

§ 102-39.40 When should I arrange for a reimbursable transfer of exchange/sale property to a Federal agency or other eligible organization, or sell such property to a State Agency for Surplus Property?

If you have property to replace which is eligible for exchange/sale, you should first, to the maximum extent practicable, solicit:

(a) Federal agencies known to use or distribute such property. If a Federal agency is interested in acquiring and paying for the property, you should arrange for a reimbursable transfer. Reimbursable transfers may also be conducted with the Senate, the House of Representatives, the Architect of the Capitol and any activities under the Architect's direction, the District of Columbia, and mixed-ownership Government corporations. When conducting a reimbursable transfer, you must:

(1) Do so under terms mutually agreeable to you and the recipient.

(2) Not require reimbursement of an amount greater than the estimated fair market value of the transferred property.

(3) Apply the transfer proceeds in whole or part payment for property acquired to replace the transferred property; and

(b) State Agencies for Surplus Property (SASPs) known to have an interest in acquiring such property. If a SASP is interested in acquiring the property, you should consider selling it to the SASP by negotiated sale at fixed price under the conditions specified at § 102-38.125 of this title. The sales proceeds must be applied in whole or part payment for property acquired to replace the transferred property.

[66 FR 48614, Sept. 21, 2001, as amended at 69 FR 11539, Mar. 11, 2004]

§ 102-39.45 What prohibitions apply to the exchange/sale of personal property?

You must not use the exchange/sale authority for:

(a) The following FSC groups of personal property:

- 10 Weapons.
- 11 Nuclear ordnance.
- 12 Fire control equipment.
- 14 Guided missiles.

15 Aircraft and airframe structural components (except FSC Class 1560 Airframe Structural Components).

42 Firefighting, rescue, and safety equipment.

44 Nuclear reactors (FSC Class 4472 only).

51 Hand tools.

54 Prefabricated structure and scaffolding.

68 Chemicals and chemical products, except medicinal chemicals.

84 Clothing, individual equipment, and insignia.

NOTE TO § 102-39.45(A): The exception to the prohibition is Department of Defense (DOD) property in FSC Groups 10, 12, and 14 (except FSC Class 1005) for which the applicable DOD demilitarization requirements, and any other applicable regulations and statutes are met.

(b) Materials in the National Defense Stockpile (50 U.S.C. 98-98h) or the Defense Production Act inventory (50 U.S.C. App. 2093).

(c) Nuclear Regulatory Commission-controlled materials unless you meet the requirements of § 101-42.1102-4 of this title.

(d) Controlled substances, unless you meet the requirements of § 101-42.1102-3 of this title.

(e) Scrap materials, except in the case of scrap gold for fine gold.

(f) Property that was originally acquired as excess or forfeited property or from another source other than new procurement, unless such property has been in official use by the acquiring agency for at least 1 year. You may exchange or sell forfeited property in official use for less than 1 year if the head of your agency determines that a continuing valid requirement exists, but the specific item in use no longer meets that requirement, and that exchange or sale meets all other requirements of this part.

(g) Property that is dangerous to public health or safety without first rendering such property innocuous or providing for adequate safeguards as part of the exchange/sale.

(h) Combat material without demilitarizing it or obtaining a demilitarization waiver or other necessary clearances from the Department of Defense Demilitarization Office.

(i) Flight Safety Critical Aircraft Parts unless you meet the provisions of § 102-33.370 of this title.

Federal Management Regulation

§ 102-39.65

(j) Acquisition of unauthorized replacement property.

(k) Acquisition of replacement property that violates any:

(1) Restriction on procurement of a commodity or commodities;

(2) Replacement policy or standard prescribed by the President, the Congress, or the Administrator of General Services; or

(3) Contractual obligation.

(l) Vessels subject to 40 U.S.C. 484(i).

[66 FR 48614, Sept. 21, 2001; 66 FR 51095, Oct. 5, 2001, as amended at 69 FR 11539, Mar. 11, 2004]

§ 102-39.50 What conditions apply to the exchange/sale of personal property?

You may use the exchange/sale authority only if you meet all of the following conditions:

(a) The property exchanged or sold is similar to the property acquired;

(b) The property exchanged or sold is not excess or surplus, and you have a continuing need for that type of property;

(c) The number of items acquired must equal the number of items exchanged or sold unless:

(1) The item(s) acquired perform all or substantially all of the tasks for which the item(s) exchanged or sold would otherwise be used; or

(2) The item(s) acquired and the item(s) exchanged or sold meet the test for similarity specified in § 102-39.20 that they are a part(s) or container(s) for identical or similar end items;

(d) The property exchanged or sold was not acquired for the principal purpose of exchange or sale; and

(e) You document at the time of exchange or sale (or at the time of acquiring the replacement property if it precedes the sale) that the exchange allowance or sale proceeds will be applied to the acquisition of replacement property.

§ 102-39.55 What exceptions apply to the conditions for exchange/sale in § 102-39.50?

The exceptions that apply to the conditions for exchange/sale § 102-39.50 are:

(a) You may exchange books and periodicals in your libraries for other books and periodicals, without mone-

tary appraisal or detailed listing or reporting.

(b) In acquiring items for historical preservation or display at Federal museums, you may exchange historic items in the museum property account without regard to the FSC group, provided the exchange transaction is documented and certified by the head of your agency to be in the best interests of the Government and all other provisions of this part are met. The documentation must contain a determination that the item exchanged and the item acquired are historic items.

Subpart C—Exchange/Sale Methods and Reports

§ 102-39.60 What are the exchange methods?

Exchange of property may be accomplished by either of the following methods:

(a) The supplier (e.g., a Government agency, commercial or private organization, or an individual) delivers the replacement property to one of your organizational units and removes the property being replaced from that same organizational unit.

(b) The supplier delivers the replacement property to one of your organizational units and removes the property being replaced from a different organizational unit.

§ 102-39.65 What are the sales methods?

(a) You must use the methods, terms, and conditions of sale, and the forms prescribed in part 102-38 of this title, in the sale of property being replaced, except for the provisions of §§ 102-38.100 through 102-38.115 of this title regarding negotiated sales. Section 3709, Revised Statutes (41 U.S.C. 5), specifies the following conditions under which property being replaced can be sold by negotiation, subject to obtaining such competition as is feasible:

(1) The reasonable value involved in the contract does not exceed \$500; or

(2) Otherwise authorized by law.

(b) You may sell property being replaced by negotiation at fixed prices in