advise the Regional Commissioner, Public Buildings Service, General Services Administration, _____ (Address) _____, the date on which the declaration of taking will be filed. The Regional Commissioner will be responsible for the management of the property and will furnish a property inspection report, and render such other assistance as may be required by the Department in connection with settlement agreements.

There are enclosed copies of title evidence, records of negotiations, appraisal reports, summary of site data, other pertinent correspondence and documents, and a copy of the final environmental impact statement which was filed with the Council on Environmental Quality on (Date), and published in the Federal Register on (Date).

The applicable provisions of Public Law 91-646 approved January 2, 1971, have been complied with in regard to this acquisition.

Sincerely,

/s/ Regional Administrator

Enclosures

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF _____

UNITED STATES OF AMERICA

Plaintiff,

vs.

CERTAIN LAND SITUATE IN THE
CITY OF _____
COUNTY, STATE OF _____,
AND _____ (DOE), ET AL.,
Defendants.

DECLARATION
OF
TAKING

CIVIL NO. _____

TO THE HONORABLE _____
THE UNITED STATES DISTRICT COURT

I, _____, Regional Administrator of the
General Services Administration of the United States of America, pursuant
to the authority delegated to me by the Administrator of General Services
in GSA Delegations of Authority Manual, Chapter 9, paragraph _____,
do hereby declare that:

1. The land hereinafter described is taken under and in
accordance with the authority set forth in Schedule "A" annexed hereto
and made a part hereof.

2. The public uses for which said land is taken are also set
forth in said Schedule "A."

3. A general description of the tracts of land being taken,
the estimated just compensation therefor, and the estates taken for said
public uses are set forth in Schedule "B" annexed hereto and made a part
hereof.

Continue page 2 to next page

There are enclosed copies of title evidence, records of negotiations, appraisal reports, summary of site data, other pertinent correspondence and documents, and a copy of the final environmental impact statement which was filed with the Council on Environmental Quality on (Date), and published in the Federal Register on (Date).

The applicable provisions of Public Law 91-646 approved January 2, 1971, have been complied with in regard to this acquisition.

Sincerely,

/s/ Regional Administrator

Enclosures

2. The public uses for which said land is taken are also set forth in said Schedule "A."

3. A general description of the tracts of land being taken, the estimated just compensation therefor, and the estates taken for said public uses are set forth in Schedule "B" annexed hereto and made a part hereof.

4. A plan showing the land taken is annexed hereto as Schedule "C" and made a part hereof.

5. The gross sum estimated by me as just compensation for all of said land, which aggregates 00.00 acres, with all buildings and improvements thereon and all appurtenances thereto and including any and all interests hereby taken in said land is NONE THOUSAND DOLLARS (\$00,000.00), which sum I cause to be deposited herewith in the registry of the court for the use and benefit of the persons entitled thereto. I am of the opinion that the ultimate award for said land probably will be within any limits prescribed by law on the price to be paid therefor.

Figure 7-3. Sample Condemnation Assembly
(Part 4 of 9)

IN WITNESS WHEREOF, the United States of America
has caused this Declaration of Taking to be signed in its
name by me, as Regional Administrator, General Services
Administration, this _____ day of _____, A.D.,
19____, in the City of _____, (State) _____.

UNITED STATES OF AMERICA

By _____
Regional Administrator
General Services Administration

Use back of line for any changes thereon

Figure 7-3. Sample Condemnation Assembly
(Part 5 of 9)

S A M P L E S I T E D A T A

INFORMATION SHEET

The following is other general site information, as requested by your Department:

- (1) The total area of land within the project is 139,217.76 square feet.
- (2) The estimated total cost of land is \$750,000, including the amount to be deposited for the parcels to be acquired by condemnation; and
- (3) Of the 34 parcels in the site, 26 have or will be acquired by voluntary conveyance, and the remaining 8 are the subject of this condemnation request.

Figure 7-3. Sample Condemnation Assembly
(Part 6 of 9)

AUTHORITY FOR THE TAKING:

The authority for the taking of the land is the Act of August 1, 1888 (25 Stat. 357, 40 U.S.C. 257), as amended; the Act of February 26, 1931 (46 Stat. 1421, 40 U.S.C. 258a); the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended; the Public Buildings Act of 1959, 73 Stat. 479, as amended; (an approved appropriation act appropriating funds for the project (the Public Buildings Amendments of 1972, approved June 16, 1972, 86 Stat. 216, if the project is to be financed thereunder) or acts supplementary thereto and amendatory thereof.

PUBLIC USES:

The said land has been selected for acquisition by the United States in connection with the construction and maintenance of a (Federal Building, Courthouse, Border Station, etc.), and for such other uses as may be authorized by Congress or by Executive Order.

(NOTE: DO NOT NUMBER THE PAGES OF ANY SCHEDULE).

Figure 7-3. Sample Condemnation Assembly
(Part 7 of 9)

(Do NOT type text below this line)

COMM-PAGE 15

SCHEDULE "B"	
PARCEL NO. _____	
DESCRIPTION:	
Being Lot _____, of Block _____, of _____ Addition, as per Map thereof recorded in Map Book "_____", on Page _____, Public Records of _____ County, (State) _____, more particularly described as follows:	
The tract of land herein described contains in the aggregate 0.000 acres (square feet), more or less.	
Beginning at a point . . . (<u>Meters and bounds</u> <u>Description</u>).	
Names and Addresses of Purported Owners:	
	John Doe 1876 Any Street City, State Zip Code Phone No., if known
(NOTE: 1. Provide adequate space here for additional parties; and 2. Please add as parties defendant local, county, or state taxing authorities who may have or claim an interest by reason of taxes or assessments due and exigible).	
Estimated compensation deposited in the registry of the court for the above described property: \$00,000.00.	

Figure 7-3. Sample Condemnation Assembly
(Part 8 of 9)

into the land: The estate or interest in the Property taken for said public use is the (full fee simple title), (a perpetual right, power, privilege and easement or servitude in, on and to the land described, to enter upon), etc., subject, however, to the right of the owners of public utility facilities, if any, upon, over, or under the land, to remove such facilities.

NOTE: USE SEPARATE SHEET OR MORE FOR EACH PARCEL.

(NOTE: DO NOT NUMBER THE PAGES OF ANY SCHEDULE).

Figure 7-3. Sample Condemnation Assembly
(Part 9 of 9)

CONTRACT TO SELL REAL PROPERTY

REFERENCE

The undersigned, hereinafter called the "Vendor," who represents that he (she) (it) is the owner of the real property described below, hereby, himself (herself) (itself), his (her) heirs, executors, administrators (its), successors and assigns, agrees to convey to the United States of America and its assigns, in accordance with the terms and conditions set forth herein, the land, together with the buildings and improvements thereon, unless specifically excepted, and all rights, hereditaments, easements, and appurtenances thereto.

The real property which the Vendor agrees to convey to the United States of America and its assigns is located in:

CITY	COUNTY	STATE
------	--------	-------

as shown by the attached plat and more particularly described as follows:

Vendor covenants and agrees to convey to the United States of America and its assigns the indefeasible fee simple title to the above-described subject only to the following outstanding rights in third parties: (If "none," so state)

The Vendor specifically reserves and excepts the following rights and interests in the above-described property: (If "none," so state)

The Vendor and the spouse, if any, of the Vendor, by signing below, agrees to join in any deed to the United States, and agrees to convey said real property to the United States of America and its assigns in consideration of the sum of

_____ dollars (\$ _____)
which amount shall be paid at the time the title to the property becomes vested in the United States.

The Vendor further agrees that the United States of America shall have _____ days to indicate its acceptance of the contract price and the terms and conditions herein, by mailing or delivering a copy of this contract signed by a duly authorized representative of the United States, to the Vendor at the address indicated below.

NAME AND ADDRESS OF VENDOR
(Include street address, city, state & ZIP code)

SIGNED, SEALED AND
DELIVERED THIS DATE: _____

th
Vendor (Signature)

By: _____
Vendor's Spouse (if any) (Signature)

ACCEPTANCE OF OFFER TO SELL REAL PROPERTY

Date: _____

The offer of the Vendor contained herein is
hereby accepted for and on behalf of

THE UNITED STATES OF AMERICA

By: _____
Contracting Officer (Signature)

(Title)

TERMS AND CONDITIONS OF CONTRACT

1. SURVEY WITH PRICE ADJUSTMENT IF LESS AREA. The description of the property is subject to such modifications as may be necessary to conform to a survey of the property to be made by and at the expense of the United States. In the event that the property to be conveyed has an area less than indicated by the dimensions given in the description (clear building space, exclusive of sidewalks, etc.), at the election of the United States an equitable reduction shall be made in the amount of the purchase price. The United States is not obligated to conclude the purchase of an area less than that described.

2. SATISFACTORY TITLE AND TITLE EVIDENCE. In order for the land to be acquired by voluntary conveyance, the title must be satisfactory to the Attorney General of the United States. The United States will defray the expenses incident to the preparation and recordation of the deed and obtaining of title evidence. In the event that the title to the property should be unsatisfactory, the Vendor agrees to deliver or cause to be delivered to the United States, at the Vendor's expense, such deeds, releases, affidavits, or other title instruments as the Attorney General may require to cure the title defects. Should the Vendor fail to cure the title defects within sixty (60) days (or such extended period as the Attorney General may allow) after receipt of written notice of such defects, the United States may elect either to terminate this contract by giving written notice of termination to the Vendor, or it may condemn the property as provided in paragraph 4 hereof. If the United States should give such notice of termination, the contract and the obligations incurred thereunder shall be deemed terminated as of the date of such notice without liability by the United States.

b. The title when conveyed to the United States shall be clear of all mineral rights and interests, easements, restrictions, and leases, except those which may be acceptable to the United States. All judgments, taxes, assessments, liens or encumbrances of any sort, existing or inchoate, shall be satisfied. However, it shall not be necessary to discharge liens and mortgages until such time as the transfer of title to the Government is made. The Vendor will be reimbursed by the United States for the pro rata portion of prepaid real property taxes which are allocable to a period subsequent to the date of vesting title in the United States, or the effective date of possession of the property by the United States, whichever is earlier. The United States will defray the penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the property.

3. DEED. Title to the property shall be conveyed to the United States by a general warranty deed, which shall be satisfactory to the Attorney General, except that instruments of conveyance by states, municipal corporations, fiduciaries, and persons acting solely in a representative capacity need not contain general warranty covenants, if otherwise satisfactory to the Attorney General. The purchase price recited in the deed shall be the actual consideration paid by the United States. The deed will be prepared by the United States and recorded at its own expense. The Vendor shall, however, obtain and affix to the deed documentary revenue stamps required by law. The Vendor will be reimbursed by the United States for such transfer taxes.

4. CONDEMNATION PROCEEDINGS. The United States has the right to acquire the property by institution of condemnation proceedings in the appropriate Federal court having jurisdiction. The Vendor agrees to cooperate with the United States in the prosecution of such condemnation proceedings and expressly consents that this contract to sell real property can be used as a basis for stipulation therein for the purpose of fixing the just compensation of the property. The Vendor further agrees that any and all awards of just compensation that may be determined by judgment of the court on behalf of any and all persons, corporations, or associations, other than the Vendor, shall be deducted from the purchase price, and the Vendor consents to the entry of such judgments, if any, and to accept the remaining balance as full and just compensation for the taking of the property described.

5. DIMINUTION IN VALUE, LOSS OR DAMAGE. The Vendor agrees not to do, or permit others to do, any act by which the value of the subject property may be diminished or whereby the title to the property may be encumbered. The Vendor further agrees that if any loss or damage to the property, or to any part thereof, should occur from fire or acts of God or any other cause prior to the vesting of satisfactory title to the property in

or damage shall be borne by the Vendor, and the United States may, without liability, refuse to accept conveyance of the property, or may elect to accept conveyance based upon an equitable adjustment of the purchase price.

6. ENTIRE SITE TO BE ACQUIRED. If the property described in this contract is composed of more than one parcel of land, the United States shall be under no obligation to acquire any parcel until the Attorney General shall have rendered a favorable opinion on the title to all the parcels embraced in the entire tract. Where the United States determines that a portion of the property shall be acquired by condemnation proceedings, as provided in paragraph 4, the United States shall not be required to conclude the purchase of any parcel until the entire tract has been acquired.

7. ATTEMPTED VARIATIONS. No variation or departure from the terms of this contract will be binding on the United States unless previously agreed upon in writing by the Administrator of General Services or his duly authorized representative.

8. OFFICIALS NOT TO BENEFIT. No Member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise thereupon; but this provision shall not be construed to extend to the contract if made with a corporation for its general benefit.

9. COVENANT AGAINST CONTINGENT FEES. The Vendor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Vendor for the purpose of securing business. For breach or violation of this provision, the United States shall have the right to annul this contract without liability or in its discretion to deduct from the contract price the full amount of such commission, percentage, brokerage, or contingent fee.

10. EXAMINATION OF RECORDS. The Vendor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three (3) years after final payment under this contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Vendor involving transactions related to this contract.

11. CLEARING OF SITE. In the event the Vendor reserves the right to remove buildings or other improvements from the site, this Condition 11 shall apply.

a. The Vendor agrees, without expense to the United States and to the satisfaction of the custodian of the site, to remove the said buildings or other improvements down to ground level, and also to remove all tracks, poles, and wires (overhead or underground), all gas, water, and heating pipes, ducts, conduits, etc., and sewers crossing the site, or, in lieu of removal thereof, to plug at the lot lines any such pipes, ducts, conduits, or sewers.

b. Immediately after title to the land shall have vested in the United States (or if removal of reserved buildings or other improvements shall have created a dangerous condition, then immediately after such condition is created), the Vendor agrees, without expense to the United States, to rail off or cover, to the satisfaction of the custodian of the site, all open wells, cellars, or other excavations on the site.

c. Prior to the payment of the purchase price to the Vendor for the land, the Vendor agrees to furnish a good and sufficient bond in such amount as the United States may deem appropriate, guaranteeing the performance of all of the obligations of the Vendor relating to site clearance set forth above.

d. If the Vendor fails to comply with any of the obligations set for subparagraphs a, b, and c of these Special Provisions, the United States, its duly authorized representative, may perform the work, sell or dispose of any buildings or other improvements, or any portion thereof, and collect from the Vendor or the obligors on the bond referred to in subparagraph c. herein, all costs incurred that are in excess of the proceeds of any such sale.