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5.4 Evaluation of Excess Real Property for Disposition Added 10/2005

5.4.1 General Added 10/2005

In evaluating excess real property, the primary goal is to determine the ultimate disposition of the property while giving full consideration to the NAS mission, the interests of the Government and the welfare of the public. Property managers at each succeeding level must decide which of the various disposal options (reutilization, demolition, conveyance by transfer agreement or making the property available to outside entities) is most appropriate on a case-by-case basis depending on circumstances. (NOTE: The term excess real property in this paragraph applies to property that is excess to the user - not to property that is "Excess Property" to the FAA as defined in Appendix A).

5.4.2 Budgeting for Disposal Costs Added 10/2005

Budgeting for disposal costs is an important part of the Life Cycle Cost (LCC) estimating process and to be meaningful this portion of the LCC process must begin as soon as the intent to dispose of land, land rights or real property becomes known. Typically, disposal actions are brought about by outright replacement of existing assets, generational upgrades to existing assets, or when a particular asset is removed from service. In most instances, the need for disposal action will be known. For example, a navigational aid construction project may be in the planning stage for several years before actual construction begins. Part of the planning is to identify the impact on existing assets and the attendant costs. Property managers, custodians, and technicians must coordinate closely during budget forecasting cycles to ensure that out-year disposal costs are estimated and made part of annual projections.

5.4.3 Reutilization Added 10/2005

Reutilization of real property assets in their installed configuration is seldom possible because of transportability issues. Reutilization is the first option when considering the disposition of salvageable component items associated with real property scheduled for demolition, disassembly or conveyance by transfer agreement. These component items are often referred to as related personal property and are accounted for and treated as personal property when standing alone. Planning for any project which results in disassembly of real property assets must include an evaluation of possible uses for salvageable components as part of a disposal plan, regardless of the complexity of the project. An overriding decision factor is the potential impact reutilization efforts may have on the overall project: Reutilization is not a viable option if removal activity impedes project progress and the delay has the potential to adversely impact the NAS mission, construction deadlines or commissioning schedules, or if the removal and transfer is not economically feasible.

5.4.4 Demolition Added 10/2005

The FAA has discretionary authority to dispose of excess airway property by demolition under certain circumstances. Planners and managers must evaluate each case and decide if demolition

is justified by the existence of any of the following conditions:

5.4.4.1 To Facilitate Airport Improvements Added 10/2005

Demolition is necessary to clear the way for the construction of new FAA assets or airport improvements. In such cases, the decision to demolish any pre-existing assets is made early in the planning process and a demolition schedule, based on the overall disposal plan, is routinely made a part of construction contracts.

5.4.4.2 Dismantling for Reutilization Added 10/2005

Demolition by dismantling property into its component parts is necessary to facilitate reutilization of salvageable items and circumstances permit doing so without risk to the NAS mission.

5.4.4.3 Elimination of Safety Hazards Added 10/2005

The condition of the property is such that its continued existence poses a hazard to the safety, health or welfare of FAA employees, contractors, or the public.

5.4.4.4 Uneconomical to Maintain Added 10/2005

The continued maintenance of the property is clearly uneconomical. In making this determination, property managers will consider not only the costs associated with physical maintenance of the property but also the administrative costs arising from the recording, accounting, security and monitoring processes.

5.4.5 Conveyance by Transfer Agreement Revised 1/2012

The evaluation process may lead to a decision that transfer of ownership for direct or indirect consideration is in the best interests of the government. Conveyance by Transfer Agreement may be practical in the situations outlined in the following subparagraphs. However, the real property assets to be conveyed must be screened for any environmental or safety issues that may require mitigation prior to conveyance (see paragraph 5.4.8).

5.4.5.1 To Facilitate Airport Improvements Added 10/2005

It is necessary to expedite airport improvement projects for which funding has been secured by local authorities (city, county, airport commission, etc.) and for which construction contract proceedings are imminent or in progress. Ownership of FAA assets to be demolished or displaced as a result of the new construction is conveyed to local authorities to preclude delay of the project. Demolition, disassembly or relocation in such cases would be carried out by local authorities.

5.4.5.2 Obligated by Contract Added 10/2005

It is necessary to satisfy the terms of a contractual agreement. For example, to satisfy the terms of a restoration clause in a lease, a RECO may negotiate a transfer of property ownership to the lessor in lieu of restoring the premises to its original condition. A conveyance under these circumstances may also include negotiated fair and reasonable payments by either party to the other in order to reach an equitable settlement. Another example occurs when the RECO elects to invoke the non-restoration clause contained in a standard lease (http://fast.faa.gov/docs/attachmenta.doc). In such cases, the government is under no obligation to restore the premises to its original condition and ownership is passed to the lessor through a transfer agreement between the two parties at the time the site is abandoned. The key point is that the government's interests are better served by conveying ownership for direct or indirect consideration than would be the case if another option were selected. The practical effect in both cases is that the excess property is no longer government-owned and it is removed from all government property and accounting systems.

5.4.5.3 Release of Easements, Restrictions and Other Real Property Rights Added 10/2005

Easements, restrictions and other property rights owned by the FAA may be disposed of to the owner of the land that is subject to the easement, restriction, or other rights when the continued use, occupancy or control of the easement is not needed for the operation, production, use or maintenance of property owned or controlled by the Government. Such disposition may be made with or without consideration to the Government.

5.4.6 Abandonment of Leasehold Improvements Revised 1/2012

FAA-owned improvements to buildings or building space held under lease are frequently made to promote the health, welfare and security of government employees or to enhance NAS operations carried out at the site. Such improvements may be abandoned upon final termination of the lease in accordance with non-restoration language contained therein because removal of the improvements is impractical and abandonment poses no risk to the public. The responsible Real Estate Contracting Officer (RECO) will advise the regional real property section of the lease termination and any leasehold improvements that have been recorded in automated property systems will be retired. However, any improvements being considered for abandonment must be screened for any environmental or safety issues that may require mitigation prior to abandonment (see paragraph 5.4.8).

5.4.7 Evaluation of Legal, Safety, Security and Environmental Issues Revised 4/2009

Evaluation of Legal and Security Issues Updated 4/09 Project planners and property managers must consider legal and security issues as they make decisions on disposal of excess property. In most cases, these parties will not have the technical expertise to precisely assess the available options nor will they normally have access to the most current information available to legal and security experts. For these reasons, specific guidance on legal and security issues must be

furnished by the appropriate Regional staff section. Headquarters websites are available on the employees webpage located at https://my.faa.gov/employee_services/regcent_services.html (FAA only) 'FAA Organizations'.

5.4.8 Evaluation of Environmental and Safety Issues Revised 1/2012

FAA real property disposal actions are subject to the requirements of FAA Order 1050.19B, Environmental Due Diligence Audits in the Conduct of FAA Real Property Transactions, in order to identify and minimize potential environmental liabilities. Recognized environmental conditions (e.g., potentially contaminated land or groundwater) will be evaluated to determine whether they need to be corrected or mitigated prior to property disposal. Notice of previous hazardous substance activity on the property will be provided in the contract per the requirements of 40 CFR Part 373.

FAA real property disposal actions are also subject to the requirements of the National Environmental Policy Act (NEPA) in accordance with FAA Order 1050.1E. Certain property disposal actions may be eligible for a categorical exclusion under Chapter 3 of FAA Order 1050.1E provided no extraordinary circumstances exist as described in paragraph 304 of the order.

Any buildings and structures being considered for conveyance, transfer or sale to another entity as part of a real property disposal action must be evaluated by Agency environmental and safety professionals (e.g., ATO Service Center Planning & Requirements Staff) for a determination that environmental and public safety considerations do not preclude transfer.

The following specific environmental and safety requirements apply to buildings and structures being considered for conveyance, transfer or sale:

- Asbestos-containing material in buildings will be abated prior to property disposal only if it is of a type and condition that is not in compliance with applicable laws, regulations, and standards, or if it poses a threat to human health at the time of transfer of the property (i.e., friable asbestos). Buildings with non-friable asbestos may otherwise be transferred provided the presence of non-friable asbestos is disclosed to the new owner.
- Lead-based paint in buildings and structures will be abated prior to property disposal only if it is of a type and condition that is not in compliance with applicable laws, regulations, and standards, or if it poses a threat to human health at the time of transfer of the property (i.e., peeling paint). Lead-based paint will also be abated from any buildings meeting the definition of “target housing” constructed before 1960, as required by 24 CFR Part 35. Buildings and structures with lead paint that is intact and in good condition may otherwise be transferred provided the presence of lead-based paint is disclosed to the new owner.
- Underground storage tanks (USTs) will not be conveyed, transferred or sold to another entity due to liability associated with potential releases of fuel over the life of the tank. USTs must be permanently closed in accordance with federal and state environmental regulations prior to real property disposal.

Aboveground storage tanks (AST) may only be conveyed, transferred, or sold to another entity under the following conditions:

- Prior to conveyance, FAA must perform a tank tightness test and generate an alarm history report through the fuel monitoring system. If the AST system integrity cannot be certified, the AST will not be conveyed.
- If the AST has failed tightness testing or has generated integrity related alarms during the FAA operation period, the FAA may elect to repair the tank and reconsider for conveyance. Tank integrity must be validated after repairs and prior to conveyance.
- The tank operator must provide all tank operations and history data (e.g., LM data, tank tightness test results, and monitor history data) for inclusion in the site environmental due diligence audit report.
- FAA will comply with all applicable federal, state, and local requirements for tank closure (e.g., removing FAA from registration, etc.).
- If the FST is physically removed or relocated from the site, all tank system components and accoutrements (piping, monitor system, external alarms, placarding, etc.) shall be likewise removed in accordance with regulatory requirements.