

Federal Management Regulation

§ 102-39.15

- (1) Public police departments.
- (2) Sheriffs' offices.
- (3) The courts.
- (4) Penal and correctional institutions (including juvenile facilities).
- (5) State and local civil defense organizations.
- (6) Fire departments and rescue squads (including volunteer fire departments and rescue squads supported in whole or in part with public funds).

School (except schools for the mentally or physically disabled) means a public or nonprofit approved or accredited organizational entity devoted primarily to approved academic, vocational, or professional study and instruction, that operates primarily for educational purposes on a full-time basis for a minimum school year and employs a full-time staff of qualified instructors.

School for the mentally or physically disabled means a facility or institution operated primarily to provide specialized instruction to students of limited mental or physical capacity. It must be public or nonprofit and must operate on a full-time basis for the equivalent of a minimum school year prescribed for public school instruction for the mentally or physically disabled, have a staff of qualified instructors, and demonstrate that the facility meets the health and safety standards of the State or local government.

University means a public or nonprofit approved or accredited institution for instruction and study in the higher branches of learning and empowered to confer degrees in special departments or colleges.

PART 102-38— [RESERVED]

PART 102-39—REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

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Subpart A—General

§ 102-39.5 How are the terms “I” and “you” used in this part?

Use of pronouns “I” and “you” throughout this part refer to executive agencies.

§ 102-39.10 What does this part cover?

This part covers the exchange/sale authority, and applies to all personal property owned by executive agencies worldwide. For the exchange/sale of aircraft parts and hazardous materials, you must meet the requirements in this part and in parts 101-37 and 101-42 of this title.

§ 102-39.15 Why should I use the exchange/sale authority?

You should use the exchange/sale authority to:

(a) Reduce the cost of replacement personal property. If you have personal property that needs to be replaced, you can exchange or sell that property and apply the exchange allowance or sales proceeds to reduce the cost of similar replacement property. By contrast, if you choose not to replace the property using the exchange/sale authority, you may declare it excess and dispose of it through the normal disposal process. Any sales proceeds from the eventual

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sale of that property as surplus generally must be forwarded to the miscellaneous receipts account at the United States Treasury and thus would not be available to you.

(b) Avoid costs (*e.g.*, administrative and storage) that may be incurred when declaring the property to be replaced as excess and processing it through the normal disposal process. The normal disposal process may include abandonment or destruction, reutilization by other Federal agencies, donation to eligible non-Federal public or non-profit organizations, or sale to the public. The time required to determine which of these options will apply and to complete the disposal transaction is likely to exceed the time required for an exchange/sale transaction.

§ 102-39.20 What definitions apply to this part?

The following definitions apply to this part:

Acquire means to procure or otherwise obtain personal property, including by lease.

Combat material means arms, ammunition, and implements of war listed in the U.S. munitions list (22 CFR part 121).

Exchange means to replace personal property by trade or trade-in with the supplier of the replacement property.

Exchange/sale means to exchange or sell non-excess, non-surplus personal property and apply the exchange allowance or proceeds of sale in whole or in part payment for the acquisition of similar property.

Executive agency means any executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation.

Federal agency means any executive agency or any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his/her direction).

Historic item means property having added value for display purposes because its historical significance is greater than its fair market value for continued use. Items that are com-

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monly available and remain in use for their intended purpose, such as military aircraft still in use by active or reserve units, are not historic items.

Replacement means the process of acquiring property to be used in place of property that is still needed but:

(1) No longer adequately performs the tasks for which it is used; or

(2) Does not meet the agency's need as well as the property to be acquired.

Similar means where the acquired item and replaced item:

(1) Are identical;

(2) Are designed and constructed for the same purpose;

(3) Constitute parts or containers for identical or similar end items; or

(4) Fall within a single Federal Supply Classification (FSC) group of property that is eligible for handling under the exchange/sale authority.

§ 102-39.25 How do I request a deviation from this part?

See §§102-2.60 through 102-2.110 of this chapter to request a deviation from the requirements of this part.

Subpart B—Exchange/Sale Considerations

§ 102-39.30 When should I not use the exchange/sale authority?

You should not use the exchange/sale authority if the exchange allowance or estimated sales proceeds for the property will be unreasonably low. You must either abandon or destroy such property in accordance with part 101-45, subpart 101-45.9, of this title, or declare the property excess and follow the regulations in part 102-36 of this chapter, whichever is appropriate. Further, you must not use the exchange/sale authority if the transaction(s) would violate any other applicable statute or regulation.

§ 102-39.35 How do I determine whether to do an exchange or a sale?

You must determine whether an exchange or sale will provide the greater return for the Government. When estimating the return under each method, consider all related administrative and overhead costs.