

health by providing health services to individuals and/or by conducting research, investigations, examinations, training, and demonstrations. Public health services may include but are not limited to the control of communicable diseases, immunization, maternal and child health programs, sanitary engineering, sewage treatment and disposal, sanitation inspection and supervision, water purification and distribution, air pollution control, garbage and trash disposal, and the control and elimination of disease-carrying animals and insects.

Public health institution means an approved, accredited, or licensed public or nonprofit institution, facility, or organization conducting a public health program(s) such as a hospital, clinic, health center, or medical institution, including research for such programs, the services of which are available to the public.

Public purpose means a program(s) carried out by a public agency that is legally authorized in accordance with the laws of the State or political subdivision thereof and for which public funds may be expended. Public purposes include but are not limited to programs such as conservation, economic development, education, parks and recreation, public health, public safety, programs of assistance to the homeless or impoverished, and programs for older individuals.

Public safety means a program(s) carried out or promoted by a public agency for public purposes involving, directly or indirectly, the protection, safety, law enforcement activities, and criminal justice system of a given political area. Public safety programs may include, but are not limited to those carried out by:

- (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 pre-

scribed 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—SALE OF PERSONAL PROPERTY

Subpart A—General Provisions

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AUTHORITY: 40 U.S.C. 545 and 40 U.S.C. 121(c).

SOURCE: 68 FR 51421, Aug. 26, 2003, unless otherwise noted.

Subpart A—General Provisions

§ 102-38.5 What does this part cover?

This part prescribes the policies governing the sale of Federal personal property, including—

(a) Surplus personal property that has completed all required Federal and/or donation screening; and

(b) Personal property to be sold under the exchange/sale authority.

NOTE TO § 102-38.5: You must follow additional guidelines in 41 CFR parts 101-42 and 101-45 of the Federal Property Management Regulations (FPMR) for the sale of personal property that has special handling requirements or property containing hazardous materials. Additional requirements for the sale of aircraft and aircraft parts are provided in part 102-33 of this chapter.

§ 102-38.10 What is the governing authority for this part?

The authority for the regulations in this part governing the sale of Federal personal property is 40 U.S.C. 541 through 548, 571, 573 and 574.

§ 102-38.15 Who must comply with these sales provisions?

All executive agencies must comply with the provisions of this part. The legislative and judicial branches are encouraged to follow these provisions.

§ 102-38.20 Must we follow the regulations of this part when selling all personal property?

Generally, yes, you must follow the regulations of this part when selling all personal property; however—

(a) Materials acquired for the national stockpile or supplemental stockpile, or materials or equipment acquired under section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093) are excepted from this part;

(b) The Maritime Administration, Department of Transportation, has jurisdiction over the disposal of vessels of 1,500 gross tons or more and determined by the Secretary to be merchant vessels or capable of conversion to merchant use;

(c) Sales made by the Secretary of Defense pursuant to 10 U.S.C. 2576 (Sale of Surplus Military Equipment to State and Local Law Enforcement and Firefighting Agencies) are exempt from these provisions; and

(d) Foreign excess personal property is exempt from these provisions.

§ 102-38.25 To whom do “we”, “you”, and their variants refer?

Unless otherwise indicated, use of pronouns “we”, “you”, and their variants throughout this part refer to the holding agency responsible for the sale of the property.

§ 102-38.30 How do we request a deviation from the provisions of this part?

Refer to §§ 102-2.60 through 102-2.110 of this chapter for information on how to obtain a deviation from this part.