

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3947
OFFERED BY MR. BURTON

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Property Asset
3 Management Reform Act of 2002”.

4 **SEC. 2. DEFINITION OF LANDHOLDING AGENCY.**

5 Section 3 of the Federal Property and Administrative
6 Services Act of 1949 (40 U.S.C. 472) is amended by add-
7 ing at the end the following:

8 “(m) The term ‘landholding agency’—

9 “(1) subject to subparagraphs (2) and (3),
10 means any Federal agency that, by specific or gen-
11 eral statutory authority, has jurisdiction, custody,
12 and control over property (as defined in paragraph
13 (d)) that is real property;

14 “(2) does not include a Federal agency with re-
15 spect to the agency—

16 “(A) disposing of an interest in real prop-
17 erty for public benefit purposes pursuant to sec-
18 tion 203;



1 “(B) holding lands in trust or restricted
2 fee status for individual Indians or Indian
3 tribes; or

4 “(C) having jurisdiction over National
5 Park System lands, National Forest System
6 lands, or National Wildlife Refuge System
7 lands; and

8 “(3) does not include the Bureau of Land Man-
9 agement.”.

10 **SEC. 3. LIFE CYCLE PLANNING AND MANAGEMENT.**

11 Title II of the Federal Property and Administrative
12 Services Act of 1949 (40 U.S.C. 481 et seq.) is amended
13 by adding at the end the following:

14 **“SEC. 213. ASSET MANAGEMENT PRINCIPLES, PERFORM-
15 ANCE MEASUREMENT, AND DATABASE.**

16 “(a) MANAGEMENT PRINCIPLES.—(1) Under the au-
17 thorities vested in the Administrator under section 205(c)
18 of this Act, the Administrator, in consultation with the
19 heads of Federal agencies and the Director of the Office
20 of Management and Budget, shall establish and maintain
21 current management principles to be applied by Federal
22 agencies where appropriate to real and personal property
23 assets subject to this Act and under the jurisdiction, cus-
24 tody, and control of such agencies.



1 “(2) With respect to the outlease of property through
2 the use of public-private partnerships authorized under
3 section 216(d), the principles under this subsection shall
4 include the following:

5 “(A) Under no circumstances shall the liability
6 of the Federal Government arising from an arrange-
7 ment with a nongovernmental entity or from the op-
8 eration of any partnership, cooperative venture, lim-
9 ited liability company, corporation, trust, or other
10 business arrangement created as the result of an
11 agreement with a nongovernmental entity exceed the
12 amount of the Federal Government’s capital con-
13 tribution or equity contribution.

14 “(B)(i) Such projects may only be undertaken
15 if the Federal asset is not developed to its highest
16 and best use and the project is economically viable.

17 “(ii) For purposes of this subparagraph, deter-
18 mination of economic viability would include, among
19 other relevant economic factors, the internal rate of
20 return of the investment to the Government (with
21 preference given to higher rates of return) at lease-
22 back rates not exceeding market rates.

23 “(C) Such projects may only be undertaken if
24 the market conditions are favorable to development



1 and full occupancy by government and private ten-
2 ants.

3 “(b) PERFORMANCE MEASUREMENT BENCH-
4 MARKS.—(1) The Administrator, in consultation with the
5 heads of landholding agencies, shall establish performance
6 measures to determine the effectiveness of Federal real
7 property management.

8 “(2) The performance measures shall monitor and as-
9 sess the following:

10 “(A) The disposal of real property assets.

11 “(B) The reduction in vacant Federal space.

12 “(C) The realization of equity value in Federal
13 real property assets.

14 “(D) The value added to Federal agency mis-
15 sions through cooperative arrangements with the
16 commercial real estate community.

17 “(E) The enhancement of Federal agency pro-
18 ductivity through an improved working environment.

19 “(3) The performance measures shall be designed
20 to—

21 “(A) enable the Congress and heads of Federal
22 agencies to track progress in the achievement of
23 property management objectives on a Government-
24 wide basis; and



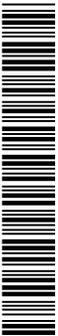
1 “(B) allow for comparing the performance of
2 Federal agencies against industry and other public
3 sector agencies.

4 “(4) In developing and implementing the perform-
5 ance measures, the Administrator shall use existing data
6 sources and automated data collection tools to the max-
7 imum extent practical.

8 “(c) INVENTORY DATABASE.—(1) The Administrator
9 shall establish and maintain a single, comprehensive, and
10 descriptive database of all real property interests under
11 the custody and control of each Federal agency.

12 “(2)(A) For purposes of paragraph (1), the Adminis-
13 trator, in cooperation with the heads of other Federal
14 agencies, shall collect from each Federal agency such de-
15 scriptive information, except for classified information, as
16 the Administrator considers will best describe the nature,
17 use, and extent of the real property holdings of the Fed-
18 eral Government. The head of a Federal agency shall
19 promptly provide to the Administrator, upon request, such
20 information regarding real property holdings under the
21 custody and control of the agency.

22 “(B) For purposes of this paragraph, the term ‘real
23 property holdings’ includes—



1 “(i) all public lands (as that term is defined in
2 section 103 of the Federal Land Policy and Manage-
3 ment Act of 1976 (43 U.S.C. 1702)); and

4 “(ii) all real property of the Federal Govern-
5 ment that is located outside of the 50 States, includ-
6 ing the District of Columbia, Puerto Rico, American
7 Samoa, Guam, the Northern Mariana Islands, and
8 the United States Virgin Islands.

9 “(3) To facilitate reporting of information on a uni-
10 form basis, the Administrator may establish data and
11 other information technology standards for use by Federal
12 agencies in developing or upgrading Federal agency real
13 property information systems.

14 “(d) PUBLIC ACCESS TO INFORMATION.—(1) Except
15 as provided in paragraphs (2) and (3), the listing compiled
16 under this section shall be a public record.

17 “(2) The Administrator may withhold from public
18 disclosure information included in the listing, including
19 the location of classified facilities, if the Administrator de-
20 termines that withholding such information would be in
21 the public interest.

22 “(3) Nothing in this subsection requires an agency
23 to make available to the public information that is exempt
24 from disclosure pursuant to section 552 of title 5, United



1 States Code, popularly known as the Freedom of Informa-
2 tion Act.

3 “(e) JURISDICTION OF ADMINISTRATOR.—Except for
4 the purpose of maintaining the property listing required
5 under subsection (c), nothing in this section authorizes the
6 Administrator to assume jurisdiction over the acquisition,
7 management, or disposal of real property not subject to
8 this Act.

9 **“SEC. 214. SENIOR REAL PROPERTY OFFICERS.**

10 “(a) IN GENERAL.—(1) Within 180 days after the
11 effective date of this section, the head of each landholding
12 agency shall appoint, or designate from among senior
13 management officials of such agency, a Senior Real Prop-
14 erty Officer. Such individual shall have education, train-
15 ing, and real estate portfolio or facilities management ex-
16 perience required to administer the functions described
17 under this section.

18 “(2) The head of any landholding agency may ap-
19 point a Real Property Officer for any major component
20 of the agency. A Real Property Officer of a landholding
21 agency, for the purposes of complying with the require-
22 ments of this Act, shall report to the Senior Real Property
23 Officer.

24 “(b) RESPONSIBILITIES.—The Senior Real Property
25 Officer of a landholding agency shall be responsible for



1 continuously monitoring real property assets of the agency
2 so that—

3 “(1) real property of the agency, including its
4 functional use, occupancy, reinvestment require-
5 ments, and future utility, is managed in a manner
6 that is—

7 “(A) consistent with and supportive of the
8 goals and objectives set forth in the agency’s
9 strategic plan under section 306 of title 5,
10 United States Code;

11 “(B) consistent with the real property
12 asset management principles established by the
13 Administrator under section 213(a); and

14 “(C) reflected in an agency asset manage-
15 ment plan issued under subsection (c);

16 “(2) real property assets that can benefit from
17 the application of the enhanced asset management
18 tools described in section 216 are identified;

19 “(3) such enhanced asset management tools, in
20 those cases in which a real property asset can so
21 benefit, are applied in such a way that any resulting
22 transaction shall—

23 “(A) result in the agency receiving fair
24 market value which, in the case of an exchange



1 or sale of Federal real property, shall be based
2 on an appraisal; and

3 “(B) protect the Federal Government from
4 unreasonable financial or other risks;

5 “(4) provide to the Administrator annually—

6 “(A) a listing and description of the real
7 property assets under the jurisdiction, custody,
8 and control of that agency, including public
9 lands of the United States and property located
10 in foreign lands; and

11 “(B) any other relevant information the
12 Administrator may request, for inclusion in the
13 Governmentwide listing of all Federal real prop-
14 erty interests established and maintained under
15 section 213(c);

16 “(5) determine the performance of the agency
17 against the performance measures established under
18 section 213(b); and

19 “(6) report the results to the Committee on
20 Governmental Affairs of the Senate and the Com-
21 mittee on Government Reform of the House of Rep-
22 resentatives.

23 “(c) CONSIDERATION OF AVAILABLE REAL PROP-
24 erty HOLDINGS.—Except as otherwise provided by Fed-
25 eral law, before a landholding agency acquires any interest



1 in real property from any non-Federal source, the Senior
2 Real Property Officer of the agency must give first consid-
3 eration to available Federal real property holdings.”.

4 **SEC. 4. ENHANCED AUTHORITIES FOR REAL PROPERTY**
5 **ASSET MANAGEMENT.**

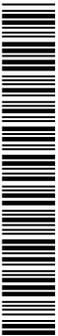
6 (a) IN GENERAL.—Title II of the Federal Property
7 and Administrative Services Act of 1949 (40 U.S.C. 481
8 et seq.) is further amended by adding at the end the fol-
9 lowing:

10 **“SEC. 215. CRITERIA FOR USING ENHANCED ASSET MAN-**
11 **AGEMENT TOOLS.**

12 “(a) IN GENERAL.—Subject to the requirements of
13 subsection (b) of this section, the head of a landholding
14 agency may apply an enhanced asset management tool de-
15 scribed in section 216 to a real property interest under
16 the agency’s jurisdiction, custody, and control if—

17 “(1) the head of the agency has determined
18 that such real property interest is not excess prop-
19 erty, and includes as part of the documentation re-
20 quired under subsection (b)(3) a description of the
21 need and mission requirement fulfilled by the Fed-
22 eral property;

23 “(2) the real property interest is used to fulfill
24 or support a continuing mission requirement of the
25 agency; and



1 “(3) the real property interest can, by the ap-
2 plication of the enhanced asset management tool,
3 improve the support of such mission.

4 “(b) CRITERIA FOR APPLICATION.—Before applying
5 an enhanced asset management tool defined in section 216
6 to a real property interest identified under subsection (a),
7 the head of the agency, in consultation with the Adminis-
8 trator, must determine that such application meets all of
9 the following criteria:

10 “(1) The application supports the goals and ob-
11 jectives set forth in the agency’s strategic plan under
12 section 306 of title 5, United States Code, and the
13 agency’s real property asset management plan under
14 section 214.

15 “(2) Use of the real property is economical,
16 cost effective, and in the best interests of the United
17 States.

18 “(3) The application is documented in a busi-
19 ness plan that, commensurate with the nature of the
20 selected tool—

21 “(A) analyzes all reasonable options for
22 using the property;

23 “(B) describes how the application will be
24 in compliance with applicable provisions of law,
25 including such provisions of—



1 “(i) the National Environmental Pol-
 2 icy Act of 1969 (42 U.S.C. 4321 et seq.);
 3 and

4 “(ii) the McKinney-Vento Homeless
 5 Assistance Act (42 U.S.C. 11301 et seq.),
 6 including by—

7 “(I) describing the result of the
 8 determination under that Act by the
 9 Secretary of Housing and Urban De-
 10 velopment of the suitability of the
 11 property for use to assist the home-
 12 less; and

13 “(II) explaining the rationale for
 14 the landholding agency’s decision not
 15 to make the property available for use
 16 to assist the homeless; and

17 “(C) establishes effective procedures for
 18 soliciting, assessing, and taking into account
 19 input from the local community.

20 **“SEC. 216. ENHANCED ASSET MANAGEMENT TOOLS.**

21 “(a) INTERAGENCY TRANSFERS OR EXCHANGES.—
 22 The head of any landholding agency may acquire replace-
 23 ment real property by transfer or exchange of real prop-
 24 erty subject to this Act with other Federal agencies under



1 terms mutually agreeable to the heads of the agencies in-
2 volved.

3 “(b) SALES TO OR EXCHANGES WITH NON-FEDERAL
4 SOURCES.—The head of a landholding agency may ac-
5 quire replacement real property by selling or exchanging
6 a real property asset or interests therein with any non-
7 Federal source: *Provided That*—

8 “(1) the transaction does not conflict with other
9 applicable laws governing the acquisition of interests
10 in real property by Federal agencies;

11 “(2) following consultation with the Adminis-
12 trator, the agency first made the property available
13 for transfer or exchange to other Federal agencies;
14 and

15 “(3) the transaction results in the agency re-
16 ceiving fair market value, which shall be based upon
17 an appraisal.

18 “(c) SUBLEASES.—(1) The head of any landholding
19 agency may, by lease, permit, license or similar instru-
20 ment, make available in accordance with this subsection
21 to any other Federal agency or to any non-Federal entity
22 the unexpired portion of any government lease for real
23 property.



1 “(2) The term of any sublease under this subsection
2 shall not exceed the unexpired portion of the term of the
3 original government lease of the property.

4 “(3) The head of a landholding agency may not sub-
5 lease property under this subsection unless the sublease
6 results in the agency receiving fair market rental value
7 for the property.

8 “(4) Before subleasing property under this subsection
9 to a private person, the head of a landholding agency, in
10 consultation with the Administrator, shall give consider-
11 ation to the needs of the following entities, with the needs
12 of entities listed in subparagraph (A) being considered be-
13 fore the needs of entities listed in subparagraph (B):

14 “(A) The needs of each of the following entities,
15 equally, shall be given first consideration by the
16 agency:

17 “(i) Federal agencies.

18 “(ii) Indian tribes (as that term is defined
19 in section 4 of the Indian Health Care Improve-
20 ment Act (25 U.S.C. 1603)), urban Indian or-
21 ganizations (as defined in that section), and
22 tribal organizations (as defined by section 4 of
23 the Indian Self-Determination and Education
24 Assistance Act (25 U.S.C. 450b)), through the
25 Secretary of the Interior and the Secretary of



1 Health and Human Services, if the property is
2 to be used for purposes in connection with an
3 Indian self-determination contract or grant pur-
4 suant to the Indian Self-Determination Act (25
5 U.S.C. 450f et seq.).

6 “(B) The needs of each of the following enti-
7 ties, equally, shall be given second consideration by
8 the agency:

9 “(i) State and local governments.

10 “(ii) Indian tribes, tribal organizations,
11 and urban Indian organizations (as defined in
12 the provisions referred to in subparagraph
13 (A)(ii)), through the Secretary of the Interior
14 and the Secretary of Health and Human Serv-
15 ices, if the property is to be used for purposes
16 other than the purposes referred to in subpara-
17 graph (A)(ii) and such use of the property is
18 authorized by law other than this subsection.

19 “(d) OUTLEASES AND PUBLIC PRIVATE PARTNER-
20 SHIPS.—(1) The head of any landholding agency may
21 make available by outlease agreements with other Federal
22 agencies and non-Federal entities any unused or
23 underused portion of or interest in any real and related
24 personal property of the landholding agency, if—

25 “(A) the agency head finds that—



1 “(i) there is no long-term mission require-
2 ment for the property, but the Federal Govern-
3 ment is not permitted to dispose of it; or

4 “(ii)(I) there is a continuing, long-term
5 mission requirement of the landholding agency
6 for the property to remain in Government own-
7 ership; and

8 “(II) the use of the real property by the
9 lessee will not be inconsistent with such mis-
10 sion; and

11 “(B) in the case of an outlease to a non-Fed-
12 eral entity, the outlease is conducted competitively.

13 If the agency head makes a finding under subparagraph
14 (A)(ii), the agency head shall include a written rationale
15 for the finding of a continuing Federal need for the prop-
16 erty in the business plan submitted under section
17 215(b)(3).

18 “(2) To reduce vacant space and realize the equity
19 value of Government-owned real property assets, provide
20 Federal agencies with modern functional work environ-
21 ments, and work cooperatively with the commercial real
22 estate community, the landholding agency may enter into
23 an agreement with a non-Federal entity. Any agreement
24 under this subsection—



1 “(A) may be to a partnership, cooperative ven-
2 ture, limited liability company, corporation, trust,
3 sole proprietorship, or other business arrangement;

4 “(B) shall be for a term no longer than 50
5 years;

6 “(C) shall result in the agency receiving fair
7 market value which, in the case of an exchange or
8 sale of Federal real property, shall be based upon an
9 appraisal;

10 “(D) may provide a leaseback option to the
11 Federal Government to occupy space in any facilities
12 acquired, constructed, repaired, renovated, or reha-
13 bilitated by the nongovernmental entity: *Provided*,
14 That the agreement does not guarantee Government
15 occupancy; any subsequent agreements to leaseback
16 space in such facilities must be in accordance with
17 the competition requirements of title III;

18 “(E) shall provide—

19 “(i) that neither the United States, nor its
20 agencies or employees, shall be liable for any
21 actions, debts, or liability of the non-Federal
22 entity, and

23 “(ii) that neither the lessee nor the non-
24 Federal entity shall be authorized to execute
25 and shall not execute any instrument or docu-



1 ment creating or evidencing any indebtedness
2 unless such instrument or document specifically
3 disclaims any liability of the United States, and
4 of any Federal agency or employee thereunder,
5 in excess of the Government's capital contribu-
6 tion in the non-Federal entity;

7 “(F) shall provide—

8 “(i) that the Government's interest under
9 the agreement is senior to that of any lender to
10 the non-Federal entity; and

11 “(ii) that under no circumstances shall the
12 liability of the United States arising from its
13 arrangement with the non-Federal entity, or
14 from the operations of any partnership, cooper-
15 ative venture, limited liability company, cor-
16 poration, trust, or other business arrangement
17 created as the result of the agreement with the
18 non-Federal entity, exceed the amount of the
19 Federal Government's capital contribution or
20 equity contribution to the partnership, cooper-
21 ative venture, limited liability company, corpora-
22 tion, trust, or other business arrangement; and

23 “(G) may contain such other terms and condi-
24 tions as the head of the landholding agency making



1 the property available considers necessary to protect
2 the interests of the Federal Government.

3 “(3) In making property available for use or outlease
4 under this subsection, the landholding agency shall follow
5 the order of consideration listed in subsection (c)(4).

6 “(4) Before a landholding agency executes any agree-
7 ment authorized under this subsection that would result
8 in the development or substantial rehabilitation or renova-
9 tion of Federal assets under a business arrangement with
10 a non-Federal entity, the head of such agency shall under-
11 take an analysis of the proposed arrangement or trans-
12 action to determine the business and legal risks and bene-
13 fits to the Federal Government that would likely result
14 from the proposed arrangement or transaction.

15 “(5)(A) For the sole purpose of scoring leaseback
16 agreements for purposes of the Federal budget, if the non-
17 Federal entity shall exercise management control of the
18 business of the public-private entity referenced under
19 paragraph (2)(A) and holds a majority interest in owner-
20 ship in the public-private venture, then the project shall
21 not be considered to be constructed on Government-owned
22 land.

23 “(B) All leaseback agreements must meet the re-
24 quirements of an operating lease as specified in relevant
25 Office of Management and Budget circulars.



1 “(6) If, during the term of an outlease involving the
2 development or substantial rehabilitation or renovation of
3 a Federal asset in a business arrangement with a non-
4 Federal entity, the head of the landholding agency deter-
5 mines that the property is no longer needed by the land-
6 holding agency, the head of the agency may initiate action
7 for the transfer to the non-Federal entity of all right, title,
8 and interest of the United States in the property by re-
9 questing the Administrator of General Services to dispose
10 of the property. A disposition under this section may be
11 made for such consideration as the head of the land-
12 holding agency and the Administrator jointly determine is
13 in the best interests of the United States and upon such
14 other terms and conditions as the head of the landholding
15 agency and the Administrator consider appropriate.

16 “(7)(A) If a landholding agency retains authority
17 over any decision to construct or alter buildings on prop-
18 erty leased by the agency to a non-Federal entity under
19 this subsection, then any such construction or alteration
20 shall comply with section 220.

21 “(B)(i) If landholding agency does not retain author-
22 ity over any decision to construct or alter buildings on
23 property leased by the agency to a non-Federal entity
24 under this subsection, then any such construction or alter-
25 ation shall comply with all laws described in clause (ii)



1 that would apply to such construction or alteration if the
2 property were not Federal property.

3 “(ii) The laws referred to in clause (i) are all laws
4 of a State, and of a political subdivision of a State, relat-
5 ing to zoning, landscaping, open space, minimum distance
6 of a building from a property line, maximum building
7 height, historic preservation, esthetic qualities of a build-
8 ing, building codes, and similar matters, and any other
9 State or local laws relating to construction or alteration
10 of a building, respectively, by the non-Federal entity on
11 non-Federal lands.

12 “(8) This subsection shall not be construed to affect
13 any other authority of any Federal agency to outlease
14 property or to otherwise make property available for any
15 reason.

16 “(9) The authority to enter into agreements under
17 subsection (b) and this subsection expires 10 years after
18 the date of enactment of this subsection.

19 “(10) The Comptroller General of the United States
20 shall submit biennial reports to the Congress, including
21 to the Committee on Government Reform of the House
22 of Representatives and the Committee on Governmental
23 Affairs of the Senate, on the effectiveness of the use of
24 authority under this subsection.



1 **“SEC. 217. REVIEW AND REVISION OF TRANSACTIONS BY**
2 **ADMINISTRATOR**

3 “The Administrator may, in the sole discretion of the
4 Administrator, review any transaction of an agency under-
5 taken utilizing authority under section 216. After such re-
6 view, the Administrator may disapprove such transaction
7 if the Administrator determines the transaction does not
8 reflect due diligence by the agency, is not in the best inter-
9 est of the United States, or does not comply with the re-
10 quirements of this Act.

11 **“SEC. 218. FORMS OF CONSIDERATION.**

12 “Notwithstanding any other provision of law, the
13 forms of consideration received by the United States in
14 a transaction under section 216 may include cash or cash
15 equivalents, other property (either real or personal), in-
16 kind assets, services related to the transaction, future con-
17 sideration, or any combination thereof.

18 **“SEC. 219. TRANSACTIONAL REPORTS.**

19 “(a) IN GENERAL.—For those transactions author-
20 ized under section 216 involving the sale, exchange, or
21 outlease to a non-Federal entity of any asset valued in
22 excess of \$700,000 at the time of the transaction, the head
23 of the landholding agency performing the transaction shall
24 submit the business plan required by subsection 215(b)(3)
25 to the Director of the Office of Management and Budget,
26 the Committee on Governmental Affairs of the Senate,



1 and the Committee on Government Reform of the House
2 of Representatives at least 30 calendar days before the
3 final execution of such transaction.

4 “(b) ADJUSTMENT OF THRESHOLD.—The Adminis-
5 trator of General Services may increase or decrease the
6 dollar amount in subsection (a) to reflect a percentage in-
7 crease or decrease in the Department of Commerce Con-
8 sumer Price Index.

9 **“SEC. 220. COMPLIANCE WITH NATIONALLY RECOGNIZED**
10 **CODES.**

11 “(a) BUILDING CODES.—Each building with respect
12 to which this section applies may be constructed or al-
13 tered, to the maximum extent feasible as determined by
14 the head of the landholding agency having authority with
15 respect to the property on which the building is (or will
16 be) located, only in compliance with one of the nationally
17 recognized model building codes and with other applicable
18 nationally recognized codes. Such other codes shall in-
19 clude, but not be limited to, electrical codes, fire and life
20 safety codes, and plumbing codes, as determined appro-
21 priate by the head of that agency. In carrying out this
22 subsection, the head of that agency shall require use of
23 the latest edition of the nationally recognized codes re-
24 ferred to in this subsection.



1 “(b) ZONING LAWS.—Each building with respect to
2 which this section applies may be constructed or altered
3 only after consideration of all requirements (other than
4 procedural requirements) of—

5 “(1) zoning laws, and

6 “(2) laws relating to landscaping, open space,
7 minimum distance of a building from the property
8 line, maximum height of a building, historic preser-
9 vation, and esthetic qualities of a building, and other
10 similar laws,

11 of a State or a political subdivision of a State that would
12 apply to the building if it were not a building constructed
13 or altered by a Federal agency.

14 “(c) SPECIAL RULES.—

15 “(1) STATE AND LOCAL GOVERNMENT CON-
16 SULTATION, REVIEW, AND INSPECTIONS.—For pur-
17 poses of meeting the requirements of subsections (a)
18 and (b) with respect to a building, the person car-
19 rying out the construction or alteration shall—

20 “(A) in preparing plans for the building,
21 consult with appropriate officials of the State or
22 political subdivision, or both, in which the build-
23 ing is (or will be) located;

24 “(B) upon request, submit such plans in a
25 timely manner to such officials for review by



1 such officials for a reasonable period of time
2 not exceeding 30 days; and

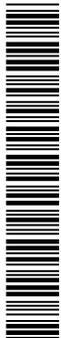
3 “(C) permit inspection by such officials
4 during construction or alteration of the build-
5 ing, in accordance with the customary schedule
6 of inspections for construction or alteration of
7 buildings in the locality, if such officials provide
8 to the person—

9 “(i) a copy of such schedule before
10 construction of the building is begun; and

11 “(ii) reasonable notice of their inten-
12 tion to conduct any inspection before con-
13 ducting such inspection.

14 “(2) LIMITATION ON STATE RESPONSIBIL-
15 ITIES.—Nothing in this section imposes an obliga-
16 tion on any State or political subdivision to take any
17 action under paragraph (1).

18 “(d) STATE AND LOCAL GOVERNMENT REC-
19 OMMENDATIONS.—Appropriate officials of a State or a po-
20 litical subdivision of a State may make recommendations
21 to the head of a landholding agency concerning measures
22 necessary to meet the requirements of subsections (a) and
23 (b). Such officials may also make recommendations to the
24 head of the landholding agency concerning measures that
25 should be taken in the construction or alteration of the



1 building to take into account local conditions. The head
2 of the landholding agency shall give due consideration to
3 any such recommendations.

4 “(e) EFFECT OF NONCOMPLIANCE.—No action may
5 be brought against the United States and no fine or pen-
6 alty may be imposed against the United States for failure
7 to meet the requirements of subsection (a), (b), or (c) or
8 for failure to carry out any recommendation under sub-
9 section (d).

10 “(f) LIMITATION ON LIABILITY.—The United States
11 and its contractors shall not be required to pay any
12 amount for any action taken by a State or a political sub-
13 division of a State to carry out this section (including re-
14 viewing plans, carrying out on-site inspections, issuing
15 building permits, and making recommendations).

16 “(g) NATIONAL SECURITY WAIVER.—This section
17 shall not apply with respect to any building if the the head
18 of the landholding agency determines that the application
19 of this section to the building would adversely affect na-
20 tional security. A determination under this subsection
21 shall not be subject to administrative or judicial review.

22 **“SEC. 221. LIMITATION ON CERTAIN AGENCY ACTIONS.**

23 “(a) IN GENERAL.—Notwithstanding any other pro-
24 vision of law, no Federal agency may take any of the ac-
25 tions described in subsection (b) with respect to—



1 “(1) Federal land and improvements in Los An-
2 geles, California, consisting of approximately 388
3 acres, bounded by the 405 Freeway, Ohio Avenue,
4 Butler Avenue, Rochester Avenue, Federal Avenue,
5 San Vicente Boulevard, Bringham Avenue, Chayote
6 Street, Woodburn Drive, and Waterford Street; or

7 “(2) Federal land and improvements in Sepul-
8 veda, California, consisting of approximately 154
9 acres, bounded by Woodley Avenue, Lassen Street,
10 Haskel Avenue, and Plumber Street.

11 “(b) ACTIONS DESCRIBED.—Actions referred to in
12 subsection (a) are the following:

13 “(1) Actions involving the use of enhanced asset
14 management tools under section 216.

15 “(2) Determining real property to be excess
16 property.

17 “(3) Disposing of real property.”.

18 (b) REPEAL.—Section 321 of the Act of June 30,
19 1932 (40 U.S.C. 303b), is repealed.

20 **SEC. 5. INCENTIVES FOR REAL AND PERSONAL PROPERTY**
21 **MANAGEMENT IMPROVEMENT.**

22 (a) TREATMENT OF PROCEEDS OF FEDERAL PROP-
23 ERTY DISPOSALS.—Section 204 of the Federal Property
24 and Administrative Services Act of 1949 (40 U.S.C. 485)
25 is amended as follows:



1 (1) In subsection (h)(2)—

2 (A) by striking “(b)” and inserting “(e)”,

3 and

4 (B) by striking “, to the extent provided in
5 appropriations Acts,”.

6 (2) By amending subsection (i) to read as fol-
7 lows:

8 “(i)(1) A Federal agency may retain from the pro-
9 ceeds of the sale of personal property amounts necessary
10 to recover, to the extent practicable, the full costs, direct
11 and indirect, incurred by the agencies in disposing of such
12 property, including the costs for warehousing, storage, en-
13 vironmental services, advertising, appraisal, and transpor-
14 tation of the property.

15 “(2) Such amounts shall be deposited into an account
16 that shall be available for such costs without regard to
17 fiscal year limitations. Amounts that are not needed to
18 pay such costs shall be transferred at least annually to
19 the general fund or to a specific account in the Treasury
20 as otherwise authorized by law.”.

21 (3) By redesignating subsections (c), (d), (e),
22 (f), (g), (h), and (i), as subsections (d), (e), (f), (g),
23 (h), (i), and (j), respectively.

24 (4) By striking subsections (a) and (b) and in-
25 serting the following:

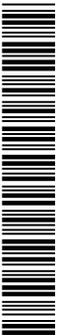


1 “(a) AGENCY RETENTION OF PROCEEDS FROM REAL
2 AND PERSONAL PROPERTY.—(1) Proceeds resulting from
3 the transfer or disposition of real property and related per-
4 sonal property under this title shall be credited to the
5 fund, account (including the capital asset account under
6 subsection (b)), or appropriation of the landholding agency
7 that made the property available for transfer or disposi-
8 tion and shall be treated as provided in subsections (b)
9 and (c).

10 “(2) Proceeds from any transfer of excess personal
11 property to a Federal agency or from any sale, lease, or
12 other disposition of surplus personal property shall be
13 treated as prescribed in subsection (j) or as otherwise au-
14 thorized by law.

15 “(3) All proceeds from the transfer or disposition of
16 property under this title that are not deposited or credited
17 to a specific agency account shall be covered into the
18 Treasury as miscellaneous receipts except as provided in
19 subsections (d), (e), (f), (g), (h), (i), and (j) of this section
20 or as otherwise authorized by law.

21 “(b) MONETARY PROCEEDS TO AGENCY CAPITAL
22 ASSET ACCOUNTS.—(1) Monetary proceeds received by
23 agencies from the transfer or disposition of real and re-
24 lated personal property shall be credited to an existing ac-
25 count or an account to be established in the Treasury to



1 pay for the capital asset expenditures of the particular
2 agency making the property available. Such account shall
3 be known as the agency's capital asset account.

4 “(2) Subject to subsection (c), any amounts credited
5 or deposited to such account under this section, along with
6 such other amounts as may be appropriated or credited
7 from time to time in annual appropriations Acts, shall be
8 devoted to the sole purpose of funding that agency's cap-
9 ital asset expenditures, including any expenses necessary
10 and incident to the agency's real property capital acquisi-
11 tions, improvements, and dispositions, and such funds
12 shall remain available until expended, in accordance with
13 the agency's asset management plan under section 214,
14 without further authorization: *Provided, That—*

15 “(A) moneys from an exchange or sale of real
16 property, or a portion of a real property holding,
17 under section 216(b) shall be applied only to the re-
18 placement of that property or to the rehabilitation of
19 the portion of that real property holding that re-
20 mains in Federal ownership, and

21 “(B) the head of each landholding agency shall
22 include with the materials the agency annually sub-
23 mits under section 1105 of title 31, United States
24 Code, a detailed accounting of all real property
25 transactions carried out under this title and of re-



1 receipts and disbursements from the agency's capital
2 asset account during the previous fiscal year.

3 “(c) TRANSACTIONAL AND OTHER COSTS.—Federal
4 agencies may be reimbursed from the monetary proceeds
5 of real property dispositions under this Act or from other
6 available resources, including from the agency's capital
7 asset account, for the full costs, direct and indirect, to the
8 agency disposing of such property, including the costs of
9 site remediation, restoration, or other environmental serv-
10 ices, relocating affected tenants and occupants, adver-
11 tising and marketing, community outreach, surveying, ap-
12 praisal, brokerage, historic preservation services, title in-
13 surance, due diligence, document notarization and record-
14 ing services, and the costs of managing leases and pro-
15 viding necessary services to the lessees.”.

16 (b) RELATIONSHIP TO OTHER LAW.—(1) Nothing in
17 this Act shall be construed to repeal or supersede any
18 other provision of Federal law directing the use of pro-
19 ceeds from specific real property transactions or directing
20 how or where a particular Federal agency is to deposit,
21 credit, or use the proceeds from the sale, exchange, or
22 other disposition of Federal property except as expressly
23 provided for in this Act.

24 (2) Section 2(a) of the Land and Water Conservation
25 Fund Act of 1965 (16 U.S.C. 460l–5(a)) is superseded



1 only to the extent that the Federal Property and Adminis-
2 trative Services Act of 1949, as amended by this Act, or
3 a provision of this Act, provides for an alternative disposi-
4 tion of the proceeds from the disposal of any surplus real
5 property and related personal property subject to this Act,
6 or the disposal of any interest therein.

7 (3) Subsection 3302(b) of title 31, United States
8 Code, is superseded only to the extent that this Act or
9 any other Act provides for the disposition of money re-
10 ceived by the Government.

11 (c) IMPLEMENTATION FOR FISCAL YEARS 2003–
12 2007.—For purposes of implementing this section, the fol-
13 lowing shall apply:

14 (1) For each of fiscal years 2003 through 2007,
15 the Director of the Office of Management and Budget
16 shall allocate to each agency a pro rata share of
17 the baseline estimate of total surplus real property
18 sales receipts transferred to the Land and Water
19 Conservation Fund as set forth in the President's
20 budget for fiscal year 2003, made pursuant to sec-
21 tion 1109 of title 31, United States Code. The Di-
22 rector of the Office of Management and Budget
23 shall notify the affected agencies and the Appropria-
24 tion Committees of the House of Representatives
25 and the Senate in writing of this allocation within



1 30 days after the date of enactment of this Act and
2 shall not subsequently revise the allocation.

3 (2) On September 30 of each such fiscal year,
4 each agency shall remit to the Treasury an amount
5 equal to its allocation for that fiscal year, out of the
6 proceeds realized from any sales of the agency's sur-
7 plus real property assets during that fiscal year.

8 (3) If an agency's actual sale proceeds in any
9 such fiscal year are less than the amount allocated
10 to it by the Director of the Office of Management
11 and Budget for that fiscal year, the agency shall
12 remit all of its sale proceeds to the Treasury, and
13 its allocation for the subsequent fiscal year shall be
14 increased by the difference.

15 (4) On September 30, 2007, if an agency has
16 remitted less sale proceeds to the Treasury than its
17 total allocation for the five years, the agency shall
18 remit the difference to the Treasury out of any other
19 funds available to the agency.

20 **SEC. 6. STREAMLINED AND ENHANCED DISPOSAL AU-**
21 **THORITIES.**

22 (a) PUBLIC BENEFIT CONVEYANCES TO STATE AND
23 LOCAL GOVERNMENTS.—Section 203(k)(3) of the Federal
24 Property and Administrative Services Act of 1949 (40
25 U.S.C. 484(k)(3)) is amended as follows:

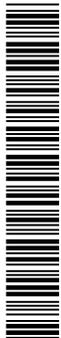


1 (1) By striking “or municipality” and inserting
2 “municipality, or qualified nonprofit organization es-
3 tablished for the primary purpose of preserving his-
4 toric monuments”.

5 (2) By inserting after the first sentence the fol-
6 lowing: “Such property may be conveyed to a non-
7 profit organization only if the State, political sub-
8 division, instrumentalities thereof, and municipality
9 in which the property is located do not request con-
10 veyance of the property under this section within 30
11 days after notice to them of the proposed conveyance
12 by the Administrator to that nonprofit organiza-
13 tion.”.

14 (b) DUTIES OF SECRETARY OF INTERIOR.—Section
15 203(k)(4)(C) of the Federal Property and Administrative
16 Services Act of 1949 (40 U.S.C. 484(k)(4)(C)) is amended
17 to read as follows:

18 “(C) the Secretary of the Interior, in the
19 case of property transferred pursuant to the
20 Surplus Property Act of 1944, and pursuant to
21 this Act, to States, political subdivisions, and
22 instrumentalities thereof, and municipalities for
23 use as a public park or public recreation area,
24 and to State, political subdivisions, and instru-
25 mentalities thereof, municipalities, and non-



1 profit organizations for use as a historic monu-
2 ment, for the benefit of the public; and”.

3 (c) NEGOTIATED DISPOSALS.—Section 203(e) of the
4 Federal Property and Administrative Services Act of 1949
5 (40 U.S.C. 484(e)) is amended as follows:

6 (1) by striking paragraphs (3)(A), (3)(B),
7 (3)(C), and (3)(E);

8 (2) by redesignating paragraph (3)(D) and
9 paragraphs (3)(F) through (3)(I), as paragraphs
10 (3)(A) through (3)(E), respectively;

11 (3) by amending paragraph (3)(E) (as so reded-
12 icated) to read as follows:

13 “(E) otherwise authorized by this Act or
14 other law or, with respect to personal property,
15 the negotiated disposal is considered by the
16 agency head to be advantageous to the Govern-
17 ment.”;

18 (4) in paragraph (6) by amending so much as
19 precedes subparagraph (B) to read as follows:

20 “(6)(A) An explanatory statement shall be pre-
21 pared by the head of the landholding agency and
22 submitted to the Committee on Governmental Af-
23 fairs of the Senate and the Committee on Govern-
24 ment Reform of the House of Representatives, ex-
25 plaining the circumstances of each disposal by nego-



1 tiation of any real property that has an estimated
2 fair market value in excess of \$700,000. The dollar
3 amount in the preceding sentence may be increased
4 or decreased by the Administrator to reflect a per-
5 centage increase or decrease in the Department of
6 Commerce Consumer Price Index.”; and

7 (5) by striking paragraphs (6)(C) and (6)(D).

8 (d) CONVEYANCES FOR AIRPORT USE.—Section 203
9 of the Federal Property and Administrative Services Act
10 of 1949 is further amended by adding to the end thereof
11 the following new subsection:

12 “(s) The authority of any department, agency, or in-
13 strumentality of the executive branch or wholly owned
14 Government corporation to convey surplus real and related
15 personal property for public airport purposes under sub-
16 chapter II of title 49, United States Code, shall be subject
17 to the requirements of this Act, and any surplus real prop-
18 erty available for conveyance under that subchapter shall
19 first be made available to the Administrator for disposal
20 under this section, including conveyance for any public
21 benefit purposes, including public airport use, as the Ad-
22 ministrator, after consultation with the affected agencies,
23 considers advisable.”.

24 (e) ACQUISITION OF PERSONAL PROPERTY OR RE-
25 LATED SERVICES.—Section 201(c) of the Federal Prop-



1 erty and Administrative Services Act of 1949 (40 U.S.C.
2 481(e)) is revised to read as follows:

3 “(c) In acquiring personal property or related serv-
4 ices, or a combination thereof, any executive agency, under
5 regulations to be prescribed by the Administrator, and
6 subject to regulations prescribed by the Administrator for
7 Federal Procurement Policy pursuant to the Office of
8 Federal Procurement Policy Act (41 U.S.C. 401 et seq.),
9 may exchange or sell personal property and may apply the
10 exchange allowance or proceeds of sale in such cases in
11 whole or in part payment for similar property or related
12 services, or a combination thereof, acquired: *Provided*,
13 That any transaction carried out under the authority of
14 this subsection shall be evidenced in writing. Sales of prop-
15 erty pursuant to this subsection shall be governed by sec-
16 tion 203(e), and shall be exempt from the provisions of
17 section 3709 of the Revised Statutes (41 U.S.C. 5).”.

18 (f) ABANDONMENT, DESTRUCTION, OR OTHER DIS-
19 POSAL.—Section 202(h) of the Federal Property and Ad-
20 ministrative Services Act of 1949 (40 U.S.C. 483(h)) is
21 amended to read as follows:

22 “(h) The Administrator may authorize the abandon-
23 ment, destruction, or other disposal of property if the
24 property has no commercial value, or if the estimated cost



1 of continued care and handling of the property would ex-
2 ceed the estimated fair market value.”.

3 (g) TRANSFER OF SURPLUS PERSONAL PROPERTY
4 TO STATES.—Section 203(j) of the Federal Property and
5 Administrative Services Act of 1949 (40 U.S.C. 484(j))
6 is amended as follows:

7 (1) Paragraph (1) is amended—

8 (A) by striking “the fair and equitable dis-
9 tribution, through donation,” and inserting “do-
10 nation on a fair and equitable basis”; and

11 (B) by striking “paragraphs (2) and (3)”
12 and inserting “paragraph (2)”.

13 (2) Paragraph (2) is repealed.

14 (3) Paragraph (3) is redesignated as paragraph
15 (2), and amended as follows:

16 (A) By striking so much as precedes sub-
17 paragraph (A) and inserting the following:

18 “(2) The Administrator shall, pursuant to criteria
19 that are based on need and utilization and established
20 after such consultation with State agencies as is feasible,
21 allocate surplus personal property among the States on a
22 fair and equitable basis, taking into account the condition
23 of the property and the original acquisition cost thereof,
24 and transfer to the State agency property selected by it
25 for purposes of donation within the State—”;



1 (B) in subparagraph (A) by striking “or”
2 after the semicolon at the end;

3 (C) in subparagraph (B) by—

4 (i) striking “providers of assistance to
5 homeless individuals, providers of assist-
6 ance to families or individuals whose an-
7 nual incomes are below the poverty line (as
8 that term is defined in section 673 of the
9 Community Services Block Grant Act),”;

10 (ii) striking “schools for the mentally
11 retarded, schools for the physically handi-
12 capped” and inserting “schools for persons
13 with mental or physical disabilities”;

14 (iii) striking “and libraries” and in-
15 sserting “libraries, and educational activi-
16 ties identified by the Secretary of Defense
17 as being of special interest to the Armed
18 Services,” following the word “region,”;
19 and

20 (iv) striking the period at the end and
21 inserting “; or”; and

22 (D) by adding at the end the following:

23 “(C) to nonprofit institutions or organiza-
24 tions that are exempt from taxation under sec-
25 tion 501 of the Internal Revenue Code of 1986



1 and that have for their primary function the
2 provision of food, shelter, or other necessities to
3 homeless individuals or families or individuals
4 whose annual income is below the poverty line
5 (as that term is defined in section 673 of the
6 Community Services Block Grant Act) for use
7 in assisting the poor and homeless.”.

8 (4) Paragraphs (4) and (5) are redesignated in
9 order as paragraphs (3) and (4).

10 (h) AMENDMENTS TO MCKINNEY-VENTO HOMELESS
11 ASSISTANCE ACT.—

12 (1) AMENDMENTS.—Section 501 of the McKin-
13 ney-Vento Homeless Assistance Act (42 U.S.C.
14 11411) is amended as follows:

15 (A) In the first sentence of subsection (a),
16 by inserting before the period the following: “,
17 and that have not been previously reported on
18 by an agency under this subsection”.

19 (B) In the second sentence of subsection
20 (a), by inserting after “to the Secretary” the
21 following: “, which shall not include information
22 previously reported on by the agency under this
23 subsection”.



1 (C) Each of subsections (b)(1), (c)(1)(A),
2 and (c)(2)(A), by striking “45” and inserting
3 “30”.

4 (D) In subsection (c)(1)(A)(i), by inserting
5 after “(a)” the following: “that have not been
6 previously published”.

7 (E) In subsection (c)(1)(A)(ii), by insert-
8 ing after “properties” the following: “that have
9 not been previously published”.

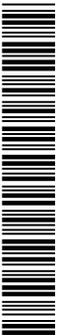
10 (F) By striking subsections (c)(1)(D) and
11 (c)(4).

12 (G) In subsection (c)(2)(B), by inserting
13 “(i)” after “(B)”, and by adding at the end the
14 following:

15 “(ii) Efforts required under clause (i) include the fol-
16 lowing:

17 “(I) Publishing the information on an Internet
18 website maintained by the Secretary.

19 “(II) Providing notice of the information on
20 such list to the local Continuum of Care organiza-
21 tion for homeless assistance within the jurisdiction
22 in which the property is located, or if there is no
23 such organization, then to the State.



1 “(III) Providing notice of the information on
2 such list to the Emergency Food and Shelter Pro-
3 gram National Board.

4 “(IV) Providing notice of the information on
5 such list to each Emergency Food and Shelter Pro-
6 gram local board within the State in which the prop-
7 erty is located.

8 “(iii) The efforts required under clause (ii) shall be
9 completed within 3 business days after publication of the
10 list in the Federal Register. The Secretary shall certify
11 in writing completion of such efforts.”.

12 (H) In subsection (d)(1) by striking “60
13 days beginning on the date of such publication”
14 and inserting “90 days after the date the Sec-
15 retary certifies completion of the efforts re-
16 quired under subsection (c)(2)”.

17 (I) In subsection (d)(2) by striking “60”
18 and inserting “90”.

19 (J) In subsection (d)(4), by amending so
20 much as precedes subparagraph (B) to read as
21 follows:

22 “(4)(A) Written notice of intent to apply for a prop-
23 erty published under subsection (c)(1)(A)(ii) may be filed
24 at any time after the 90-day period described in paragraph
25 (1) has expired. An application submitted pursuant to the



1 notice may be approved for disposal for use to assist the
2 homeless only if the property remains available for use to
3 assist the homeless. If the property remains available for
4 use to assist the homeless, the use to assist the homeless
5 shall be given the same priority of consideration as a pub-
6 lic health use under section 203(k) of the Federal Prop-
7 erty and Administrative Services Act of 1949 (40 U.S.C.
8 484(k)).”.

9 (K) In subsection (e)(3), by inserting the
10 following after the first sentence: “The Sec-
11 retary of Health and Human Services shall give
12 a preference to applications that contain a cer-
13 tification that their proposal is consistent with
14 the local Continuum of Care strategy for home-
15 less assistance.”.

16 (L) In subsection (f)(3)(A), by adding at
17 the end the following: “Such priority of consid-
18 eration shall apply only with respect to prop-
19 erties as to which the written notice of intent
20 to apply for a property referred to in subsection
21 (d)(2) is received by the Secretary of Health
22 and Human Services within the 90-day period
23 described in subsection (d)(1).”.

24 (M) In subsection (h) in the heading, by
25 striking “APPLICABILITY TO PROPERTY UNDER



1 BASE CLOSURE PROCESS” and inserting “EX-
2 EMPTIONS”.

3 (N) In subsection (h), by adding at the
4 end the following:

5 “(3) The provisions of this section shall not
6 apply to buildings and property that—

7 “(A) are in a secured area for national de-
8 fense purposes; or

9 “(B) are inaccessible by road and that can
10 be reached only by crossing private property.”.

11 (O) In subsection (i) by striking “and”
12 after the semicolon at the end of paragraph (4),
13 by striking the period at the end of paragraph
14 (5) and inserting “; and”, and by adding at the
15 end the following:

16 “(6) the term ‘suitable for use to assist the
17 homeless’ includes, without limitation, permanent
18 housing’.”.

19 (2) SURVEY AND AVAILABILITY OF PROPERTIES
20 IN MOST RECENT LIST.—Within 30 days of the date
21 of enactment of this section, the Secretary of Hous-
22 ing and Urban Development shall survey landholding
23 agencies to determine whether the properties in-
24 cluded in the most recent comprehensive list of prop-
25 erties published pursuant to section 501(e)(1)(A) of



1 the McKinney-Vento Homeless Assistance Act re-
2 main available for application for use to assist home-
3 less. The Secretary shall publish in the Federal Reg-
4 ister a list of all such properties. Such properties
5 shall remain available for application for use to as-
6 sist the homeless in accordance with sections 501(d)
7 and 501(e) of such Act (as amended by this sub-
8 section) as if such properties had been published
9 under section 501(c)(1)(A)(ii) of such Act.

10 **SEC. 7. MISCELLANEOUS.**

11 (a) SCOPE AND CONSTRUCTION.—The authorities
12 granted by this Act to the heads of Federal agencies for
13 the management of real and personal property and the
14 conduct of transactions involving such property, including
15 the disposition of the proceeds therefrom, shall be in addi-
16 tion to, and not in lieu of, any authorities provided in any
17 law existing on the date of enactment of this Act. Except
18 as expressly provided herein, nothing in this Act shall be
19 construed to repeal or supersede any such authorities.

20 (b) NO WAIVER.—Nothing in this Act shall be con-
21 strued to limit or waive any right, remedy, immunity, or
22 jurisdiction of any Federal agency or any claim, judgment,
23 lien, or benefit due the Government of the United States.

24 (c) REPORT OF THE COMPTROLLER GENERAL.—Not
25 later than 5 years after the date of enactment of this Act,



- 1 the Comptroller General of the United States shall submit
- 2 to the Congress a report on the use by Federal landholding
- 3 agencies of the authorities provided by this Act.

