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APPROVED
JAN 2 - 1975

ACTION

THE WHITE HOUSE
WASHINGTON

Last Day: January 4

December 31, 1974

*Posted
1/3
to archive
1/3*

MEMORANDUM FOR THE PRESIDENT
FROM: KEN COLE
SUBJECT: Enrolled Bill H.R. 5264
Excess Federal Property in Samoa,
Guam and the Pacific Trust Territories

Attached for your consideration is H.R. 5264, sponsored by Representative Won Pat of Guam, which would put the territories of Guam, American Samoa, and the Trust Territory of the Pacific in the same status as the 50 states and the District of Columbia, Puerto Rico and the Virgin Islands, with regard to the excess and surplus property program of the Federal Government.

OMB recommends approval and provides additional background information in its enrolled bill report (Tab A).

Max Friedersdorf (Loen) and Phil Areeda both recommend approval.

RECOMMENDATION

That you sign H.R. 5264 (Tab B).



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

DEC 27 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 5264 - Excess Federal Property
in Samoa, Guam and the Pacific Trust Territories
Sponsor - Rep. Won Pat (D) Guam

Last Day for Action

January 4, 1975 - Saturday

Purpose

Amends the laws regarding the disposal of excess and surplus Federal property in American Samoa, Guam, and the Trust Territory of the Pacific Islands.

Agency Recommendations

Office of Management and Budget	Approval
General Services Administration	Approval
Department of the Interior	Approval
Department of Agriculture	Approval
Department of Commerce	No objection
Department of Defense	No objection

Discussion

Under the Federal Property and Administrative Services Act of 1949, Federal property located within the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands, is considered domestic property and may be declared "excess" if an agency determines it is no longer needed. It would then be offered to other Federal agencies for their use. If no other agency wanted it, it would be declared "surplus" property.

"Surplus" property may be donated or sold at less than fair market value to certain groups for such purposes as public parks and recreation areas, historic monuments, public health and educational purposes, wildlife preserves, civil defense uses, and airports. The property may also be sold at fair market value to public bodies or offered for general sale after advertising for bids.

Federal property located in American Samoa, Guam, and the Pacific Trust Territories, however, is classified as "foreign excess property," rather than domestic. Under "foreign excess property" regulations, each agency is responsible for disposing of property which is excess to its own needs, rather than transferring it to GSA to offer it to other agencies. Property disposed of under these provisions may not be brought back to the U.S. unless it is determined by the Secretary of Agriculture (for certain agricultural commodities) or the Secretary of Commerce (for other property) that its importation would relieve domestic shortages or otherwise benefit the U.S. economy. This provision was designed to protect American labor, business, and industry from the reimportation of property produced, acquired, or shipped overseas, often at lower prices.

The bill would correct unintentional omission resulting from the passage of the Organic Act of Guam after the passage of the Federal Property and Administrative Services Act. The enrolled bill would place Samoa, Guam and the Pacific Trusts under the domestic property provisions, and in the same status as that now enjoyed by the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands. This would allow Federal surplus property in these areas to continue to be available for public purposes such as for educational, public health, civil defense, or similar purposes and to make it available to the public through a competitive bidding process. It would also allow property disposed of in these areas to be brought back to the U.S. without requiring approval of the Secretaries of Commerce and Agriculture. Commerce objects to this enrolled bill on the ground that possible reimportation of the property into the U.S. could have some adverse affect on the U.S. economy but they do not foresee a significant impact and do not think it warrants disapproval.

W. H. Powell

Assistant Director for
Legislative Reference

Enclosures

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20405



DEC 24 1974

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, DC 20503

Dear Mr. Ash:

By referral dated December 23, 1974, from the Assistant Director for Legislative Reference, your office requested the views of the General Services Administration on enrolled bill H. R. 5264, 93rd Congress, an act "To amend section 3(f) of the Federal Property and Administrative Services Act of 1949, with respect to American Samoa, Guam, and the Trust Territory of the Pacific Islands."

The bill would amend section 3(f) of the Property Act to remove Federal excess property in American Samoa, Guam, and the Trust Territory of the Pacific Islands from the definition of "foreign excess property", thereby making such property subject to the provisions of the Act applicable to domestic excess property. GSA favors Presidential approval of the enrolled bill.

Sincerely,

A large, stylized handwritten signature in black ink, which appears to read "Sampson". The signature is written over the word "Sincerely," and extends across the page.

Arthur F. Sampson
Administrator





United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

DEC 24 1974

Dear Mr. Ash:

This responds to your request for the views of this Department on the enrolled bill H.R. 5264, "To amend section 3(f) of the Federal Property and Administrative Services Act of 1949, with respect to American Samoa, Guam, and the Trust Territory of the Pacific Islands."

We strongly recommend that the bill be approved by the President.

H.R. 5264 would put the territories of Guam, American Samoa, and the Trust Territory of the Pacific, in the same status as the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands, with regard to the excess and surplus property program of the Federal Government.

The bill would amend the definition of "foreign excess property" in 40 U.S.C. 472(f) so as to exclude American Samoa, Guam, and the Trust Territory of the Pacific Islands, just as the "States of the Union, the District of Columbia, Puerto Rico, and the Virgin Islands" are presently excluded. These territories would thus be included in provisions relating to domestic excess property.

The exclusion of these territories from the coverage of section 472, as described above, would, in general, place disposition of surplus property in them under the control of the Administrator of the General Services Administration, and make the territories eligible to receive surplus Federal property, including real property, for such purposes as education, public health, civil defense, and parks and recreation.

H.R. 5264 has been amended to apply to American Samoa and the Trust Territory of the Pacific Islands as well as Guam. We strongly concur in this amendment.

Sincerely yours,

Rayston C. Hughes
Secretary of the Interior

Assistant

Honorable Roy L. Ash
Director, Office of
Management and Budget
Washington, D.C.



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

December 26, 1974

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C. 20503


Dear Mr. Ash:

In reply to the request of your office, the following report is submitted on the enactment H.R. 5264, "To amend section 3(f) of the Federal Property and Administrative Services Act of 1949, with respect to American Samoa, Guam, and the Trust Territory of the Pacific Islands."

This Department recommends that the President approve the bill.

The bill would exclude excess Federal property located in American Samoa, Guam, and the Trust Territory of the Pacific, from the "foreign excess property" definition contained in the Act. The effect will be to make these areas eligible to participate in the excess and surplus property programs of the Federal Government. Presently, these areas are treated under the Act as "foreign areas" and are not able to procure Federal excess and surplus property located either on the islands or in neighboring countries. Apparently, the United States has large quantities of surplus materials resulting from World War II and the Korean and Vietnam conflicts which it is felt could be used by the governments of these areas.

Sincerely,


J. Phil Campbell
Acting Secretary



THE UNDER SECRETARY OF COMMERCE
Washington, D.C. 20230

DEC 26 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Assistant Director for Legislative
Reference

RE: H.R. 5264, An Enrolled Enactment

Dear Mr. Ash:

This is in reply to your request for the views of this
Department with respect to H.R. 5264, an enrolled enactment

"To amend section 3(f) of the Federal Property
and Administrative Services Act of 1949, with
respect to American Samoa, Guam, and the Trust
Territory of the Pacific Islands."

This enactment would change the definition of the term
"foreign excess property" in the Federal Property and
Administrative Services Act of 1949 (the "Act"), 40 U.S.C.
§471, et seq., so as to exclude excess property located in
American Samoa, Guam or the Trust Territory of the Pacific
Islands (hereinafter, the "territories").

The Department of Commerce interposes no objection to
Presidential approval of H.R. 5264, although we wish to
express certain reservations based upon our belief that
the Congress and the Administration may have accorded
insufficient consideration to interests previously safe-
guarded under the Act.

Section 402 of the Act, 40 U.S.C. §512, prohibits the impor-
tation into the United States of foreign excess property
sold by Federal agencies unless the importation of such

property would relieve domestic shortages or otherwise be beneficial to the economy of the country. The underlying purpose of the Congress in the enactment of this provision was to protect American labor, business and industry from the adverse impact of the reimportation of property produced, acquired and shipped overseas for U.S. military needs.

We understand that the purpose of the sponsors of this legislation is to provide that Federally-owned excess property in these territories be classified as domestic, rather than foreign, excess property, thereby permitting property determined surplus to the needs of all Federal Agencies to be made available to eligible donees (which includes the above territories) for educational, public health, and civil defense purposes under subsection 203(j) of the Act, 40 U.S.C. §484(j).

If the only result of this legislation would be to make foreign excess property located in these territories available for donation purposes, we would strongly support the measure. However, while presumably not so intended, this measure could also have the effect of permitting the unrestricted importation into the U.S. of surplus government property located in these territories. The importation of such property for resale in the U.S. without regard to possible domestic shortages or adverse effects on the domestic economy would represent a fundamental change in the basic concepts and policies set forth in the Act, which we believe would be undesirable.

It is possible that importation of excess property from these territories could adversely affect specific industries, companies or segments of American labor. It is likely that only excess property sold by the Federal government in Guam could have such an impact, because significant amounts are disposed of there by the U.S. military. However, it is probable that under normal circumstances such disposals in Guam, which appear to be about \$4 to 6 million (valued

at acquisition costs) per year, would produce no ill effects in the domestic economy. However, during unsettled economic conditions, unrestricted importations in specific categories of goods could produce isolated damaging effects on particular industries or activities in the United States.

Recognizing the existence of this potential problem, the Department of Commerce has presented these views previously in letters to the Bureau of the Budget, dated February 9, 1970, and to the Office of Management and Budget, dated July 19, 1974, copies of which are enclosed herein.

It is also noted that this legislation will increase the administrative burden of verifying any legitimate foreign excess property which may be shipped via Guam into the customs territory of the United States.

Should the volume of imports of excess property disposed of in Guam prove to be significant and cause injury to domestic firms and workers, the Department would reserve the privilege of requesting remedial legislation.

Enactment of this legislation will not involve the expenditure of any additional funds by this Department.

Sincerely,



John K. Tabor

Enclosures



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20350

December 27, 1974

Dear Mr. Ash:

Your transmittal sheet dated December 23, 1974, enclosing a facsimile of an enrolled bill of Congress, H.R. 5264, "To amend section 3(f) of the Federal Property and Administrative Services Act of 1949, with respect to American Samoa, Guam, and the Trust Territory of the Pacific Islands," and requesting comment of the Department of Defense, has been received. The Department of the Navy has been assigned the responsibility for the preparation of a report thereon expressing the views of the Department of Defense.

H.R. 5264 puts the territories of American Samoa, Guam, and the Trust Territory of the Pacific Islands in the same status as the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands with respect to the excess and surplus property program of the Federal Government.

Under the provisions of the Federal Property and Administrative Services Act of 1949, property no longer required for the needs of a Federal agency becomes excess property. As such, it becomes available for transfer to other Federal agencies, mixed ownership Government corporations, the municipal government of the District of Columbia, or to a requisitioning non-Federal agency when the function of a Federal agency authorized to procure for it is transferred to the GSA. Under certain conditions, it is also available for donation.

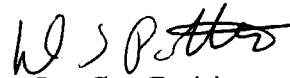
If no further Federal government use is found within the above-named agencies, the property becomes surplus and is disposed of under section 203 of the Federal Property and Administrative Services Act. As surplus property, it is available for donation for certain purposes as defined in the Federal Property Act, is disposed of by negotiated sale to State and local governments or other qualifying buyers, or is sold after publicly advertising for bids.

The Department of the Navy opposed enactment of H.R. 5264 in its report to Chairman of the Government Operations Committee because the Department of the Navy had entered into agreement with the Government of Guam for the acquisition of land for the Naval Magazine, Guam (Sella Bay project), authorized in the Military Construction Authorization Act, 1971 (P.L. 91-511; 84 Stat. 1204). The transaction was initiated on the basis of existing authority which permits the disposal of "foreign excess property" by exchange. Although the agreement has been signed, the U.S. Court of Appeals has held that the Governor did not have the authority to sign the agreement without the prior approval of the Guam Legislature. The approval matter is still pending resolution and has been for three years before the

Guam Legislature. Enactment of H.R. 5264 prior to such resolution, by transferring the existing disposal authority over the Navy-owned real property from the Department of the Navy to the General Services Administration, would operate to impair the effectiveness of the executed agreement if it should be approved by the Guam Legislature.

Inasmuch as the Congress in its wisdom has seen fit to enact H.R. 5264, and after giving consideration to the adverse views expressed by the Department of the Navy's report, the Department of the Navy on behalf of the Department of Defense, interposes no objection to the approval of this enrolled enactment.

Sincerely yours,



D. S. Potter
Under Secretary of the Navy

Honorable Roy L. Ash
Director, Office of Management and Budget
Washington, D. C. 20503

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 857

Date: December 27, 1974

Time: 7:00 p.m.

FOR ACTION: Geoff Shepard
 Norm Ross ✓
 Max Friedersdorf
 Phil Areeda

cc (for information): Warren Hendriks
 Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 30

Time: 1:00 p.m.

SUBJECT:

Enrolled Bill H.R. 5264 - Excess Federal Property in Samoa,
 Guam and the Pacific Trust Territories

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

W. Hendriks
 for the President

To
J. Hendricks
12-27-74

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 27 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 5264 - Excess Federal Property
in Samoa, Guam and the Pacific Trust Territories
Sponsor - Rep. Won Pat (D) Guam

Last Day for Action

January 4, 1975 - Saturday

Purpose

Amends the laws regarding the disposal of excess and surplus Federal property in American Samoa, Guam, and the Trust Territory of the Pacific Islands.

Agency Recommendations

Office of Management and Budget	Approval
General Services Administration	Approval
Department of the Interior	Approval
Department of Agriculture	Approval
Department of Commerce	No objection
Department of Defense	No objection

Discussion

Under the Federal Property and Administrative Services Act of 1949, Federal property located within the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands, is considered domestic property and may be declared "excess" if an agency determines it is no longer needed. It would then be offered to other Federal agencies for their use. If no other agency wanted it, it would be declared "surplus" property.

"Surplus" property may be donated or sold at less than fair market value to certain groups for such purposes as public parks and recreation areas, historic monuments, public health and educational purposes, wildlife preserves, civil defense uses, and airports. The property may also be sold at fair market value to public bodies or offered for general sale after advertising for bids.

Federal property located in American Samoa, Guam, and the Pacific Trust Territories, however, is classified as "foreign excess property," rather than domestic. Under "foreign excess property" regulations, each agency is responsible for disposing of property which is excess to its own needs, rather than transferring it to GSA to offer it to other agencies. Property disposed of under these provisions may not be brought back to the U.S. unless it is determined by the Secretary of Agriculture (for certain agricultural commodities) or the Secretary of Commerce (for other property) that its importation would relieve domestic shortages or otherwise benefit the U.S. economy. This provision was designed to protect American labor, business, and industry from the reimportation of property produced, acquired, or shipped overseas, often at lower prices.

The bill would correct unintentional omission resulting from the passage of the Organic Act of Guam after the passage of the Federal Property and Administrative Services Act. The enrolled bill would place Samoa, Guam and the Pacific Trusts under the domestic property provisions, and in the same status as that now enjoyed by the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands. This would allow Federal surplus property in these areas to continue to be available for public purposes such as for educational, public health, civil defense, or similar purposes and to make it available to the public through a competitive bidding process. It would also allow property disposed of in these areas to be brought back to the U.S. without requiring approval of the Secretaries of Commerce and Agriculture. Commerce objects to this enrolled bill on the ground that possible reimportation of the property into the U.S. could have some adverse affect on the U.S. economy but they do not foresee a significant impact and do not think it warrants disapproval.

(signed) Wilfred M. Kozzsal

Assistant Director for
Legislative Reference

Enclosures

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR: WARREN HENDRIKS

FROM: *Max L. Friedersdorf* MAX L. FRIEDERSDORF

SUBJECT: Action Memorandum - Log No. 857
Enrolled Bill H.R. 5264

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 857

Date: December 27, 1974

Time: 7:00 p.m.

FOR ACTION: Geoff Shepard *sh*
Norm Ross *sh*
Max Friedersdorf *sh*
Phil Areeda *no obj*

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 30

Time: 1:00 p.m.

SUBJECT:

Enrolled Bill H.R. 5264 - Excess Federal Property in Samoa, Guam and the Pacific Trust Territories

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 857

Date: December 27, 1974

Time: 7:00 p.m.

FOR ACTION: Geoff Shepard
Norm Ross
Max Friedersdorf
Phil Areeda

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 30

Time: 1:00 p.m.

SUBJECT:

Enrolled Bill H.R. 5264 - Excess Federal Property in Samoa, Guam and the Pacific Trust Territories

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

*No Objections
OK
P Areeda*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

W. Hendriks
for the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 857

Date: December 27, 1974

Time: 7:00 p.m.

FOR ACTION: Geoff Shepard ✓
Norm Ross
Max Friedersdorf
Phil Areeda

cc (for information): Warren Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 30

Time: 1:00 p.m.

SUBJECT:

Enrolled Bill H.R. 5264 - Excess Federal Property in Samoa, Guam and the Pacific Trust Territories

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

Approval
J.C.S.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

W. K. Hendriks
for the President

DISPOSAL OF EXCESS AND SURPLUS PROPERTY IN
AMERICAN SAMOA, GUAM, AND THE TRUST TERRI-
TORY OF THE PACIFIC ISLANDS

AUGUST 23, 1974.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HOLIFIELD, from the Committee on Government Operations,
submitted the following

REPORT

[To accompany H.R. 5264]

The Committee on Government Operations, to whom was referred the bill (H.R. 5264) to amend section 3(f) of the Federal Property and Administrative Services Act of 1949, with respect to Guam, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

On the first page, strike out line 5 and insert the following:

“Puerto Rico,” the words “American Samoa, Guam, the Trust Territory of the Pacific Islands.”.

Amend the title so as to read:

A bill to amend section 3(f) of the Federal Property and Administrative Services Act of 1949, with respect to American Samoa, Guam, and the Trust Territory of the Pacific Islands.

HEARING

On July 16, 1974, the Committee, through its Government Activities Subcommittee, conducted a public hearing on H.R. 5264, which was introduced by Congressman Won Pat.

PURPOSE

This proposed amendment, as amended, to section 3(f) of the Federal Property and Administrative Services Act of 1949, would put the territories of Guam, American Samoa, and the Trust Territory of the Pacific, in the same status as the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands, with regard to the excess and surplus property program of the Federal Government.

EXPLANATION OF AMENDMENTS

The bill, as introduced, would apply only to Guam. The same inconsistency in the Federal Property and Administrative Services Act of 1949 that treats excess Federal government property in Guam as "foreign excess property" also applies to American Samoa and the Trust Territory of the Pacific Islands.

The purpose of the amendments is to extend this legislation to include all other U.S. territories so that excess Federal government property is treated uniformly throughout the United States and its possessions and territories.

During the hearings on this legislation, all witnesses agreed that it was a logical and equitable extension of the legislation to include these additional areas. The Committee agrees and recommends that the bill be so amended.

COMMITTEE VOTE

H.R. 5264, as amended, was unanimously approved by voice vote at a meeting of the Full Committee on August 15, 1974, a quorum being present.

DISCUSSION

Under the provisions of the Federal Property and Administrative Services Act of 1949, property no longer required for the needs of a Federal agency becomes excess property. As such, it becomes available for transfer to other Federal agencies, mixed ownership Government corporations, the municipal government of the District of Columbia, or to a requisitioning non-Federal agency when the function of a Federal agency authorized to procure for it is transferred to the GSA. Under certain conditions, it is also available for donation.

If no further Federal government use is found within the above-named agencies, the property becomes surplus and is disposed of under section 203 of the Federal Property and Administrative Services Act. As surplus property, it is available for donation for certain purposes as defined in the Federal Property Act, is disposed of by negotiated sale to State and local governments or other qualifying buyers, or is sold after publicly advertising for bids.

These provisions apply only to government property located within the 50 States and the District of Columbia, Puerto Rico, and the Virgin Islands. Federal government property located elsewhere and no longer needed by the possessing Federal agency becomes "foreign excess property" and is disposed of under entirely different procedures described in title 4 of the Federal Property and Administrative Services Act. The procedures for disposing of foreign excess property differ substantially from those applicable to nonforeign excess and surplus property.

Section 401 of the Federal Property and Administrative Services Act places responsibility for the disposal of foreign excess property in the head of each executive agency having such property, rather than in the Administrator of General Services, as is the case with regard to domestic excess and surplus property. Section 402 of the Act provides for the sale of foreign excess property if it is not disposed of under provisions relating to the return of such property to

the United States or special provisions relating to medical materials and supplies. Furthermore, foreign excess property can be sold without advertising for competitive bids when the head of the executive agency concerned finds it to be advantageous to the government.

The right to sell "excess" property as opposed to "surplus" property and the right to sell without publicly advertising for bids is a substantial departure from the general rules governing the management of Federal government property and its disposal. The effect of this provision is to preclude the property from ever becoming "surplus" and, therefore, it never becomes available for donation or for disposal under the provisions of section 203 of the Federal Property Act pursuant to which certain parties are given the right to negotiate purchases.

The ultimate result is that property located in Guam, American Samoa, or the Trust Territory of the Pacific Islands becoming excess to the needs of a Federal agency, is generally not available for donation for health, educational, park and recreational, or civil defense purposes. Nor are these territorial governments given an opportunity to negotiate for the purchase of such property. This would not be the case if the property were located in one of the 50 States, the District of Columbia, Puerto Rico, or the Virgin Islands.

The Territory of Guam has been a possession of the United States since it was ceded by Spain in 1898. The approximately 100,000 people of Guam are American citizens. This bill would amend section 3(f) of the Federal Property and Administrative Services Act to extend to the people of Guam the same rights and privileges that are extended to the people of the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands.

It should be noted that the exclusion of Guam from the original provisions of the Federal Property and Administrative Services Act of 1949 was not intentional. That Act antedates the enactment of the Organic Act of Guam (64 Stat. 384; 48 U.S.C. 1421 et seq.) passed in 1950 which made Guam an unincorporated U.S. territory. The Federal Property and Administrative Services Act was passed in 1949 and it is understandable that Guam was not included at that time.

This legislation would correct that unintentional omission and would place the disposition of excess and surplus real and personal property in Guam under the provisions of title II of the Federal Property Act. The advantages to the Federal government and to the territorial governments are many. Surplus Federal property would become available for continuing public purposes and for acquisition by the territorial governments. Property not disposed of in that manner would be sold as surplus under the competitive bid procedures of the Federal Property Act, a much more equitable means of disposal than is now followed in many cases.

Enactment of this provision will preclude the potential for abuse which accompanies the exclusion from the disposal provisions of section 203 of the Federal Property Act. It will prevent Federal agencies from using Guam, American Samoa, and the Trust Territory of the Pacific Islands as a vehicle for disposing of no-longer-needed property without seeking competitive bids through public advertising.

The tightening up of this provision should assist the Federal government in its efforts to treat all citizens of the United States equitably and to get the highest return on the disposal of public property.

The inclusion of Guam under these provisions of the Federal Property Act is particularly important since the Federal government owns more than one-third of the very limited land area of 214 square miles. The government of Guam has experienced a particular burden upon its public facilities in recent years due to the presence of a large number of military personnel and their dependents and the dramatic growth in permanent population and visitors.

The same logic discussed herein with respect to Guam is applicable to other U.S. territories and possessions. The only other U.S. possessions presently given the same status as Guam with respect to foreign excess property are American Samoa and the Trust Territory of the Pacific Islands. These should logically be included in this legislation so that all U.S. territories and possessions are treated uniformly.

ESTIMATED COSTS AND SAVINGS

Passage of this legislation will not require the appropriation of any additional Federal government funds. It may result in the realization of a greater return of investment upon the disposal of surplus government property, but it is impossible to estimate the amount at this time.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in *italic*, existing law in which no change is proposed is shown in *roman*):

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

* * * * *

DEFINITIONS

SEC. 3. As used in this Act—

(a) * * *

* * * * *

(f) The term "foreign excess property" means any excess property located outside the States of the Union, the District of Columbia, Puerto Rico, *American Samoa, Guam, and the Trust Territory of the Pacific Islands*, and the Virgin Islands.

* * * * *

○

DISPOSAL OF EXCESS AND SURPLUS PROPERTY IN
AMERICAN SAMOA, GUAM, AND THE TRUST TERRI-
TORY OF THE PACIFIC ISLANDS

DECEMBER 19, 1974.—Ordered to be printed

Mr. ERVIN, from the Committee on Government Operations,
submitted the following

REPORT

[To accompany H.R. 5264]

The Committee on Government Operations, to which was referred the bill (H.R. 5264) to amend section 3(f) of the Federal Property and Administrative Services Act of 1949, with respect to American Samoa, Guam, and the Trust Territory of the Pacific Islands having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of H.R. 5264 is to put the territories of American Samoa, Guam, and the Trust Territory of the Pacific Islands in the same status as the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands with respect to the excess and surplus property program of the Federal Government.

BACKGROUND

Under the provisions of the Federal Property and Administrative Services Act of 1949, property no longer required for the needs of a Federal agency becomes excess property. As such, it becomes available for transfer to other Federal agencies, mixed ownership Government corporations, the municipal government of the District of Columbia, or to a requisitioning non-Federal agency when the function of a Federal agency authorized to procure for it is transferred to the GSA. Under certain conditions, it is also available for donation.

If no further Federal government use is found within the above-named agencies, the property becomes surplus and is disposed of under

section 203 of the Federal Property and Administrative Services Act. As surplus property, it is available for donation for certain purposes as defined in the Federal Property Act, is disposed of by negotiated sale to State and local governments or other qualifying buyers, or is sold after publicly advertising for bids.

These provisions apply only to government property located within the 50 States and the District of Columbia, Puerto Rico, and the Virgin Islands. Federal government property located elsewhere and no longer needed by the possessing Federal agency becomes "foreign excess property" and is disposed of under entirely different procedures described in title 4 of the Federal Property and Administrative Services Act. The procedures for disposing of foreign excess property differ substantially from those applicable to nonforeign excess and surplus property.

Section 401 of the Federal Property and Administration Services Act places responsibility for the disposal of foreign excess property in the head of each executive agency having such property, rather than in the Administrator of General Services, as is the case with regard to domestic excess and surplus property. Section 402 of the Act provides for the sale of foreign excess property if it is not disposed of under provisions relating to the return of such property to the United States or special provisions relating to medical materials and supplies. Furthermore, foreign excess property can be sold without advertising for competitive bids when the head of the executive agency concerned finds it to be advantageous to the government.

The right to sell "excess" property as opposed to "surplus" property and the right to sell without publicly advertising for bids is a substantial departure from the general rules governing the management of Federal government property and its disposal. The effect of this provision is to preclude the property from ever becoming "surplus" and, therefore, it never becomes available for donation or for disposal under the provisions of section 203 of the Federal Property Act pursuant to which certain parties are given the right to negotiate purchases.

The ultimate result is that property located in Guam, American Samoa, or the Trust Territory of the Pacific Islands becoming excess to the needs of a Federal agency, is generally not available for donation for health, educational, park and recreational, or civil defense purposes. Nor are these territorial governments given an opportunity to negotiate for the purchase of such property. This would not be the case if the property were located in one of the 50 States, the District of Columbia, Puerto Rico, or the Virgin Islands.

The Territory of Guam has been a possession of the United States since it was ceded by Spain in 1898. The approximately 100,000 people of Guam are American citizens. This bill would amend section 3(f) of the Federal Property and Administrative Services Act to extend to the people of Guam the same rights and privileges that are extended to the people of the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands.

It should be noted that the exclusion of Guam from the original provisions of the Federal Property and Administrative Services Act of 1949 was not intentional. That Act antedates the enactment of the Organic Act of Guam (64 Stat. 384; 48 U.S.C. 1421 et seq.) passed in 1950 which made Guam an unincorporated U.S. territory. The Federal Property and Administrative Services Act was passed in 1949 and it is understandable that Guam was not included at that time.

This legislation would correct that unintentional omission and would place the disposition of excess and surplus real and personal property in Guam under the provisions of title II of the Federal Property Act. The advantages to the Federal government and to the territorial governments are many. Surplus Federal property would become available for continuing public purposes and for acquisition by the territorial governments. Property not disposed of in that manner would be sold as surplus under the competitive bid procedures of the Federal Property Act, a much more equitable means of disposal than is now followed in many cases.

Enactment of this provision will preclude the potential for abuse which accompanies the exclusion from the disposal provisions of section 203 of the Federal Property Act. It will prevent Federal agencies from using Guam, American Samoa, and the Trust Territory of the Pacific Islands as a vehicle for disposing of no-longer-needed property without seeking competitive bids through public advertising. The tightening up of this provision should assist the Federal government in its efforts to treat all citizens of the United States equitably and to get the highest return on the disposal of public property.

The inclusion of Guam under these provisions of the Federal Property Act is particularly important since the Federal government owns more than one-third of the very limited land area of 214 square miles. The government of Guam has experienced a particular burden upon its public facilities in recent years due to the presence of a large number of military personnel and their dependents and the dramatic growth in permanent population and visitors.

The same logic discussed herein with respect to Guam is applicable to other U.S. territories and possessions. The only other U.S. possessions presently given the same status as Guam with respect to foreign excess property are American Samoa and the Trust Territory of the Pacific Islands. These should logically be included in this legislation so that all U.S. territories and possessions are treated uniformly.

ESTIMATED COSTS AND SAVINGS

Passage of this legislation will not require the appropriation of any additional Federal government funds. It may result in the realization of a greater return of investment upon the disposal of surplus government property, but it is impossible to estimate the amount at this time.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as re-

ported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman) :

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

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DEFINITIONS

SEC. 3. As used in this Act—

(a) * * *

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(f) The term "foreign excess property" means any excess property located outside the States of the Union, the District of Columbia, Puerto Rico, *American Samoa, Guam, and the Trust Territory of the Pacific Islands*, and the Virgin Islands.

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Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-first day of January,
one thousand nine hundred and seventy-four*

An Act

To amend section 3(f) of the Federal Property and Administrative Services Act of 1949, with respect to American Samoa, Guam, and the Trust Territory of the Pacific Islands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(f) of the Federal Property Administrative Services Act of 1949 is amended by inserting after the words "Puerto Rico," the words "American Samoa, Guam, the Trust Territory of the Pacific Islands,".

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*