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Winona H. Varnon  
Principal Deputy Assistant Secretary  
Office of Management  
U.S. Department of Education  
400 Maryland, Ave., S.W.  
Washington, DC 20202-4300

Dear Ms. Varnon:

This **final audit report**, titled *The Department's Management of the Federal Real Property Assistance Program*, presents the results of our audit. The objectives of our audit were to (1) evaluate the appropriateness of the Department of Education's (Department) process for awarding surplus properties under the Federal Real Property Assistance (FRPA) program, and (2) evaluate the adequacy of monitoring activities conducted by the Department to ensure that such properties are used as intended and that overall program goals and objectives are met.

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## BACKGROUND

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The Federal Real Property Assistance program was established under the Federal Property and Administrative Services Act of 1949, now codified as part of Title 40, United States Code (Property Act). The Property Act provides the General Services Administration (GSA) with statutory authority for the disposal of excess real property to another executive agency having a need for the property or, if there is no such need, for its disposal as surplus property in accordance with Federal laws and regulations.<sup>1</sup> Pursuant to the McKinney-Vento Homeless Assistance Act (Public Law 100-77), if the property is determined to be suitable for homeless use, it must first be made available for homeless use consideration 60 days prior to any other public benefit use. If the property is not considered suitable or if there is no interest in the property, it becomes available for all other public benefit uses.

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<sup>1</sup> GSA has primary responsibility for the administration of the program, but, as required by law, has delegated conveyance authority to the Department of Defense (DOD) for DOD properties that are closed or realigned as part of the Base Realignment and Closure (BRAC) process. Thus, while GSA handles the disposal of former civilian agency and non-BRAC DOD surplus property, DOD handles the disposal of BRAC surplus property, albeit in a somewhat different manner.

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

The Property Act allows for the Secretary of Education (Secretary) to sell or lease surplus Federal real property at a public benefit allowance (PBA) discount to eligible applicants who have demonstrated a need for the property, which takes into consideration benefits that may accrue to the United States as a result of its use for educational purposes. The transfer of such properties in this manner is known as a public benefit conveyance (PBC), and the properties themselves are often referred to as PBCs. Agencies that transfer the properties are known as “sponsoring agencies.”

Real property may be acquired for educational use by States and their political subdivisions and instrumentalities, by tax-supported institutions, and by nonprofit institutions. Institutions that meet the organizational eligibility requirements must also demonstrate a need for surplus Federal real property for an eligible education program. Such programs, in addition to schools and college campuses, may include public libraries, vocational training, rehabilitation of mentally or physically handicapped facilities, alternative schools, school administration and maintenance facilities, and athletic fields. To qualify for a PBA discount of 40 to 100 percent<sup>2</sup> of the purchase price of the property desired, the program must clearly establish that it is fundamentally educational under Federal regulations and also demonstrate organizational and financial ability to acquire the property and carry out the proposed program within prescribed timeframes.

The Federal Real Property Division (FRPD) within the Department’s Office of Management (OM) is responsible for application review and approval, deeding and conveyance, and compliance monitoring for surplus properties designated for use for educational purposes. The PBC process begins with the disposal agencies, which are responsible for notifying eligible public agencies that surplus property is available for educational purposes. GSA does this in the Notice of Availability that it posts on its website for each property and through notices that are sent to local officials; DOD publishes similar notices in the Federal Register. Upon learning of the availability of surplus Federal real property, the Department notifies known or potentially eligible institutions and affords them an opportunity to apply for all or a portion of the property. For GSA properties, the Department is given 30 days from the date of the surplus determination to advise GSA of interest in the property for educational purposes and 60 days from that same date within which to approve applications and request assignment of such property for transfer. The process differs somewhat for DOD properties, most notably with regard to a requirement that the Department coordinate with the applicable Local Redevelopment Agency.

All conveyances to successful applicants are made by deeds, which require that the property must be utilized solely and continuously for a period of 30 years from the date of the deed for the education programs set forth and approved in the application and for no other purposes. The property must also be placed into use within 12 months after conveyance or 36 months where major construction or renovation is contemplated. Failure by the grantee to abide by the terms and conditions in the deed can result in the property reverting to the Federal government. However, if the grantee remains in compliance throughout the life of the deed, the Department will send a letter notifying the grantee that it has satisfactorily completed the 30-year period of

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<sup>2</sup> The Department’s FRPA Program Handbook (Handbook) states that the PBA is comprised of the total of all percentage allowances for which a program qualifies. In some cases, this could equate to greater than 100 percent.

restrictions and is no longer bound by the conditions or covenants contained therein, with the exception of a condition pertaining to nondiscrimination.

Compliance oversight is primarily carried out by the Department through two mechanisms: (1) utilization reports and (2) site visits. Utilization reports are submitted by grantees according to terms specified in the deeds, while Department staff conduct site visits in accordance with established policy and procedures. Unless the requirement has been waived, the Department generally requires that utilization reports be submitted either annually or biennially, depending on whether there are known or potential compliance issues with the grantee. The Department also requires that an initial site visit be conducted within the first 12 months of conveyance for all grantees and a second site visit be conducted within the first 36 months of conveyance if the grantee has no prior PBC experience. Site visits are conducted as needed thereafter, up until the point when the property is either returned to the Federal Government or the grantee is released from the period of restrictions.

As of October 2011, the Department's inventory of active properties consisted of 261 properties valued at over \$86 million. [See Attachment 2 for listing of properties reviewed during this audit.]

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## AUDIT RESULTS

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Overall, our audit determined that the Department could improve its management of the FRPA program. Specifically, we found that while the Department's awarding process under its FRPA program was generally appropriate, further improvements are needed to ensure that the program is implemented in accordance with applicable criteria. Our audit noted that the Department did not compile surplus property screening lists in accordance with its own criteria, did not always correctly calculate applicants' PBA discounts, and approved incomplete applications.

Because it is not following its established procedures for creation of comprehensive screening lists, the Department may not be maximizing the number of eligible entities it contacts. As a result, properties may be awarded to grantees who may not be able to provide the greatest and longest lasting public benefit.

While the miscalculations that we identified did not have any impact on the awarding of properties reviewed during this audit, in general, if an applicant's PBA discount is miscalculated and it is a competing applicant for surplus Federal property, the property could be awarded to a grantee whose proposed program and plan of use would not provide the greatest and longest lasting public benefit. Further, if an applicant's PBA discount is calculated at less than 100 percent, when in fact it should be greater than or equal to 100 percent, the applicant may have to pay a portion of the fair market value of the property to the Federal Government when it should have paid nothing.

Approving incomplete applications can increase the risk that properties may be awarded to entities that do not fully meet requirements, do not have the ability to maintain the property, or will not be using the property for an education-related purpose.

With regard to monitoring, we found that grantees did not consistently submit utilization reports as required, that the Department did not request utilization reports in instances where grantees failed to submit such reports by the applicable due date, and that the Department did not always document or complete in a timely manner followup activities in response to issues identified during case specialists' reviews of utilization reports. We also found that the Department did not schedule site visits within the first 12 months following conveyance for almost all of the properties in our sample and that, in some cases, property files were missing site inspection reports and documentation of required followup.

Thorough, timely, and consistent monitoring is necessary to ensure that properties are being used for agreed-upon educational purposes and to mitigate the potential for misuse. Noncompliance can result in the denial of services to entities and individuals who should be benefitting from the use of such property, and also represent a loss to the interests of the Federal Government.

In its response to the draft audit report, OM concurred with each of our recommendations and described planned corrective actions. OM's comments, including corrective actions proposed, are summarized at the end of each finding. The full text of OM's response is included as Attachment 3 to this report. No changes were made to the report as a result of the response.

## **FINDING NO. 1 – Improvements are Needed in the Department's Federal Real Property Award Process**

We found that while the Department's awarding process under its FRPA program was generally appropriate, further improvements are needed to ensure that the program is implemented in accordance with applicable criteria. Specifically, we found that the Department:

- Did not compile surplus property screening lists in accordance with its own criteria;
- Did not always correctly calculate applicants' PBA discounts; and
- Approved incomplete applications.

### *Compilation of Screening Lists*

We found that the Department's process for compiling lists of potentially eligible entities to be screened prior to the award of PBCs did not meet the requirements of and was not consistent with the intent of the screening list as expressed through the applicable Department policy and procedures. When we compared the screening lists to the guidance set forth in the Department's policy and procedures, we identified discrepancies for 8 of the 10 awards (80 percent) sampled

as part of our audit.<sup>3</sup>

While Title 41 of the Code of Federal Regulations §102-75.495 grants the Department discretion to notify potentially eligible entities, Chapter III of the Handbook, “Screening Surplus Federal Real Property,”<sup>4</sup> requires the FRPA program to notify known potentially eligible entities having a legitimate interest in acquiring property for educational purposes about surplus Federal real and related personal property, and to afford them the opportunity to apply for the property within specified time limits. The Handbook states that extreme care should be exercised to assure that comprehensive lists of entities to be screened are prepared, and provides the following examples of entities that should be included on screening lists: State Government, Local Governments, Private Nonprofit Entities, Postmasters, and Internal ED program officials.<sup>5</sup> The key to a comprehensive screening is to reach all potential eligible entities as quickly and directly as possible.

For the eight properties for which a screening list needed to be prepared, we found that eight (100 percent) did not include internal Department program officials and postmasters, two (25 percent) did not include private nonprofit entities, two (25 percent) did not include local government entities, and one (13 percent) did not include State government entities. We further noted that the level of screening conducted for some properties appeared to be notably more comprehensive than the level of screening conducted for others, with the number of entities contacted for the 8 properties ranging from 3 to 20.

We also found that the screening process was not consistently documented for all sampled properties. For example, in seven cases, an actual list of potentially eligible applicants was included in the property file, while in three cases, we discovered individualized letters addressed to such entities. In two cases, we found both a screening list and individualized letters; however, when reconciling the two sources of information, we noted that not all entities included on the screening lists appeared to have been notified, nor were all entities who received a letter included on the screening lists.

Based on discussions with FRPD case specialists and the FRPD Director, we determined that the screening process is actually implemented in a very subjective manner, not always in accordance with the Department’s Handbook. FRPD staff stated that screening lists are tailored to fit the properties they are trying to dispose of. They noted that, if they so choose, the designated case

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<sup>3</sup> We determined that the Department did not need to prepare screening lists for two of the properties in our sample due to the unique circumstances of the awards. In one case, the surplus property was already occupied by a grantee, based on a pre-existing agreement with a city, which itself had a pre-existing agreement with DOD and was being used for an eligible education purpose prior to the Department's involvement. In the other case, a screening list was not found because the sampled property was the result of an allowable re-transfer of educational requirements from one property held by a grantee to another property held by the same grantee, rather than a wholly new conveyance.

<sup>4</sup> The FRPD Director stated that the Handbook in effect during the scope of our audit was developed by Department employees in the mid-1980s and last revised in 1998. The Handbook was updated in September 2011. Unless otherwise noted, no significant changes were made to the updated version of the sections cited throughout this report.

<sup>5</sup> The updated Handbook does not include non-education related State or local government organizations, postmasters, or internal Department officials as examples of entities that should be included on surplus property screening lists.

specialist compiles a list of organizations or individuals that would be eligible using the characteristics of the property (i.e., location, size, former use, environmental status, etc.). The FRPD Director also informed us that they no longer send notices to postmasters or non-education related State or local government entities because they do not want to solicit applications from organizations that would not be eligible. According to this official, the Department would be inundated with applications that they could not approve if they did this. While we note that the regulations do not require the Department to compile screening lists of potentially interested parties, applicable procedures established by the Department should accurately reflect actual practices employed and employees should follow the established practices.

Because the Department is not following its established procedures for creating comprehensive screening lists, the Department may not be maximizing the number of eligible entities it contacts. As a result, properties may be awarded to grantees with a lesser need for the property or with a planned use that may have less of an impact on the public than that of other potential applicants who were not contacted.

As part of our audit, we contacted other sponsoring agencies/subagencies<sup>6</sup> of PBC properties to determine if they compile a screening list to identify potentially interested parties when a property becomes available. We found that four of six (67 percent) sponsoring agencies/subagencies do not conduct any screening; eligible entities instead contact the sponsoring agency. The other two (33 percent) sponsoring agencies sometimes identify potentially interested parties. Specifically, only one of six (17 percent) sponsoring agencies conducts research and outreach similar to what the Department's Handbook requires.

#### *Calculation of Public Benefit Allowance*

We found that the PBA discount was miscalculated for 2 of the 10 (20 percent) properties sampled as part of our audit. An applicant's PBA discount represents a numerical determination of the public benefit(s) that are expected to result from its use of surplus Federal property. It can vary from 40 percent to more than 100 percent<sup>7</sup> and is calculated in accordance with provisions contained in the applicable program regulations, which take into account the nature of the applicant and the need for, impact of, and type of program and plan of use for the property. From a practical perspective, the PBA discount assists applicants in acquiring surplus property in lieu of full cash payment of the purchase price of such property. For example, an applicant with a PBA discount of 100 percent would receive the property at no cost; an applicant with a PBA discount of 40 percent, however, would be required to pay 60 percent of the fair market value of the property. In both instances where miscalculations were noted, the case specialist followed a formula to measure the benefits that have accrued or may accrue to the United States for the proposed use; however, in both instances the case specialist did not provide the applicable 10 percent allowance for Federal Impact.<sup>8</sup>

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<sup>6</sup> Department of Health and Human Services, Department of Housing and Urban Development, Department of Interior—Federal Lands to Parks Program, Department of Interior—Historic Surplus Property Program, Department of Transportation—Federal Aviation Administration, and Department of Transportation—Maritime Administration.

<sup>7</sup> See footnote 2.

<sup>8</sup> Federal Impact is an allowance that is earned by any local educational agency qualifying for Federal financial assistance as the result of the impact of certain Federal activities upon a community.

Title 34 of the Code of Federal Regulations § 12.7(c) permits the Secretary to apportion property among multiple applicants if the Secretary determines that the surplus property is capable of serving more than one applicant. If apportionment is not an option, then under Chapter V of the Department's Handbook, the Department must consider several factors, including the applicant's PBA, to determine which of the proposed programs would provide the greatest and longest lasting public benefit.

The two properties with a miscalculated PBA discount were administered by the same case specialist, who is no longer with the Department. In addition, both calculations were reviewed by the same FRPD Director, who is also no longer with the Department. The current case specialist for both properties agreed with our observation regarding the Federal Impact allowance. We are unable to determine a reason as to why these errors occurred, other than that the miscalculations were the result of employee oversight.

If an applicant's PBA discount is miscalculated and it is a competing applicant for surplus Federal property, the property could be inappropriately awarded to a grantee whose proposed program and plan of use would not provide the greatest and longest lasting public benefit as determined by its PBA discount. Further, if the applicant's PBA discount is calculated at less than 100 percent when in fact it should be greater than or equal to 100 percent, the applicant may have to pay a portion of the fair market value of the property to the Federal Government when it should not be required to pay any portion.

In both case files noted above, the original PBA calculations resulted in a PBA discount over 100 percent, in which case the grantees were not obligated to pay for the Federal property as long as it continued to be used for educational purposes as agreed to in the application. Both applicants were also the only entities applying for the properties being awarded. The 10 percent allowance (i.e., the allowance for Federal Impact) that should have also been added to each grantee's total PBA discount calculation would not have changed the results of the property awards in these two instances.

### *Approval of Applications*

We found that three of nine applications (33 percent) associated with our sample of awarded properties were incomplete because they did not meet the requirements of Title 34 of the Code of Federal Regulations § 12.6.<sup>9</sup> These regulations require an application for surplus Federal real property to demonstrate that the proposed program and plan of use of the surplus Federal real property is for a purpose that the applicant is authorized to carry out; that the applicant is able, willing, and authorized to assume immediate custody, use, care, and maintenance of the surplus Federal real property; that the applicant is able, willing, and authorized to pay the administrative expenses incident to the transfer or lease; and that the applicant has the necessary funds, or the ability to obtain those funds immediately upon transfer or lease, to carry out the proposed program and plan of use for the surplus Federal real property.

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<sup>9</sup> One property did not require an application, as it was the result of a re-transfer of educational requirements. See footnote 3 for additional information.

Chapter V of the Handbook, “Applications for Surplus Federal Property,” states that the applicant must show statutory or other authority under which the organization is authorized by law to acquire and hold title to real property; state whether the organization is approved, accredited, or licensed by a Federal or State accrediting, approving, or licensing authority and list the name of the authority; and explain in detail the sources and amounts of funds available for preparing the property for use and operating the proposed program, to include providing copies of current and projected operating budgets.

Specifically, we noted the following in our review:

- One application did not demonstrate that the applicant had the necessary funds, or the ability to obtain those funds immediately upon transfer or lease, to carry out the proposed program and plan of use for the property. Although the applicant provided its then current, total operating budget in addition to its operating budgets for the prior 2 years, the applicant did not specify which budget items contained funds for its proposed program. The same applicant also did not demonstrate that it was able to pay the expenses to place the property in use. Although the applicant provided an estimate of the costs for repairs and improvements that the property needed, the applicant did not provide copies of projected operating budgets, to include the total projected minimum budget required to implement and maintain the total proposed program.
- One application did not demonstrate that the applicant was able, willing, and authorized to assume immediate custody, use, care, and maintenance of the surplus Federal real property. Although the applicant stated that it was authorized to assume custody of the property, the applicant did not provide documentary evidence of the statutory or other authority under which it was authorized to acquire the property.
- One application did not include a statement noting that the applicant was approved, accredited, or licensed.

A number of the case specialists who reviewed and approved the applications within our sample are no longer with the Department. As a result, we could not determine why all of the incomplete applications were approved. However, based on our review, to include discussions with other current FRPD staff, it would appear that such errors occurred as a result of employee oversight.

Approving incomplete applications can increase the risk that properties may be awarded to entities that do not fully meet requirements, do not have the ability to maintain the property, or will not be using the property for an education-related purpose.

## **Recommendations**

We recommend that the Principal Deputy Assistant Secretary for Management

- 1.1 Standardize the process for compiling screening lists and documenting notification to potentially eligible entities, to include a supervisory review process of screening lists for comprehensiveness and reasonableness, and ensure employees follow the established procedures.



- 1.2 Emphasize the need for case specialists and their supervisors to take into account all relevant allowances when calculating and reviewing PBA discounts and provide additional training, as necessary.
- 1.3 Create an application review checklist to ensure that applications include all required information.

### **OM Comments**

OM concurred with the recommendations and described actions that it will take to improve the Federal real property award process. With regard to screening, OM stated that it will update the FRPA Handbook and Standard Operating Procedures (SOP) to include clear guidance on the submission of potential interests by category (e.g., State, local, and private/nonprofit entities), outline the supervisory review process for the FRPD Director, and require that screening lists and notifications to eligible entities be uploaded into the FRPD Conveyance Tracking System (CTS).<sup>10</sup> Improvements in the area of application review will include refresher training focused on calculating the PBA discount, particularly with regard to the treatment of Impact Aid, implementation of a revised application checklist to be completed by case specialists and uploaded into the CTS, and related updates to the Handbook and SOP.

### **FINDING NO. 2 – Improvements are Needed in the Department’s Federal Real Property Monitoring Process**

We found that all 20 of the properties included in our sample did not consistently receive the monitoring specified in the Department’s policy and procedures or in the property deeds and related amendments. Specifically, we found that grantees did not consistently submit utilization reports as required, that the Department did not request utilization reports in instances where grantees failed to submit such reports by the applicable due date, and that the Department did not always document or complete in a timely manner followup activities in response to issues identified during case specialists’ reviews of utilization reports. We also found that the Department did not schedule site visits within the first 12 months following conveyance for almost all of the properties in our sample and that, in some cases, property files were missing site inspection reports and documentation of required followup. We further noted that, in general, monitoring activities were more thoroughly documented for properties conveyed in recent years than for properties conveyed 10 to 20 years ago.

#### *Utilization Reports*

We found that 10 of 20 (50 percent) grantees did not consistently submit utilization reports as required by their deeds or in subsequent amendments found in the property case files. We further noted that 17 grantees were late in submitting almost half of all of their combined, required utilization reports, with all but one failing to submit the majority of such reports within

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<sup>10</sup> CTS was implemented by FRPD in March 2012. It is a multi-user system designed to track the lifecycle of surplus federal real property that is disposed of by GSA and DOD for educational purposes. CTS will enable FRPD staff to capture data in real time, produce program statistics, streamline paper files, and improve technical results.

one month of the applicable due dates. With regard to requests for utilization reports that had not been received, we noted that for seven properties, FRPA staff did not always send a reminder letter within 30 days of the due date; for eight properties, FRPA staff did not always send a second reminder letter during the subsequent 30-day period. We also found that three grantees at times submitted utilization reports which were not signed, yet were nevertheless accepted by the Department. In addition, we could not determine whether some of the utilization reports submitted by nine grantees were reviewed by FRPA staff because they lacked any sort of annotation to indicate that a review had occurred.

We found that 10 grantees submitted utilization reports at some point during the period of their property conveyances that required followup or compliance enforcement efforts by the Department. We determined that followup activities (e.g., asking questions to better understand the contents of a utilization report, obtaining additional information or documentation related to property use) were conducted in all but one case. We noted that the specialist assigned to this case left written notes on a utilization report which seemed to indicate that followup was necessary to address questions concerning property operations and maintenance; however, we did not find answers to these questions in the case file, nor in the survey report for a site visit that occurred a few months later during which time we were informed the issues noted were discussed. In five of the nine cases where we noted that followup did occur, it was not done in a timely manner.<sup>11</sup>

#### *Site Visits*

We found that 19 of 20 sampled properties (95 percent) were not visited within the first 12 months following conveyance of the property. We also found that a second site visit was not conducted within 3 years following conveyance for any of the 14 properties that were either not exempt from the requirement or were still within the initial 3-year period. With regard to documentation, we found that the case files for four properties were missing survey reports for one or more of the site visits that were either noted on their respective FRPA Transfer File Chronology checklists<sup>12</sup> or mentioned in subsequent reports. We also found that survey reports for eight properties did not contain all required information; in two cases, the case specialists did not include photographs of the conveyed land and any related improvements.

We found that properties conveyed to seven grantees required followup based on the results of a site visit. We determined that followup activities related to site visits generally involved reminding grantees of items discussed during the inspection, such as the need to fully utilize the conveyed property or possible interest in either purchasing the property (a process known as abrogation) or returning title to the Federal Government (a process known as reversion). In two cases, we did not find documentation of any followup efforts by the Department. In one of these cases, an issue was identified concerning the potential use of an area on the boundary of the

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<sup>11</sup> The audit team considered followup activities as being timely if initiated within 30 days of identification of an issue. The same standard was used in assessing the timeliness of followup activities in response to issues noted during site visits.

<sup>12</sup> We located a FRPA Transfer File Chronology checklist at the front of the case file for 17 of the 20 properties in our sample. The checklist includes information on both the grantee and property, as well as a list of compliance activities.

conveyed property by an entity other than the grantee; in the other case, a question was raised concerning whether the grantee was actively using, or at least had plans to develop, a portion of the conveyed property. In both cases, followup was recommended, but adequate evidence of whether such activities occurred and also whether the issues were resolved was not documented in the case file or otherwise provided. In four of the five cases where followup was performed, it was not done in a timely manner.

Title 34 of the Code of Federal Regulations § 12.12(a)(6) states that reports on the maintenance and use of surplus Federal property as well as any other required reports are to be filed in accordance with the transfer or lease agreement.<sup>13</sup>

Chapter XV of the Handbook, “Utilization Reports and On-Site Surveys,” states that followup requests should be sent by the Department if the reports are not received shortly after the due date. Another request should be sent following the subsequent 30-day period if the reports have still not been submitted.<sup>14</sup> The Handbook further notes that the utilization reports should be signed by the individual designated in the original application. With regard to site visits, the Handbook requires that the first site visit be scheduled within 12 months after conveyance of the property and a second site visit should be conducted within the first 36 months of conveyance if the grantee has no prior PBC experience. Site visit reports are to be prepared immediately after the inspection and should include photographs of the land and improvements.

We noted that utilization reports were not requested or received by case specialists in accordance with the Handbook and property deed as a result of changes to reporting requirements that were not adequately communicated to grantees and/or appropriately documented in the case files. Department officials stated that they would sometimes adjust reporting requirements<sup>15</sup> for particular properties so that every property within a State would be on the same reporting schedule (i.e., even or odd years); however, failure to document such changes in the case file can result in confusion when a new case specialist assumes responsibility for the property. The lack of followup as well as other noted errors can be attributed, primarily, to employee oversight.

According to Department officials, site visits did not always occur within the first 12 months following conveyance of a property, nor did followup activities occur as necessary, due to limited fiscal year funding for travel and the lack of staff during the scope of our audit. Department officials added that while it may be ideal for FRPD to inspect every property within the first 12 months of conveyance, the office budget does not typically allow for this to occur. During our exit conference, Department officials stated that the office is now adequately staffed.

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<sup>13</sup> The Department generally requires that grantees submit utilization reports biennially, unless there are known or potential issues or other circumstances that would necessitate more frequent reporting.

<sup>14</sup> The updated Handbook states that utilization report reminders should be mailed by FRPD staff during the first week of each month to all grantees with utilization reports due during the following month. If the report is not received within 30 days of the due date, a second reminder should be mailed to the grantee. This reminder should advise the grantee that failure to submit the report immediately is a failure to comply with the conditions of the conveyance and that compliance action will be initiated.

<sup>15</sup> The applicable program regulations provide discretion to the Secretary to dictate the terms and conditions of transfers of surplus Federal real property, to include reporting requirements, through the conveyance instrument. The Department’s Handbook allows FRPD staff to waive the requirement for utilization reports when circumstances exist which warrant changing the report schedule.

Thorough, timely, and consistent monitoring is necessary to ensure that properties are being used for agreed-upon educational purposes and to mitigate the potential for misuse. Noncompliance can result in the denial of services to entities and individuals who should be benefitting from the use of such property, and also represent a loss to the interests of the Federal Government.

## **Recommendations**

We recommend that the Principal Deputy Assistant Secretary for Management

- 2.1 Ensure that case specialists and grantees are aware of the established utilization report due dates and that any changes to the dates are effectively communicated.
- 2.2 Ensure that case specialists are aware of the requirements for sending report due date reminders.
- 2.3 Ensure that case specialists adequately document their review of the utilization reports and that they do not accept reports that are either unsigned or signed by inappropriate personnel.
- 2.4 Ensure that reports are completed after each site visit and that they include all required information.
- 2.5 Ensure that followup activities in response to issues identified through the review of utilization reports or site visits are initiated and conducted in a timely manner and that property case files contain adequate documentation of activities related to the resolution of any such issues.

## **OM Comments**

OM concurred with the recommendations and described actions that it will take to improve the Federal real property monitoring process, placing particular emphasis on its use of the CTS as a means of documenting communication with grantees and facilitating information sharing among case specialists. OM stated that it will submit electronic notifications regarding specific utilization report requirements, both initial and revised, to existing and future grantees. Case specialists will also continue to run monthly reports identifying upcoming reporting due dates on their assigned conveyances, provide reminder letters within the first week of the month in which a grantee's utilization report is due, and sign reports as evidence of their review and approval. As for site visits, case specialists will continue to be required to complete Compliance Inspection Reports and upload them into the CTS. The FRPD Director will also review these reports for quality and consistency. Lastly, case specialists will be required to complete a 30-day review to follow up on noncompliance issues noted in either utilization or site visit reports, with the FRPD Director responsible for ensuring that any such followup occurs. OM stated that the FRPA Handbook and/or SOP will be updated accordingly to reflect changes to the monitoring process.

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## OBJECTIVES, SCOPE, AND METHODOLOGY

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The objectives of our audit were to (1) evaluate the appropriateness of the Department's process for awarding surplus properties under the FRPA program, and (2) evaluate the adequacy of monitoring activities conducted by the Department to ensure that such properties are used as intended and that overall program goals and objectives are met. To accomplish our audit objectives, we gained an understanding of internal control applicable to the Department's FRPA program award and monitoring processes. We reviewed applicable laws and regulations, Department policies and procedures, Government Accountability Office (GAO) "Standards for Internal Control in the Federal Government," and prior audit reports to identify any potential vulnerabilities in this area. We also held discussions with FRPD staff to further our understanding of FRPA program operations and to determine their levels of experience with regard to administration and oversight of real property.

The scope of our audit varied by objective, as discussed in further detail below, but was limited overall to active surplus properties awarded by the Department under the FRPA program in fiscal years (FY) 1992 through 2011. To identify these properties, we obtained an inventory of active properties from the Department and removed any properties that were not awarded during the identified scope period. We subsequently identified 195 properties that were awarded during our scope period. To determine the completeness and accuracy of the Department's inventory, we requested that GSA and DOD<sup>16</sup> provide us with data for each property where the Department was listed in their records as the sponsoring agency. We subsequently noted numerous issues with the data provided by the other agencies. We noted the other agencies' data to be questionable at times, as we found that properties listed in their inventories were not administered by the Department, but, rather, by other sponsoring agencies. In other cases, we found that the same property was included in more than one of the other agencies' inventories. In the end, we were able to match most of the active properties identified by these agencies to properties in the Department's inventory. Nevertheless, these issues, as well as inconsistencies in the type and amount of data provided by each agency and the inability of the Army to respond to our request, led us to conclude that it would not be possible to fully reconcile the data. Similar concerns with regard to the reliability of PBC data were noted by GAO in a 2006 report.<sup>17</sup> Overall, we determined the Department's inventory to be the best available data and considered it sufficiently accurate and complete for the purpose of our audit.

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<sup>16</sup> The audit team contacted the Army, Navy, and Air Force. The Army was unable to provide us with the requested information as it does not keep track of who the sponsoring agency is for each property in its inventory.

<sup>17</sup> "Most Public Conveyances Used as Intended, but Opportunities Exist to Enhance Federal Oversight," GAO-06-511, dated June 21, 2006.

### *Award Process*

To achieve our first objective, we reviewed the case files for a stratified random sample of 10 of the 38 properties (25 percent) awarded in FYs 2007 through 2011. Of these 10 properties, 6 were BRAC properties and 4 were non-BRAC properties. We stratified our sample in this manner in order to ensure that both types of properties would be included as part of our review, since there are notable differences in the award process for each. We reviewed file documentation related to award activities, as required by the program regulations and/or Department policies and procedures. This included confirming notices of availability and related correspondence, determining whether applicants provided all required information, verifying organizational and program eligibility, validating PBA calculations, and assessing the overall appropriateness of the Department's application review and approval processes. We also contacted other Federal agencies/subagencies that administer PBCs as part of our effort to determine the adequacy of the Department's screening process.

### *Monitoring Process*

To achieve our second objective, we reviewed the case files for a stratified random sample of 20 of the 195 properties (10 percent) awarded in FYs 1992 through 2011. Of these 20 properties, 4 were awarded in FYs 1992 through 1996; 6 were awarded in FYs 1997 through 2001; 6 were awarded in FYs 2002 through 2006; and 4 were awarded in FYs 2007 through 2011. We stratified our sample in this manner in order to ensure that both new and old properties would be included as part of our review, to determine the consistency and adequacy of monitoring over periods of time. We reviewed file documentation related to monitoring activities, as required by the program regulations, Department policies and procedures, as well as compliance requirements that were specified in each grantee's deed. We reviewed utilization reports submitted by the grantees to determine if they were timely and complete. We also reviewed survey reports to determine the frequency of site visits and if the reports included all required information. In addition, we reviewed documentation pertaining to followup activities conducted by the Department to determine whether actions taken in response to issues identified in the utilization reports or during the site visits were appropriate and sufficient based on each individual property or issue.

We conducted fieldwork at Department offices in Washington D.C., from October 2011 through June 2012. We provided our audit results to OM officials and FRPD staff during an exit conference conducted on July 3, 2012.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## ADMINISTRATIVE MATTERS

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Corrective actions proposed (resolution phase) and implemented (closure phase) by your office will be monitored and tracked through the Department's Audit Accountability and Resolution Tracking System (AARTS). Department policy requires that you develop a final corrective action plan (CAP) for our review in the automated system within 30 days of the issuance of this report. The CAP should set forth the specific action items, and targeted completion dates, necessary to implement final corrective actions on the findings and recommendations contained in this final audit report.

In accordance with the Inspector General Act of 1978, as amended, the Office of Inspector General is required to report to Congress twice a year on the audits that remain unresolved after 6 months from the date of issuance.

In accordance with the Freedom of Information Act (5 U.S.C. § 552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

We appreciate the cooperation given us during this review. If you have any questions, please call Michele Weaver-Dugan at (202) 245-6941.

Sincerely,

Patrick J. Howard /s/  
Assistant Inspector General for Audit

**Acronyms/Abbreviations/Short Forms Used in this Report**

BRAC	Base Realignment and Closure
CAP	Corrective Action Plan
CTS	Conveyance Tracking System
Department	U.S. Department of Education
DOD	Department of Defense
FRPA	Federal Real Property Assistance
FRPD	Federal Real Property Division
FY	Fiscal Year
GAO	Government Accountability Office
GSA	General Services Administration
Handbook	Federal Real Property Assistance Program Handbook
OM	Office of Management
PBA	Public Benefit Allowance
PBC	Public Benefit Conveyance
Property Act	Federal Property and Administrative Services Act of 1949
Secretary	Secretary of Education
SOP	Standard Operating Procedures



## Properties Reviewed During This Audit

No.	Grantee Name	Property Location	Conveyance Date	Surplus Property Identification <sup>18</sup>	Current Educational Program Use
1	Texas Tech University	Lubbock, TX	11/29/2006	Reese Air Force Base	Research, administrative offices, and storage for Advanced Vehicle Engineering program
2	Merced Union High School District	Atwater, CA	1/10/2007	Castle Air Force Base	Adult education classrooms and warehouse
3	The York School	Monterey, CA	8/10/2007	Fort Ord	Crosswalk and maintenance/emergency vehicular access
4	Arizona State University	Tempe, AZ	12/6/2007	Williams Air Force Base	Classrooms, instructional laboratories, and faculty/staff offices
5	Gadsden City Board of Education	Gadsden, AL	5/29/2008	Social Security Administration Building	Alternative education classrooms, tutoring, English proficient training, summer school, Parent Center, and district-wide professional development programs
6	Fayette County Public Schools	Lexington, KY	4/10/2009	Federal Medical Prison	Agriscience center
7	Vallejo City Unified School District	Vallejo, CA	5/25/2010	Mare Island Naval Shipyard	Elementary school
8	Davis School District	Clearfield, UT	9/23/2010	Freeport Center Wareyard	Vehicle/material storage, bus/employee parking, operational staging, and greenhouse/nursery operations
9	Orange County Public Schools	Orlando, FL	12/9/2010	Navy Sonar Laboratory	Administrative offices and educational support center
10	Chenango Valley Central School District	Binghamton, NY	12/17/2010	Binghamton Depot	Athletic fields, physical education curriculum cross-country running trail, and outdoor science classroom programs

<sup>18</sup> Most conveyances are for a portion, often referred to as a “parcel” or a “tract,” of the surplus property identified.

<b>No.</b>	<b>Grantee</b>	<b>Property Location</b>	<b>Conveyance Date</b>	<b>Surplus Property Identification</b>	<b>Current Educational Program Use</b>
11	Laredo Community College	Laredo, TX	10/2/1991	Fort McIntosh	Drill and fitness course
12	Middlesex County College	Edison, NJ	3/14/1995	Raritan Arsenal	Student/staff parking
13	Victor Valley Union High School District	Victorville, CA	5/22/1995	George Air Force Base/Amethyst and Seneca Roads	Alternative education center
14	City of Westworth Village	Fort Worth, TX	10/27/1995	Carswell Air Force Base	Public library
15	Saint Paul Evangelical Lutheran Church & School	Harlingen, TX	4/6/1998	Charles M. McKelvey U.S. Army Reserve Center	Elementary school
16	University of Colorado	Aurora, CO	5/12/1998	U.S. Army Garrison-Fitzsimons	Academic health sciences center campus
17	Township of Northampton	Warminster, PA	5/15/1998	Naval Air Warfare Center	Fire/rescue training
18	Le Sueur-Henderson Independent School District	Le Sueur, MN	12/15/1999	S. E. Ziebarth U.S. Army Reserve Center	Alternative/adult education classrooms and faculty/staff offices
19	Salt Lake City	Salt Lake City, UT	8/25/2000	Salt Lake City Administration Building and Garage	School bus transportation center
20	Regional Education Service Agency	Beckley, WV	8/9/2001	Beckley Federal Building	Alternative/adult education classrooms and faculty/staff offices
21	Bentley College	Waltham, MA	11/8/2001	Frederick C. Murphy Federal Center	Student housing, storage building, and recycling center
22	Orange County Public Schools <sup>19</sup>	Orlando, FL	12/2/2001	Navy Sonar Laboratory	Administrative offices and educational support center
23	McDowell County Board of Education	Welch, WV	5/6/2003	Social Security Administration Building	Alternative/adult education classrooms and faculty/staff offices
24	Marymount College	Rancho Palos Verdes, CA	4/22/2004	Palos Verdes Naval Housing	Student housing

<sup>19</sup> Represents a different parcel of surplus property than that noted in #9 for same grantee.

<b>No.</b>	<b>Grantee</b>	<b>Property Location</b>	<b>Conveyance Date</b>	<b>Surplus Property Identification</b>	<b>Current Educational Program Use</b>
<b>25</b>	Monterey Peninsula Community College	Monterey, CA	10/18/2004	Fort Ord Military Reservation	College campus
<b>26</b>	Prince George's Community College	Temple Hills, MD	4/27/2005	Social Security Administration Building	Trade skills training center
<b>27</b>	University of Tennessee	Chattanooga, TN	3/17/2009	Volunteer Army Ammunition Plant	Biological/environmental science programs
<b>28</b>	North Country Cultural Center for the Arts	Plattsburgh, NY	7/15/2009	Plattsburgh Federal Building	Museum and multi-arts educational/learning enter
<b>29</b>	Cambridge-Isanti Independent School District	Cambridge, MA	12/7/2010	Cambridge Memorial U.S. Army Reserve Center	Centralized learning center and maintenance facility




UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF MANAGEMENT

SEP 27 2012

MEMORANDUM

**TO:** Patrick J. Howard  
Assistant Inspector General for Audit  
Office of Inspector General

**FROM:** Winona H. Varnon   
Principal Deputy Assistant Secretary  
Delegated the Authority to Perform the Functions and Duties of the  
Assistant Secretary for Management

**SUBJECT:** Response to Draft Audit Report  
"The Department's Management of the Federal Real Property  
Assistance Program"  
Audit Control Number: ED-OIG/A19L0006

Thank you for the draft audit report, *Department's Management of the Federal Real Property Assistance Program*. The Office of Management (OM) has thoroughly reviewed the report and concurs with its recommendations and is proposing corrective actions.

Attached, please find OM's comments on the report and proposed corrective actions addressing each recommendation. If you have any questions regarding these documents, please direct them to Ashley Williams, OM's Audit Liaison Officer, who can be reached at (202) 401-6142 or Wanda Davis at (202) 401-5931.

Attachments

cc: Wanda Davis, Director, Management Services Division

## **Office of Management's Comments**

### **"The Department's Management of the Federal Real Property Assistance Program"**

**Audit Control Number: ED-OIG/A19I0001**

**September 27, 2012**

#### **Finding No. 1—Improvements are Needed in the Department's Federal Real Property Award Process.**

##### **Recommendation**

- 1.1. Standardize the process for compiling screening lists and documenting notification to potentially eligible entities, to include a supervisory review process of screening lists for comprehensiveness and reasonableness, and ensure employees follow the established procedures.

##### **Comment**

**Concur.** Federal Real Property Division (FRPD), Education Public Benefit Conveyance Policy Handbook (Chapter 7) and the FRPD Public Benefits Conveyance Standard Operating Procedures (Chapter 3 and 4) will be updated to include clear guidance on the submission of potential interests by category (state, local and private/nonprofit entities /specialized programs) and will outline the supervisory review process for the Director of FRPD. The screening list and notification to eligible entities will be uploaded into the FRPD Conveyance Tracking System (CTS) and become a permanent record on file. To ensure all employees are aware of the established process, each specialist will receive a copy of the updated handbook and standard operating procedures. The updated handbook, standard operating procedures, and the email notifying the specialists of the updates will be included in the master audit file as evidence this process has been documented and implemented.

**Due Date:** December 31, 2012

##### **Recommendation**

- 1.2. Emphasize the need for case specialists to take into account all relevant allowances when calculating and reviewing PBA discounts and provide additional training, as necessary.

### **Comment**

**Concur.** All case specialists are required and have completed a six-week boot camp on ED's Federal Real Property Assistance Program which included a session on calculating public benefit allowances. To emphasize this training, the Federal Real Property Division (FRPD) will participate in a refresher training session focusing on the public benefit allowance calculations using the FRPD Education Public Benefit Conveyance Policy Handbook (Chapter 10) and existing cases in which Impact Aid calculations were applied to ensure a clear understanding of each type of allowance. The training materials used and sign-in sheet will be included in the master audit file as evidence this process has been documented and implemented.

**Due Date:** December 31, 2012

### **Recommendation**

- 1.3. Create an application review check list to ensure that applications include all required information.

### **Comment**

**Concur.** There is a current detailed application check list in place but the Federal Real Property Division (FRPD) will update and provide a shorter version of the application check list for specialists to complete. The check lists will be uploaded into the FRPD Conveyance Tracking System (CTS) as a permanent record on file. The FRPD Education Public Benefit Conveyance Policy Handbook (Chapter 8) and the Public Benefits Conveyance Standard Operating Procedures (Chapter 3 and 4) will be updated to reflect this process and will be included as evidence. In addition, a sample Report and Recommendation with the approval of both the case specialist and Director of FRPD, and sample of the updated application checklist will be included in the master audit file as evidence this process has been documented and implemented.

**Due Date:** December 31, 2012

## **Finding No. 2—Improvements are Needed in the Department's Federal Real Property Monitoring Process**

### **Recommendation**

- 2.1. Ensure that case specialists and grantees are aware of the established utilization report due dates and that any changes to the dates are effectively communicated.

### **Comment**

**Concur.** Federal Real Property Division (FRPD) will electronically submit to each existing grantee, a notification letter to include specific utilization report requirements. Going forward, any new grantees will receive an electronic notification letter as well. The case specialists will be made aware of the report due dates by uploading a copy of each notification letter to the FRPD Conveyance Tracking System (CTS). If there are changes to the due dates, the grantee will receive a letter notifying them of the new due date and this letter will also be uploaded and filed on the CTS. A copy of both notification letters and the updated FRPD Public Benefits Conveyance Standard Operating Procedures (Chapters 3 and 4) reflecting this process will be included in the master audit file as evidence this process has been documented and implemented.

**Due Date:** March 31, 2013

### **Recommendation**

- 2.2. Ensure that case specialists are aware of the requirements for sending report due date reminders.

### **Comment**

**Concur.** All case specialists currently and will continue to run monthly reports on their assigned conveyances identifying upcoming report due dates. A letter is currently sent and will continue to be sent to grantees within the first week of every month reminding them of their report due dates. This letter will also be filed in the Federal Real Property Division's Conveyance Tracking System (CTS).

The Public Benefits Conveyance Standard Operating Procedures (Chapters 3 and 4) and Public Benefits Conveyance Handbook will be updated to outline this process. Each specialist will be provided a copy of the updated handbook and standard operating procedures to be made aware of the process. A sample of the due date reminder letter notification, the updated handbook and standard operating procedures and a copy of the email notifying the case specialists of the process will be included in the master audit file as evidence this process has been documented and implemented.

**Due date:** December 30, 2012

### **Recommendation**

- 2.3. Ensure that case specialists adequately document their review of the utilization reports and that they do not accept reports that are either unsigned or signed by inappropriate personnel.

### **Comment**

**Concur.** Federal Real Property Division (FRPD) will document their review and approval of utilization reports by signing off on the reports prior to uploading to the Conveyance Tracking System (CTS). In addition, an annual letter will be sent to each grantee verifying the appropriate authorized or delegated official. The FRPD Public Benefits Conveyance Standard Operating Procedures (Chapters 3 and 4) and FRPD Education Conveyance Policy Handbook (Chapter 14) will be updated to reflect this process. A sample of an approved utilization report, delegation verification letter, copies of the Handbook and Standard Operating Procedures will be included in the master audit file as evidence this process has been documented and implemented.

**Due Date:** March 31, 2013

## **Recommendation**

- 2.4.** Ensure that reports are completed after each site visit and that they include all required information.

### **Comment**

**Concur.** Federal Real Property Division (FRPD) currently completes a Compliance Inspection Report upon completion of site visits. Upon completion of each site visit, the case specialists will complete and upload the reports into the FRPD Conveyance Tracking System (CTS) and the Director of FRPD will review and ensure consistency and quality assurance. The FRPD Public Benefits Compliance Standard Operating Procedures (Chapter 3 and 4) will be updated to outline this process and will be included in master audit file as evidence. As additional evidence, a sample Compliance Inspection Report including the date it was initiated by the case specialists and reviewed by the Director of FRPD will also be included in the master audit as evidence the process has been documented and implemented.

**Due Date:** December 31, 2012

## **Recommendation**

- 2.5** Ensure that follow-up activities in response to issues identified through the review of utilization reports or site visits are initiated and conducted in a timely manner and that property case files contain adequate documentation of activities related to the resolution of any such issues.

### **Comment**

**Concur.** Federal Real Property Division (FRPD) currently completes a Compliance Inspection Report upon completion of site visits. Case specialists will be required to complete a 30-day review to follow-up on non-compliance issues and the Director of FRPD will ensure the follow-up by the case specialists



was done. The FRPD Public Benefits Compliance Standard Operating Procedures (Chapter 3 and 4) will be updated to outline this process and will be included in master audit file as evidence. As additional evidence, a sample Compliance Inspection Report reflecting the review and approval by the Director of FRPD of the submitted adequate documentation resolving any non-compliance issues will also be included in the master audit as evidence the process has been documented and implemented.

**Due Date:** December 31, 2012