

## Federal Management Regulation

## § 102-36.40

### § 102-36.30 When is personal property excess?

Personal property is excess when it is no longer needed by the activities within your agency to carry out the functions of official programs, as determined by the agency head or designee.

### § 102-36.35 What is the typical process for disposing of excess personal property?

(a) You must ensure personal property not needed by your activity is offered for use elsewhere within your agency. If the property is no longer needed by any activity within your agency, your agency declares the property excess and reports it to GSA for possible transfer to eligible recipients, including Federal agencies for direct use or for use by their contractors, project grantees, or cooperative agreement recipients. All executive agencies must, to the maximum extent practicable, fill requirements for personal property by using existing agency property or by obtaining excess property from other Federal agencies in lieu of new procurements.

(b) If GSA determines that there are no Federal requirements for your excess personal property, it becomes surplus property and is available for donation to State and local public agencies and other eligible non-Federal activities. The Property Act requires that surplus personal property be distributed to eligible recipients by an agency established by each State for this purpose, the State Agency for Surplus Property.

(c) Surplus personal property not selected for donation is offered for sale to the public by competitive offerings such as sealed bid sales, spot bid sales or auctions. You may conduct or contract for the sale of your surplus personal property, or have GSA or another executive agency conduct the sale on behalf of your agency in accordance with part 101-45 of this title. You must inform GSA at the time the property is reported as excess if you do not want GSA to conduct the sale for you.

(d) If a written determination is made that the property has no commercial value or the estimated cost of its continued care and handling would exceed the estimated proceeds from its

sale, you may dispose of the property by abandonment or destruction, or donate it to public bodies.

#### DEFINITIONS

### § 102-36.40 What definitions apply to this part?

The following definitions apply to this part:

*Commerce Control List Items (CCLIs)* are dual use (commercial/military) items that are subject to export control by the Bureau of Export Administration, Department of Commerce. These items have been identified in the U.S. Export Administration Regulations (15 CFR part 774) as export controlled for reasons of national security, crime control, technology transfer and scarcity of materials.

*Cooperative* means the organization or entity that has a cooperative agreement with a Federal agency.

*Cooperative agreement* means a legal instrument reflecting a relationship between a Federal agency and a non-Federal recipient, made in accordance with the Federal Grant and Cooperative Agreement Act of 1977 (31 U.S.C. 6301-6308), under any or all of the following circumstances:

(1) The purpose of the relationship is the transfer, between a Federal agency and a non-Federal entity, of money, property, services, or anything of value to accomplish a public purpose authorized by law, rather than by purchase, lease, or barter, for the direct benefit or use of the Federal Government.

(2) Substantial involvement is anticipated between the Federal agency and the cooperative during the performance of the agreed upon activity.

(3) The cooperative is a State or local government entity or any person or organization authorized to receive Federal assistance or procurement contracts.

*Demilitarization* means, as defined by the Department of Defense, the act of destroying the military capabilities inherent in certain types of equipment or material. Such destruction may include deep sea dumping, mutilation, cutting, crushing, scrapping, melting, burning, or alteration so as to prevent the further use of the item for its originally intended purpose.

*Excess personal property* means any personal property under the control of any Federal agency that is no longer required for that agency's needs, as determined by the agency head or designee.

*Exchange/sale property* means property not excess to the needs of the holding agency but eligible for replacement, which is exchanged or sold under the provisions of part 101-46 of this title in order to apply the exchange allowance or proceeds of sale in whole or part payment for replacement with a similar item.

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

*Fair market value* means the best estimate of the gross sales proceeds if the property were to be sold in a public sale.

*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).

*Federal Disposal System (FEDS)* is GSA's automated excess personal property system. For additional information on using FEDS, access <http://pub.fss.gsa.gov/property/>.

*Flight Safety Critical Aircraft Part (FSCAP)* is any aircraft part, assembly, or installation containing a critical characteristic whose failure, malfunction, or absence could cause a catastrophic failure resulting in engine shut-down or loss or serious damage to the aircraft resulting in an unsafe condition.

*Foreign excess personal property* is any U.S. owned excess personal property located outside the United States (U.S.), the U.S. Virgin Islands, American Samoa, Guam, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands.

*Grant* means a type of assistance award and a legal instrument which permits a Federal agency to transfer money, property, services or other things of value to a grantee when no substantial involvement is anticipated between the agency and the recipient

during the performance of the contemplated activity.

*Hazardous personal property* means property that is deemed a hazardous material, chemical substance or mixture, or hazardous waste under the Hazardous Materials Transportation Act (HMTA) (49 U.S.C. 5101), the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901-6981), or the Toxic Substances Control Act (TSCA) (15 U.S.C. 2601-2609).

*Holding agency* means the Federal agency having accountability for, and generally possession of, the property involved.

*Intangible personal property* means personal property in which the existence and value of the property is generally represented by a descriptive document rather than the property itself. Some examples are patents, patent rights, processes, techniques, inventions, copyrights, negotiable instruments, money orders, bonds, and shares of stock.

*Life-limited aircraft part* is an aircraft part that has a finite service life expressed in either total operating hours, total cycles, and/or calendar time.

*Line item* means a single line entry, on a reporting form or transfer order, for items of property of the same type having the same description, condition code, and unit cost.

*Munitions List Items (MLIs)* are commodities (usually defense articles/defense services) listed in the International Traffic in Arms Regulation (22 CFR part 121), published by the U.S. Department of State.

*Nonappropriated fund activity* means an activity or entity that is not funded by money appropriated from the general fund of the U.S. Treasury, such as post exchanges, ship stores, military officers' clubs, veterans' canteens, and similar activities. Such property is not Federal property.

*Personal property* means any property, except real property. For purposes of this part, the term excludes records of the Federal Government, and naval vessels of the following categories: battleships, cruisers, aircraft carriers, destroyers, and submarines.

*Project grant* means a grant made for a specific purpose and with a specific termination date.

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*Property Act* means the Federal Property and Administrative Services Act of 1949 (63 Stat. 386), as amended.

*Public agency* means any State, political subdivision thereof, including any unit of local government or economic development district; any department, agency, or instrumentality thereof, including instrumentalities created by compact or other agreement between States or political subdivisions; multi-jurisdictional substate districts established by or pursuant to State law; or any Indian tribe, band, group, pueblo, or community located on a State reservation.

*Related personal property* means any personal property that is an integral part of real property. It is:

(1) Related to, designed for, or specifically adapted to the functional capacity of the real property and removal of this personal property would significantly diminish the economic value of the real property; or

(2) Determined by the Administrator of General Services to be related to the real property.

*Salvage* means property that has value greater than its basic material content but for which repair or rehabilitation is clearly impractical and/or uneconomical.

*Scrap* means property that has no value except for its basic material content.

*Screening period* means the period in which excess and surplus personal property are made available for excess transfer or surplus donation to eligible recipients.

*Shelf-life item* is any item that deteriorates over time or has unstable characteristics such that a storage period must be assigned to assure the item is issued within that period to provide satisfactory performance. Management of such items is governed by part 101-27, subpart 27.2, of this title and by DOD instructions, for executive agencies and DOD respectively.

*Surplus personal property (surplus)* means excess personal property no longer required by the Federal agencies as determined by GSA.

*Surplus release date* means the date when Federal screening has been completed and the excess property becomes surplus.

*Transfer with reimbursement* means a transfer of excess personal property between Federal agencies where the recipient is required to pay, i.e. reimburse the holding agency, for the property.

*Unit cost* means the original acquisition cost of a single item of property.

*United States* means all the 50 States and the District of Columbia.

*Vessels* means ships, boats and craft designed for navigation in and on the water, propelled by oars or paddles, sail, or power.

### RESPONSIBILITY

#### § 102-36.45 What are our responsibilities in the management of excess personal property?

(a) Agency procurement policies should require consideration of excess personal property before authorizing procurement of new personal property.

(b) You are encouraged to designate national and regional property management officials to:

(1) Promote the use of available excess personal property to the maximum extent practicable by your agency.

(2) Review and approve the acquisition and disposal of excess personal property.

(3) Ensure that any agency implementing procedures comply with this part.

(c) When acquiring excess personal property, you must:

(1) Limit the quantity acquired to that which is needed to adequately perform the function necessary to support the mission of your agency.

(2) Establish controls over the processing of excess personal property transfer orders.

(3) Facilitate the timely pickup of acquired excess personal property from the holding agency.

(d) While excess personal property you have acquired is in your custody, or the custody of your non-Federal recipients and the Government retains title, you and/or the non-Federal recipient must do the following:

(1) Establish and maintain a system for property accountability.

(2) Protect the property against hazards including but not limited to fire, theft, vandalism, and weather.