

## § 102-33.45

usage, and safety of Government aircraft.

NOTE TO § 102-33.40: See OMB Circular A-126 for a complete listing of GSA's responsibilities related to Federal aviation.

### Subpart B—Acquiring Government Aircraft and Aircraft Parts

#### OVERVIEW

#### § 102-33.45 What is a Government aircraft?

A Government aircraft is one that is operated for the exclusive use of an executive agency and is a—

(a) Federal aircraft, which an executive agency owns, bails, loans, or borrows; or

(b) Commercial aircraft hired as commercial aviation services (CAS), which an executive agency—

(1) Leases or lease-purchases with the intent to take title;

(2) Charters or rents; or

(3) Hires as part of a full service contract or an inter-service support agreement (ISSA).

#### § 102-33.50 Under what circumstances may we acquire Government aircraft?

Your agency may acquire Government aircraft when you meet the requirements for operating an in-house aviation program contained in OMB Circular A-76, "Performance of Commercial Activities," August 4, 1983 (available from <http://www.whitehouse.gov/omb>), and when—

(a) For Federal aircraft—

(1) Aircraft are the optimum means of supporting your agency's official business;

(2) You do not have aircraft that can support your agency's official business safely (*i.e.*, in compliance with applicable safety standards and regulations) and cost-effectively;

(3) No commercial or other Governmental source is available to provide aviation services safely (*i.e.*, in compliance with applicable safety standards and regulations) and cost-effectively; and

(4) Congress has specifically authorized your agency to purchase, lease, or transfer aircraft and to maintain and

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operate those aircraft (see 31 U.S.C. 1343).

(b) For commercial aviation services (CAS)—

(1) Aircraft are the optimum means of supporting your agency's official business; and

(2) Using commercial aircraft and services is safe (*i.e.*, conforms to applicable laws, safety standards, and regulations) and is more cost effective than using Federal aircraft, aircraft from any other Governmental source, or scheduled air carriers.

#### § 102-33.55 Are there restrictions on acquiring Government aircraft?

Yes, you may not acquire—

(a) More aircraft than you need to carry out your official business;

(b) Aircraft of greater size or capacity than you need to perform your Governmental functions cost-effectively; or

(c) Federal aircraft that Congress has not authorized your agency to acquire or Federal aircraft or commercial aircraft and services for which you have not followed the requirements in OMB Circular A-76.

#### § 102-33.60 What methods may we use to acquire Government aircraft?

Following the requirements of §§ 102-33.50 and 102-33.55, you (or an internal bureau or sub-agency within your agency) may acquire Government aircraft by means including, but not limited to—

(a) Purchase;

(b) Borrowing from a non-federal source;

(c) Bailment from another executive agency;

(d) Exchange/sale (but only with approval from GSA; see § 102-33.275);

(e) Reimbursable transfer from another executive agency (see §§ 102-36.75 through 102-36.85 of this subchapter B);

(f) Transfer from another executive agency as approved by GSA;

(g) Reassignment from one internal bureau or subagency to another within your agency;

(h) Forfeiture (you must have specific authority to seize aircraft);

(i) Insurance replacement (*i.e.*, receiving a replacement aircraft);

(j) Lease or lease-purchase;

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(k) Rent or charter;

(l) Contract for full services (*i.e.*, aircraft plus crew and related aviation services) from a commercial source; or

(m) Inter-service support agreements with other executive agencies for aircraft and services.

### § 102-33.65 What is the process for acquiring Government aircraft?

Acquiring aircraft generally follows a three-step process; planning, budgeting, and contracting, as described in §§ 102-33.70 through 102-33.105.

#### PLANNING TO ACQUIRE GOVERNMENT AIRCRAFT

### § 102-33.70 What directives must we follow when planning to acquire Government aircraft?

When planning to acquire aircraft, you must follow the requirements in—

(a) 31 U.S. Code Section 1343, “Buying and Leasing Passenger Motor Vehicles and Aircraft”;

(b) OMB Circular A-126, “Improving the Management and Use of Government Aircraft,” revised May 22, 1992;

(c) OMB Circular A-11, Part 7, “Planning, Budgeting, Acquisition, and Management of Capital Assets,” revised June 2002;

(d) OMB Circular A-76, “Performance of Commercial Activities,” revised June 14, 1999; and

(e) OMB Circular A-94, “Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs,” revised January 22, 2002.

NOTE TO § 102-33.70: OMB Circulars are available from <http://www.whitehouse.gov/omb>.

### § 102-33.75 What other guidance is available to us in planning to acquire Government aircraft?

You can find guidance for acquisition planning in the “ICAP Fleet Modernization Planning Guide,” which is available from GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW., Washington, DC 20405, and in OMB’s “Capital Programming Guide,” which is a supplement to OMB Circular A-11.

#### OMB CIRCULAR A-76

### § 102-33.80 Must we comply with OMB Circular A-76 before we acquire Government aircraft?

Yes, before you acquire Government aircraft, you must comply with OMB Circular A-76 to assure that the private sector cannot provide Government aircraft or related aviation services more cost-effectively than you can provide Federal aircraft and related services (see particularly the Circular’s Revised Supplemental Handbook’s Appendix 6, Aviation Competitions).

### § 102-33.85 Where should we send our OMB Circular A-76 Cost-Comparison Studies?

You should forward copies of the completed A-76 Cost-Comparison studies to OMB upon request or as required by OMB Circular A-11 to justify aircraft purchases and to GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW., Washington, DC 20405, upon completion of a study.

#### THE PROCESS FOR BUDGETING TO ACQUIRE GOVERNMENT AIRCRAFT

### § 102-33.90 What is the process for budgeting to acquire a Federal aircraft (including a Federal aircraft transferred from another executive agency)?

(a) The process for budgeting to acquire a Federal aircraft or to accept a Federal aircraft transferred from another executive agency requires that you have specific authority from Congress in your appropriation, as called for in 31 U.S.C. 1343, to—

(1) Purchase, lease-purchase, or lease a Federal aircraft and to operate and maintain it; or

(2) Accept a Federal aircraft transferred from another executive agency and to operate and maintain it.

(b) For complete information on budgeting to own Government aircraft (*i.e.*, large purchase of a capital asset), see OMB Circular A-11, Part 7, and the “Capital Programming Guide,” Supplement to Part 7, Appendix 7.