

§ 101-45.4901-114F

41 CFR Ch. 101 (7-1-99 Edition)

§ 101-45.4901-114F Standard Form 114F, Sale of Government Property—Item Bid Page—Spot Bid or Auction.

§ 101-45.4903-15 Optional Form 15, poster, Sale of Government Property.

§ 101-45.4901-126 Standard Form 126, Report of Personal Property for Sale.

§ 101-45.4903-16 Optional Form 16, Sales Slip, Sale of Government Personal Property.

§ 101-45.4901-126A Standard Form 126A, Report of Personal Property for Sale (Continuation Sheet).

§ 101-45.4903-20 Optional Form 20, Notice to Surety—Deposit Bond—Annual Sale of Government Personal Property.

§ 101-45.4901-150 Standard Form 150, Deposit Bond—Individual Invitation, Sale of Government Personal Property.

PART 101-46—REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

§ 101-45.4901-151 Standard Form 151, Deposit Bond—Annual, Sale of Government Personal Property.

Sec.

§ 101-45.4902 GSA forms.

(a) GSA forms in this section show their text, format, and arrangement and provide a ready source of reference.

(b) GSA forms in this section may be obtained initially from the General Service Administration, National Forms and Publications Center, 4900 South Hemphill Street, Warehouse No. 4, Dock No. 1, Fort Worth, Texas 76115. Agency regional or field offices should submit future requirements to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (CAIR), Washington, DC 20405.

101-46.000 Why should executive agencies use the exchange/sale authority?

101-46.001 What is prescribed by this part?

101-46.002 What are the definitions of some of the key terms used in this part?

101-46.002-1 Acquire.

101-46.002-2 Combat material.

101-46.002-3 Exchange.

101-46.002-4 Exchange/sale.

101-46.002-5 Executive agency.

101-46.002-6 Federal agency.

101-46.002-7 Historic item.

101-46.002-8 Replacement.

101-46.002-9 Similar.

101-46.003 How do you request deviations from this part, and who can approve them?

Subpart 101-46.1 [Reserved]

Subpart 101-46.2—Exchange or Sale Determination

101-46.200 How do you determine whether to do an exchange or a sale?

101-46.201 When must you make a reimbursable transfer to another Federal agency?

101-46.202 To what other organizations may you make a reimbursable transfer?

101-46.203 What are the conditions for a reimbursable transfer?

101-46.204 What prohibitions and necessary conditions apply to the exchange/sale of personal property?

101-46.205 What special exceptions apply to the exchange/sale authority?

Subpart 101-46.3—Exchange/Sale Methods

101-46.300 What are the exchange methods?

101-46.301 What are the sales methods?

101-46.302 What are the accounting requirements for the proceeds of sale?

AUTHORITY: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

[42 FR 40857, Aug. 12, 1977, as amended at 53 FR 16125, May 5, 1988]

§ 101-45.4902-27 GSA Form 27, Notice of Award (Sale of Government-Owned Personal Property).

§ 101-45.4902-27A GSA Form 27A, Notice of Award—Continuation.

§ 101-45.4903 Optional forms.

Optional forms illustrated in this § 101-45.4903 show their text, format, and arrangement and provide a ready source of reference. The numbers in this subsection correspond with the Optional form numbers. Optional forms illustrated in this § 101-45.4903 may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

SOURCE: 63 FR 5893, Feb. 5, 1998, unless otherwise noted.

§ 101-46.000 Why should executive agencies use the exchange/sale authority?

To reduce the agencies' need for additional funding for the acquisition of replacement personal property. If an agency has personal property that needs to be replaced, it can exchange or sell that property and apply the exchange allowance or sales proceeds to the acquisition of similar replacement property. Using the exchange/sale authority also enables agencies to avoid the costs (e.g., administrative and storage) associated with holding the property and processing it through the normal disposal cycle, i.e., reutilization by other Federal agencies, donation to eligible non-Federal public or non-profit organizations, sale to the public, or abandonment or destruction. By contrast, if the holding agency does not use the exchange/sale authority but instead reports the property to be replaced as excess, any sales proceeds are forwarded to the miscellaneous receipts account at the United States Treasury and are not available to the agency disposing of the property.

§ 101-46.001 What is prescribed by this part?

Provisions for use by you (an executive agency) when using the exchange/sale authority of section 201(c) of the Federal Property and Administrative Services Act of 1949, 63 Stat. 384, as amended (40 U.S.C. 481(c)). This part 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 chapter, respectively.

§ 101-46.002 What are the definitions of some of the key terms used in this part?

§ 101-46.002-1 Acquire.

To procure or otherwise obtain personal property, including by lease.

§ 101-46.002-2 Combat material.

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

§ 101-46.002-3 Exchange.

To replace personal property by trade or trade-in with the supplier of the replacement property.

§ 101-46.002-4 Exchange/sale.

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.

§ 101-46.002-5 Executive agency.

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

§ 101-46.002-6 Federal agency.

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).

§ 101-46.002-7 Historic item.

Property having added value for display purposes because its historical significance is greater than its fair market value for continued use. Items that are commonly 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.

§ 101-46.002-8 Replacement.

The process of acquiring property to be used in place of property which is still needed but will no longer adequately perform all the tasks for which it is used.

§ 101-46.002-9 Similar.

Where the acquired item and replaced item:

- (a) Are identical; or
- (b) Are designed and constructed for the same purpose; or

(c) Both constitute parts or containers for identical or similar end items; or

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

§ 101-46.003 How do you request deviations from this part, and who can approve them?

(a) General provisions for deviations from the Federal Property Management Regulations are found in § 101-1.110 of this chapter. Provisions for deviations from the regulations in this part are presented in this section.

(b) To request deviations from this part, you must submit a complete written justification to the General Services Administration (GSA), Office of Governmentwide Policy, Office of Transportation and Personal Property (MT), Washington, DC 20405. Only the Administrator of General Services (or designee) may grant deviations. Although the Administrator can approve deviations from most of the provisions in this part, he/she cannot approve deviations from provisions that are mandated by statute, i.e., the requirement at 101-46.204(b)(1) that the property exchanged or sold is similar to the property acquired, and the requirement at 101-46.204(b)(2) that the property exchanged or sold is not excess or surplus.

Subpart 101-46.1 [Reserved]

Subpart 101-46.2—Exchange or Sale Determination

§ 101-46.200 How do you determine whether to do an exchange or a sale?

(a) You must determine which method—exchange or sale—will provide the greater return for the Government. When estimating the return under each method, consider all administrative and overhead costs.

(b) If the exchange allowance or estimated sales proceeds for property would be unreasonably low, you should process the property according to the regulations in Part 101-43 (Utilization of Personal Property) or Subpart 101-45.9 (Abandonment or Destruction of

Personal Property) of this subchapter, as applicable.

§ 101-46.201 When must you make a reimbursable transfer to another Federal agency?

If you have property to replace which is eligible for exchange/sale, you should, to the maximum extent practicable, first solicit Federal agencies known to use or distribute such property and, if an agency wants it, arrange for a reimbursable transfer. Property that meets the replacement standards prescribed in subpart 101-25.4 of this chapter is not subject to this requirement.

§ 101-46.202 To what other organizations may you make a reimbursable transfer?

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.

§ 101-46.203 What are the conditions for a reimbursable transfer?

When transferring property, you must:

- (a) Do so under terms mutually agreeable to you and the recipient; and
- (b) Not require reimbursement of an amount greater than the estimated fair market value of the transferred property; and
- (c) Apply the transfer proceeds in whole or part payment for property acquired to replace the transferred property.

§ 101-46.204 What prohibitions and necessary conditions apply to the exchange/sale of personal property?

(a) You must not use the exchange/sale authority for:

- (1) 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.
- 71 Furniture.
- 84 Clothing, individual equipment, and insignia.

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

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

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

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

(6) Property which 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.

(7) 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.

(8) Combat material without demilitarizing it in accordance with applicable regulations.

(9) Flight Safety Critical Aircraft Parts unless you meet the provisions of §101-37.610 of this chapter.

(10) Acquisition of unauthorized replacement property.

(11) Acquisition of replacement property which violates:

(i) Any restriction on procurement of a commodity or commodities; or

(ii) Any replacement policy or standard prescribed by the President, the Congress, or the Administrator of General Services; or

(iii) Any contractual obligation.

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

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

(2) The property exchanged or sold is not excess or surplus, and the property acquired is needed for approved programs; and

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

(i) 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

(ii) The item(s) acquired and the item(s) exchanged or sold meet the test for similarity specified at §101-46.002-9(iii) in that they are a part(s) or container(s) for identical or similar end items; and

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

(5) You document at the time of exchange or sale (or at the time of acquisition if it precedes the sale):

(i) That the exchange allowance or sale proceeds will be applied to the acquisition of replacement property; and

(ii) For any property exchanged or sold under this part, the pertinent Federal Supply Classification (FSC) Group, the number of items, the original acquisition cost, the exchange allowance or sales proceeds (as applicable), and the source from which the property was originally acquired i.e., new procurement, excess, forfeiture, or another source other than new procurement. These data, aggregated at the agency level, may be requested by GSA to evaluate use of the exchange/sale authority.

§101-46.205 What special exceptions apply to the exchange/sale authority?

(a) You may exchange books and periodicals in your libraries for other books and periodicals, without monetary 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 or the requirement in §101-46.204(b)(3), 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 101-46.3—Exchange/Sale Methods

§ 101-46.300 What are the exchange methods?

Exchange of property may be accomplished by either of the following two 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. This is the normal manner of exchange.

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

§ 101-46.301 What are the sales methods?

(a) You must use the methods, terms, and conditions of sale, and the forms prescribed in § 101-45.304 of this subchapter in the sale of property being replaced, except that the provisions of § 101-45.304-2(a) of this subchapter regarding negotiated sales are not applicable. 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 accordance with the provisions of § 101-45.304-2(b) of this subchapter.

§ 101-46.302 What are the accounting requirements for the proceeds of sale?

Except as otherwise authorized by law, you must account for proceeds from sales of personal property disposed of under this part in accordance

with the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, Title 7, Fiscal Procedures, Section 5.5D.

PART 101-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Sec.

101-47.000 Scope of part.

Subpart 101-47.1—General Provisions

101-47.100 Scope of subpart.

101-47.101 Applicability.

101-47.102 [Reserved]

101-47.103 Definitions.

101-47.103-1 Act.

101-47.103-2 GSA.

101-47.103-3 Airport.

101-47.103-4 [Reserved]

101-47.103-5 Decontamination.

101-47.103-6 Disposal agency.

101-47.103-7 Holding agency.

101-47.103-8 Industrial property.

101-47.103-9 Landing area.

101-47.103-10 Management.

101-47.103-11 Protection.

101-47.103-12 Real property.

101-47.103-13 Related personal property.

101-47.103-14 Other terms defined in the Act.

101-47.103-15 Other terms.

Subpart 101-47.2—Utilization of Excess Real Property

101-47.200 Scope of subpart.

101-47.201 General provisions of subpart.

101-47.201-1 Policy.

101-47.201-2 Guidelines.

101-47.201-3 Lands withdrawn or reserved from the public domain.

101-47.201-4 Transfers under other laws.

101-47.202 Reporting of excess real property.

101-47.202-1 Reporting requirements.

101-47.202-2 Report forms.

101-47.202-3 Submission of reports.

101-47.202-4 Exceptions to reporting.

101-47.202-5 Reporting after submissions to the Congress.

101-47.202-6 Reports involving the public domain.

101-47.202-7 Reports involving contaminated property.

101-47.202-8 Notice of receipt.

101-47.202-9 Expense of protection and maintenance.

101-47.202-10 Examination for acceptability.

101-47.203 Utilization.

101-47.203-1 Reassignment of real property by the agencies.

101-47.203-2 Transfer and utilization.

101-47.203-3 Notification of agency requirements.

101-47.203-4 Real property excepted from reporting.