

## GENERAL SERVICES ADMINISTRATION

### 41 CFR Parts 101–43 and 102–36

[FPMR Amendment H–205]

RIN 3090–AF39

#### Disposition of Excess Personal Property

**AGENCY:** Office of Governmentwide Policy, GSA.

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration (GSA) is revising the Federal Property Management Regulations (FPMR) by moving coverage on the disposition of excess personal property into the Federal Management Regulation (FMR). A cross-reference is added to the FPMR to direct readers to the coverage in the FMR. The FMR is written in plain language to provide agencies with updated regulatory material that is easy to read and understand.

**EFFECTIVE DATE:** May 30, 2000.

**FOR FURTHER INFORMATION CONTACT:** Martha Caswell, Director, Personal Property Management Policy Division (MTP), 202–501–3828.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

The purpose of this final rule is to update, streamline, and clarify FPMR part 101–43 and move the part into the Federal Management Regulation (FMR). The proposed rule is written in a plain language question and answer format. This style uses an active voice, shorter sentences, and pronouns. Unless otherwise indicated in the text, the pronouns “we”, “you”, and their variants refer to the agency. A question and its answer combine to establish a rule. The employee and the agency must follow the language contained in both the question and its answer.

GSA has removed the term “Trust Territory of the Pacific Islands” from the definition of “foreign excess personal property” because there are no longer any entities in the Trust Territory of the Pacific Islands. As of October 1, 1994, Palau, the last remaining entity in the Trust Territory, became a self-governing sovereign state in free association with the United States.

A proposed rule was published in the *Federal Register* on November 16, 1999 (64 FR 62146). All public comments received were considered in the formulation of the final rule.

##### B. Executive Order 12866

GSA has determined that this final rule is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993.

##### C. Regulatory Flexibility Act

This final rule is not required to be published in the *Federal Register* for notice and comment; therefore the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply.

##### D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.*

##### E. Small Business Regulatory Enforcement Fairness Act

This final rule is exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

##### List of Subjects in 41 CFR Parts 101–43 and 102–36

Government property management, Surplus Government property.

For the reasons set forth in the preamble, GSA amends 41 CFR chapters 101 and 102 as follows:

##### CHAPTER 101—[AMENDED]

1. Part 101–43 is revised to read as follows:

##### PART 101–43—UTILIZATION OF PERSONAL PROPERTY

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

##### § 101–43.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102– 220).

For information on the disposition of excess personal property previously contained in this part, see FMR part 36 (41 CFR part 102–36).

##### CHAPTER 102—[AMENDED]

2. Part 102–36 is added to subchapter B to read as follows:

##### PART 102–36—DISPOSITION OF EXCESS PERSONAL PROPERTY

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Authority: 40 U.S.C. 486(c).

#### Subpart A—General Provisions

##### § 102–36.5 What is the governing authority for this part?

Section 205(c) of the Federal Property and Administrative Services Act of 1949, as amended (the Property Act) (40 U.S.C. 486), authorizes the Administrator of General Services to prescribe regulations as he deems necessary to carry out his functions under the Property Act. Section 202 of the Property Act (40 U.S.C. 483) authorizes the General Services Administration (GSA) to prescribe policies to promote the maximum use of excess Government personal property by executive agencies.

##### § 102–36.10 What does this part cover?

This part covers the acquisition, transfer, and disposal, by executive agencies, of excess personal property located in the United States, the U.S. Virgin Islands, American Samoa, Guam, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands.

##### § 102–36.15 Who must comply with the provisions of this part?

All executive agencies must comply with the provisions of this part. The legislative and judicial branches are encouraged to report and transfer excess personal property and fill their personal property requirements from excess in accordance with these provisions.

##### § 102–36.20 To whom do “we”, “you”, and their variants refer?

Use of pronouns “we”, “you”, and their variants throughout this part refer to the agency.

##### § 102–36.25 How do we request a deviation from these requirements and who can approve it?

See §§ 102–2.60 through 102–2.110 of this chapter to request a deviation from the requirements of this part.

##### § 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.

*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; multijurisdictional 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.

(3) Perform the care and handling of personal property. "Care and handling" includes completing, repairing, converting, rehabilitating, operating, preserving, protecting, insuring, packing, storing, handling, conserving, and transporting excess and surplus personal property, and destroying or rendering innocuous property which is dangerous to public health or safety.

(4) Maintain appropriate inventory levels as set forth in part 101-27 of this title.

(5) Continuously monitor the personal property under your control to assure maximum use, and develop and maintain a system to prevent and detect nonuse, improper use, unauthorized disposal or destruction of personal property.

(e) When you no longer need personal property to carry out the mission of your program, you must:

(1) Offer the property for reassignment to other activities within your agency.

(2) Promptly report excess personal property to GSA when it is no longer needed by any activity within your agency for further reuse by eligible recipients.

(3) Continue the care and handling of excess personal property while it goes through the disposal process.

(4) Facilitate the timely transfer of excess personal property to other Federal agencies or authorized eligible recipients.

(5) Provide reasonable access to authorized personnel for inspection and removal of excess personal property.

(6) Ensure that final disposition complies with applicable environmental, health, safety and national security regulations.

**§ 102-36.50 May we use a contractor to perform the functions of excess personal property disposal?**

Yes, you may use service contracts to perform disposal functions that are not inherently Governmental, such as warehousing or custodial duties. You

are responsible for ensuring that the contractor conforms with the requirements of the Property Act and the Federal Management Regulation (41 CFR chapter 102), and any other applicable statutes and regulations when performing these functions.

**§ 102-36.55 What is GSA's role in the disposition of excess personal property?**

In addition to developing and issuing regulations for the management of excess personal property, GSA:

(a) Screens and offers available excess personal property to Federal agencies and eligible non-Federal recipients.

(b) Approves and processes transfers of excess personal property to eligible activities.

(c) Determines the amount of reimbursement for transfers of excess personal property when appropriate.

(d) Conducts sales of surplus and exchange/sale personal property when requested by an agency.

(e) Maintains an automated system, FEDS, to facilitate the reporting and transferring of excess personal property.

**Subpart B—Acquiring Excess Personal Property For Our Agency**

**Acquiring Excess**

**§ 102-36.60 Who is eligible to acquire excess personal property as authorized by the Property Act?**

The following are eligible to acquire excess personal property:

(a) Federal agencies (for their own use or use by their authorized contractors, cooperatives, and project grantees).

(b) The Senate.

(c) The House of Representatives.

(d) The Architect of the Capitol and any activities under his direction.

(e) The DC Government.

(f) Mixed-ownership Government corporations as defined in 31 U.S.C. 9101.

**§ 102-36.65 Why must we use excess personal property instead of buying new property?**

Using excess personal property to the maximum extent practicable maximizes the return on Government dollars spent and minimizes expenditures for new procurement. Before purchasing new property, check with the appropriate regional GSA Personal Property Management office or access FEDS for any available excess personal property that may be suitable for your needs. You must use excess personal property unless it would cause serious hardship, be impractical, or impair your operations.

**§ 102-36.70 What must we consider when acquiring excess personal property?**

Consider the following when acquiring excess personal property:

(a) There must be an authorized requirement.

(b) The cost of acquiring and maintaining the excess personal property (including packing, shipping, pickup, and necessary repairs) does not exceed the cost of purchasing and maintaining new material.

(c) The sources of spare parts or repair/maintenance services to support the acquired item are readily accessible.

(d) The supply of excess parts acquired must not exceed the life expectancy of the equipment supported.

(e) The excess personal property will fulfill the required need with reasonable certainty without sacrificing mission or schedule.

(f) You must not acquire excess personal property with the intent to sell or trade for other assets.

**§ 102-36.75 Do we pay for excess personal property we acquire from another Federal agency under a transfer?**

(a) No, except for the situations listed in paragraph (b) of this section, you do not pay for the property. However, you are responsible for shipping and transportation costs. Where applicable, you may also be required to pay packing, loading, and any costs directly related to the dismantling of the property when required for the purpose of transporting the property.

(b) You may be required to reimburse the holding agency for excess personal property transferred to you (*i.e.*, transfer with reimbursement) when:

(1) Reimbursement is directed by GSA.

(2) The property was originally acquired with funds not appropriated from the general fund of the Treasury or appropriated therefrom but by law reimbursable from assessment, tax, or other revenue and the holding agency requests reimbursement. It is executive branch policy that working capital fund property shall be transferred without reimbursement.

(3) The property was acquired with appropriated funds, but reimbursement is required or authorized by law.

(4) You or the holding agency is the U.S. Postal Service (USPS).

(5) You are acquiring excess personal property for use by a project grantee that is a public agency or a nonprofit organization and exempt from taxation under 26 U.S.C. 501.

(6) You or the holding agency is the DC Government.

(7) You or the holding agency is a wholly owned or mixed-ownership

Government corporation as defined in the Government Corporation Control Act (31 U.S.C. 9101-9110).

**§ 102-36.80 How much do we pay for excess personal property on a transfer with reimbursement?**

(a) You may be required to reimburse the holding agency the fair market value when the transfer involves any of the conditions in § 102-36.75(b)(1) through (b)(4).

(b) When acquiring excess personal property for your project grantees (§ 102-36.75(b)(5)), you are required to deposit into the miscellaneous receipts fund of the U.S. Treasury an amount equal to 25 percent of the original acquisition cost of the property, except for transfers under the conditions cited in § 102-36.190.

(c) When you or the holding agency is the DC Government or a wholly owned or mixed-ownership Government corporation (§ 102-36.75(b)(6) or (b)(7)), you are required to reimburse the holding agency using fair value reimbursement. Fair value reimbursement is 20 percent of the original acquisition cost for new or unused property (*i.e.*, condition code 1), and zero percent for other personal property. Where circumstances warrant, a higher fair value may be used if the agencies concerned agree. Due to special circumstances or the unusual nature of the property, the holding agency may use other criteria for establishing fair value if approved or directed by GSA. You must refer any disagreements to the appropriate regional GSA Personal Property Management office.

**§ 102-36.85 Do we pay for personal property we acquire when it is disposed of by another agency under the exchange/sale authority, and how much do we pay?**

Yes, you must pay for personal property disposed of under the exchange/sale authority, in the amount required by the holding agency. The amount of reimbursement is normally the fair market value.

**Screening of Excess**

**§ 102-36.90 How do we find out what personal property is available as excess?**

You may use the following methods to find out what excess personal property is available:

(a) Check GSA's automated excess personal property system FEDS. For

information on FEDS access <http://pub.fss.gsa.gov/property/>.

(b) Contact or submit want lists to regional GSA Personal Property Management offices.

(c) Check any available holding agency websites (see <http://www.policyworks.gov/surplus> for a list of Federal agency websites.).

(d) Conduct on-site screening at various Federal facilities.

**§ 102-36.95 How long is excess personal property available for screening?**

The screening period for excess personal property is normally 21 calendar days. GSA may extend or shorten the screening period in coordination with the holding agency. For screening timeframes for Government property in the possession of contractors see the Federal Acquisition Regulation (48 CFR part 45).

**§ 102-36.100 When does the screening period start for excess personal property?**

Screening starts when GSA receives the report of excess personal property (see § 102-36.230).

**§ 102-36.105 Who is authorized to screen and where do we go to screen excess personal property on-site?**

You may authorize your agency employees, contractors, or non-Federal recipients that you sponsor to screen excess personal property. You may visit Defense Reutilization and Marketing Offices (DRMOs) and DOD contractor facilities to screen excess personal property generated by the Department of Defense. You may also inspect excess personal property at various civilian agency facilities throughout the United States.

**§ 102-36.110 Do we need authorization to screen excess personal property?**

(a) Yes, when entering a Federal facility, Federal agency employees must present a valid Federal ID. Non-Federal individuals will need proof of authorization from their sponsoring Federal agency in addition to a valid picture identification.

(b) Entry on some Federal and contractor facilities may require special authorization from that facility. Persons wishing to screen excess personal property on such a facility must obtain approval from that agency. Contact your regional GSA Personal Property

Management office for locations and accessibility.

**§ 102-36.115 What information must we include in the authorization form for non-Federal persons to screen excess personal property?**

(a) For non-Federal persons to screen excess personal property, you must provide on the authorization form:

- (1) The individual's name and the organization he/she represents;
- (2) The period of time and location(s) in which screening will be conducted; and
- (3) The number and completion date of the applicable contract, cooperative agreement, or grant.

(b) An authorized official of your agency must sign the authorization form.

**§ 102-36.120 What are our responsibilities in authorizing a non-Federal individual to screen excess personal property?**

You must do the following:

- (a) Ensure that the non-Federal screener certifies that any and all property requested will be used for authorized official purpose(s).
- (b) Maintain a record of the authorized screeners under your authority, to include names, addresses and telephone numbers, and any additional identifying information such as driver's license or social security numbers.

(c) Retrieve any expired or invalid screener's authorization forms.

**Processing Transfers**

**§ 102-36.125 How do we process a Standard Form 122 (SF 122), Transfer Order Excess Personal Property, through GSA?**

(a) You must first contact the appropriate regional GSA Personal Property Management office to assure the property is available to you. Submit your request on a SF 122, Transfer Order Excess Personal Property, to the region in which the property is located. For the types of property listed in the table in paragraph (b) of this section, submit the SF 122 to the corresponding GSA regions. You may submit the SF 122 manually or transmit the required information by electronic media (FEDS) or any other transfer form specified and approved by GSA.

(b) For the following types of property, you must submit the SF 122 to the corresponding GSA regions:

Type of property	GSA region	Location
Aircraft .....	9 FBP	San Francisco, CA 94102.
Firearms .....	7 FP-8	Denver, CO 80225.
Foreign Gifts .....	FBP	Washington, DC 20406.
Forfeited Property .....	3 FP	Washington, DC 20407.

Type of property	GSA region	Location
Standard Forms .....	7 FMP	Ft. Worth, TX 76102.
Vessels, civilian .....	3 FPD	Philadelphia, PA 19107.
Vessels, DOD .....	4 FD	Atlanta, GA 30365.

**§ 102-36.130 What are our responsibilities in processing transfer orders of excess personal property?**

Whether the excess is for your use or for use by a non-Federal recipient that you sponsor, you must:

(a) Ensure that only authorized Federal officials of your agency sign the SF 122 prior to submission to GSA for approval.

(b) Ensure that excess personal property approved for transfer is used for authorized official purpose(s).

(c) Advise GSA of names of agency officials that are authorized to approve SF 122s, and notify GSA of any changes in signatory authority.

**§ 102-36.135 How much time do we have to pick up excess personal property that has been approved for transfer?**

When the holding agency notifies you that the property is ready for removal, you normally have 15 calendar days to pick up the property, unless otherwise coordinated with the holding agency.

**§ 102-36.140 May we arrange to have the excess personal property shipped to its final destination?**

Yes, when the holding agency agrees to provide assistance in preparing the property for shipping. You may be required to pay the holding agency any direct costs in preparing the property for shipment. You must provide shipping instructions and the appropriate fund code for billing purposes on the SF 122.

**Direct Transfers**

**§ 102-36.145 May we obtain excess personal property directly from another Federal agency without GSA approval?**

Yes, but only under the following situations:

(a) You may obtain excess personal property that has not yet been reported to GSA, provided the total acquisition cost of the excess property does not exceed \$10,000 per line item. You must ensure that a SF 122 is completed for the direct transfer and that an authorized official of your agency signs the SF 122. You must provide a copy of the SF 122 to the appropriate regional GSA office within 10 workdays from the date of the transaction.

(b) You may obtain excess personal property exceeding the \$10,000 per line item limitation, provided you first contact the appropriate regional GSA Personal Property Management office

for verbal approval of a prearranged transfer. You must annotate the SF 122 with the name of the GSA approving official and the date of the verbal approval, and provide a copy of the SF 122 to GSA within 10 workdays from the date of transaction.

(c) You are subject to the requirement to pay reimbursement for the excess personal property under a direct transfer when any of the conditions in § 102-36.75(b) applies.

(d) You may obtain excess personal property directly from another Federal agency without GSA approval when that Federal agency has statutory authority to dispose of such excess personal property and you are an eligible recipient.

**Subpart C—Acquiring Excess Personal Property for Non-Federal Recipients**

**§ 102-36.150 For which non-Federal activities may we acquire excess personal property?**

Under the Property Act you may acquire and furnish excess personal property for use by your nonappropriated fund activities, contractors, cooperatives, and project grantees. You may acquire and furnish excess personal property for use by other eligible recipients only when you have specific statutory authority to do so.

**§ 102-36.155 What are our responsibilities when acquiring excess personal property for use by a non-Federal recipient?**

When acquiring excess personal property for use by a non-Federal recipient, your authorized agency official must:

(a) Ensure the use of excess personal property by the non-Federal recipient is authorized and complies with applicable Federal regulations and agency guidelines.

(b) Determine that the use of excess personal property will reduce the costs to the Government and/or that it is in the Government's best interest to furnish excess personal property.

(c) Review and approve transfer documents for excess personal property as the sponsoring Federal agency.

(d) Ensure the non-Federal recipient is aware of his obligations under the FMR and your agency regulations regarding the management of excess personal property.

(e) Ensure the non-Federal recipient does not stockpile the property but places the property into use within a reasonable period of time, and has a system to prevent nonuse, improper use, or unauthorized disposal or destruction of excess personal property furnished.

(f) Establish provisions and procedures for property accountability and disposition in situations when the Government retains title.

(g) Report annually to GSA excess personal property furnished to non-Federal recipients during the year (see § 102-36.295).

**§ 102-36.160 What additional information must we provide on the SF 122 when acquiring excess personal property for non-Federal recipients?**

Annotate on the SF 122, the name of the non-Federal recipient and the contract, grant or agreement number, when applicable, and the scheduled completion/expiration date of the contract, grant or agreement. If the remaining time prior to the expiration date is less than 60 calendar days, you must certify that the contract, grant or agreement will be extended or renewed or provide other written justification for the transfer.

**Nonappropriated Fund Activities**

**§ 102-36.165 Do we retain title to excess personal property furnished to a nonappropriated fund activity within our agency?**

Yes, title to excess personal property furnished to a nonappropriated fund activity remains with the Federal Government and you are accountable for establishing controls over the use of such excess property in accordance with § 102-36.45(d). When such property is no longer required by the nonappropriated fund activity, you must reuse or dispose of the property in accordance with this part.

**§ 102-36.170 May we transfer personal property owned by one of our nonappropriated fund activities?**

Property purchased by a nonappropriated fund activity is not Federal property. A nonappropriated fund activity has the option of making its privately owned personal property available for transfer to a Federal agency, usually with reimbursement. If such reimbursable personal property is not transferred to another Federal

agency, it may be offered for sale. Such property is not available for donation.

#### Contractors

##### **§ 102–36.175 Are there restrictions to acquiring excess personal property for use by our contractors?**

Yes, you may acquire and furnish excess personal property for use by your contractors subject to the criteria and restrictions in the Federal Acquisition Regulation (48 CFR part 45). When such property is no longer needed by your contractors or your agency, you must dispose of the excess personal property in accordance with the provisions of this part.

#### Cooperatives

##### **§ 102–36.180 Is there any limitation/condition to acquiring excess personal property for use by cooperatives?**

Yes, you must limit the total dollar amount of property transfers (in terms of original acquisition cost) to the dollar value of the cooperative agreement. For any transfers in excess of such amount, you must ensure that an official of your agency at a level higher than the officer administering the agreement approves the transfer. The Federal Government retains title to such property, except when provided by specific statutory authority.

#### Project Grantees

##### **§ 102–36.185 What are the requirements for acquiring excess personal property for use by our grantees?**

You may furnish excess personal property for use by your grantees only when:

- (a) The grantee holds a Federally sponsored project grant;
- (b) The grantee is a public agency or a nonprofit tax-exempt organization under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501);
- (c) The property is for use in connection with the grant; and
- (d) You pay 25 percent of the original acquisition cost of the excess personal property, such funds to be deposited into the miscellaneous receipts fund of the U.S. Treasury. Exceptions to paying this 25 percent are provided in § 102–36.190. Title to property vests in the grantee when your agency pays 25 percent of the original acquisition cost.

##### **§ 102–36.190 Must we always pay 25 percent of the original acquisition cost when furnishing excess personal property to project grantees?**

No, you may acquire excess personal property for use by a project grantee without paying the 25 percent fee when any of the following conditions apply:

(a) The personal property was originally acquired from excess sources by your agency and has been placed into official use by your agency for at least one year. The Federal Government retains title to such property.

(b) The property is furnished under section 203 of the Department of Agriculture Organic Act of 1944 (16 U.S.C. 580a) through the U.S. Forest Service in connection with cooperative State forest fire control programs. The Federal Government retains title to such property.

(c) The property is furnished by the U.S. Department of Agriculture to State or county extension services or agricultural research cooperatives under 40 U.S.C. 483(d)(2)(E). The Federal Government retains title to such property.

(d) The property is not needed for donation under part 101–44 of this title, and is transferred under section 608 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2358). Title to such property transfers to the grantee. (You need not wait until after the donation screening period when furnishing excess personal property to recipients under the Agency for International Development (AID) Development Loan Program.)

(e) The property is scientific equipment transferred under section 11(e) of the National Science Foundation (NSF) Act of 1950, as amended (42 U.S.C. 1870(e)). GSA will limit such transfers to property within Federal Supply Classification (FSC) groups 12, 14, 43, 48, 58, 59, 65, 66, 67, 68 and 70. GSA may approve transfers without reimbursement for property under other FSC groups when NSF certifies the item is a component of or related to a piece of scientific equipment or is a difficult-to-acquire item needed for scientific research. Regardless of FSC, GSA will not approve transfers of common-use or general-purpose items without reimbursement. Title to such property transfers to the grantee.

(f) The property is furnished in connection with grants to Indian tribes, as defined in section 3(c) of the Indian Financing Act (24 U.S.C. 1452(c)). Title passage is determined under the authorities of the administering agency.

##### **§ 102–36.195 What type of excess personal property may we furnish to our project grantees?**

You may furnish to your project grantees any property, except for consumable items, determined to be necessary and usable for the purpose of the grant. Consumable items are generally not transferable to project

grantees. GSA may approve transfers of excess consumable items when adequate justification for the transfer accompanies such requests. For the purpose of this section “consumable items” are items which are intended for one-time use and are actually consumed in that one time; e.g., drugs, medicines, surgical dressings, cleaning and preserving materials, and fuels.

##### **§ 102–36.200 May we acquire excess personal property for cannibalization purposes by the grantees?**

Yes, subject to GSA approval, you may acquire excess personal property for cannibalization purposes. You may be required to provide a supporting statement that indicates disassembly of the item for secondary use has greater benefit than utilization of the item in its existing form and cost savings to the Government will result.

##### **§ 102–36.205 Is there a limit to how much excess personal property we may furnish to our grantees?**

Yes, you must monitor transfers of excess personal property so the total dollar amount of property transferred (in original acquisition cost) does not exceed the dollar value of the grant. Any transfers above the grant amount must be approved by an official at an administrative level higher than the officer administering the grant.

#### **Subpart D—Disposition of Excess Personal Property**

##### **§ 102–36.210 Why must we report excess personal property to GSA?**

You must report excess personal property to promote reuse by the Government to enable Federal agencies to benefit from the continued use of property already paid for with taxpayers' money, thus minimizing new procurement costs. Reporting excess personal property to GSA helps assure that the information on available excess personal property is accessible and disseminated to the widest range of reuse customers.

#### **Reporting Excess Personal Property**

##### **§ 102–36.215 How do we report excess personal property?**

Report excess personal property as follows:

(a) Electronically submit the data elements required on the Standard Form 120 (SF 120), Report of Excess Personal Property, in a format specified and approved by GSA; or

(b) Submit a paper SF 120 to the regional GSA Personal Property Management office.

**§ 102-36.220 Must we report all excess personal property to GSA?**

(a) Generally yes, regardless of the condition code, except as authorized in § 102-36.145 for direct transfers or as exempted in paragraph (b) of this section. Report all excess personal property, including excess personal property to which the Government holds title but is in the custody of your contractors, cooperatives, or project grantees.

(b) You are not required to report the following types of excess personal property to GSA for screening:

- (1) Property determined appropriate for abandonment/destruction (see § 102-36.305).
- (2) Nonappropriated fund property (see § 102-36.165).
- (3) Foreign excess personal property (see § 102-36.380).
- (4) Scrap, except aircraft in scrap condition.
- (5) Perishables, defined for the purposes of this section as any personal property subject to spoilage or decay.
- (6) Trading stamps and bonus goods.
- (7) Hazardous waste.
- (8) Controlled substances.
- (9) Nuclear Regulatory Commission-controlled materials.
- (10) Property dangerous to public health and safety.
- (11) Classified items or property determined to be sensitive for reasons of national security.

(c) Refer to part 101-42 of this title for additional guidance on the disposition

of classes of property under paragraphs (b)(7) through (b)(11) of this section.

**§ 102-36.225 Must we report excess related personal property?**

Yes, you must report excess related personal property to the Office of Real Property, GSA, in accordance with part 101-47 of this title.

**§ 102-36.230 Where do we send the reports of excess personal property?**

(a) You must direct electronic submissions of excess personal property to the Federal Disposal System (FEDS) maintained by the Property Management Division (FBP), GSA, Washington, DC 20406.

(b) For paper submissions, you must send the SF 120 to the regional GSA Personal Property Management office for the region in which the property is located. For the categories of property listed in § 102-36.125(b), forward the SF 120 to the corresponding regions.

**§ 102-36.235 What information do we provide when reporting excess personal property?**

(a) You must provide the following data on excess personal property:

- (1) The reporting agency and the property location.
- (2) A report number (6-digit activity address code and 4-digit Julian date).
- (3) 4-digit Federal Supply Class (use National Stock Number whenever available).

(4) Description of item, in sufficient detail.

- (5) Quantity and unit of issue.
- (6) Disposal Condition Code (see § 102-36.240).
- (7) Original acquisition cost per unit and total cost (use estimate if original cost not available).
- (8) Manufacturer, date of manufacture, part and serial number, when required by GSA.

(b) In addition, provide the following information on your report of excess, when applicable:

- (1) Major parts/components that are missing.
- (2) If repairs are needed, the type of repairs.
- (3) Special requirements for handling, storage, or transportation.
- (4) The required date of removal due to moving or space restrictions.
- (5) If reimbursement is required, the authority under which the reimbursement is requested, the amount of reimbursement and the appropriate fund code to which money is to be deposited.
- (6) If you will conduct the sale of personal property that is not transferred or donated.

**§ 102-36.240 What are the disposal condition codes?**

The disposal condition codes are contained in the following table:

Disposal condition code	Definition
1 .....	New. Property which is in new condition or unused condition and can be used immediately without modifications or repairs.
4 .....	Usable. Property which shows some wear, but can be used without significant repair.
7 .....	Repairable. Property which is unusable in its current condition but can be economically repaired.
X .....	Salvage. Property which has value in excess of its basic material content, but repair or rehabilitation is impractical and/or uneconomical.
S .....	Scrap. Property which has no value except for its basic material content.

**Disposing of Excess Personal Property**

**§ 102-36.245 Are we accountable for the personal property that has been reported excess, and who is responsible for the care and handling costs?**

Yes, you are accountable for the excess personal property until the time it is picked up by the designated recipient or its agent. You are responsible for all care and handling charges while the excess personal property is going through the screening and disposal process.

**§ 102-36.250 Does GSA ever take physical custody of excess personal property?**

Generally you retain physical custody of the excess personal property prior to its final disposition. Very rarely GSA may consider accepting physical custody of excess personal property. Under special circumstances, GSA may take custody or may direct the transfer of partial or total custody to other executive agencies, with their consent.

**§ 102-36.255 What options do we have when unusual circumstances do not allow adequate time for disposal through GSA?**

Contact your regional GSA Personal Property Management office for any

existing interagency agreements that would allow you to turn in excess personal property to a Federal facility. You are responsible for any turn-in costs and all costs related to transporting the excess personal property to these facilities.

**§ 102-36.260 How do we promote the expeditious transfer of excess personal property?**

For expeditious transfer of excess personal property you should:

- (a) Provide complete and accurate property descriptions and condition codes on the report of excess to facilitate

the selection of usable property by potential users.

(b) Ensure that any available operating manual, parts list, diagram, maintenance log, or other instructional publication is made available with the property at the time of transfer.

(c) Advise the designated recipient of any special requirements for dismantling, shipping/transportation.

(d) When the excess personal property is located at a facility due to be closed, provide advance notice of the scheduled date of closing, and ensure there is sufficient time for screening and removal of property.

**§ 102–36.265 What if there are competing requests for the same excess personal property?**

(a) GSA will generally approve transfers on a first-come, first-served basis. When more than one Federal agency requests the same item, and the quantity available is not sufficient to meet the demand of all interested agencies, GSA will consider factors such as national defense requirements, emergency needs, avoiding the necessity of a new procurement, energy conservation, transportation costs, and retention of title in the Government. GSA will normally give preference to the agency that will retain title in the Government.

(b) Requests for property for the purpose of cannibalization will normally be subordinate to requests for use of the property in its existing form.

**§ 102–36.270 What if a Federal agency requests personal property that is undergoing donation screening or in the sales process?**

Prior to final disposition, GSA will consider requests from authorized Federal activities for excess personal property undergoing donation screening or in the sales process. Federal transfers may be authorized prior to removal of the property under a donation or sales action.

**§ 102–36.275 May we dispose of excess personal property without GSA approval?**

No, you may not dispose of excess personal property without GSA approval except under the following limited situations:

(a) You may transfer to another Federal agency excess personal property that has not yet been reported to GSA, under direct transfer procedures contained in § 102–36.145.

(b) You may dispose of excess personal property that is not required to be reported to GSA (see § 102–36.220(b)).

(c) You may dispose of excess personal property without going

through GSA when such disposal is authorized by law.

**§ 102–36.280 May we withdraw from the disposal process excess personal property that we have reported to GSA?**

Yes, you may withdraw excess personal property from the disposal process, but only with the approval of GSA and to satisfy an internal agency requirement. Property that has been approved for transfer or donation or offered for sale by GSA may be returned to your control with proper justification.

**Transfers With Reimbursement**

**§ 102–36.285 May we charge for personal property transferred to another Federal agency?**

(a) When any one of the following conditions applies, you may require and retain reimbursement for the excess personal property from the recipient:

(1) Your agency has the statutory authority to require and retain reimbursement for the property.

(2) You are transferring the property under the exchange/sale authority.

(3) You had originally acquired the property with funds not appropriated from the general fund of the Treasury or appropriated therefrom but by law reimbursable from assessment, tax, or other revenue. It is current executive branch policy that working capital fund property shall be transferred without reimbursement.

(4) You or the recipient is the U.S. Postal Service.

(5) You or the recipient is the DC Government.

(6) You or the recipient is a wholly owned or mixed-ownership Government corporation.

(b) You may charge for direct costs you incurred incident to the transfer, such as packing, loading and shipping of the property. The recipient is responsible for such charges unless you waive the amount involved.

(c) You may not charge for overhead or administrative expenses or the costs for care and handling of the property pending disposition.

**§ 102–36.290 How much do we charge for excess personal property on a transfer with reimbursement?**

(a) You may require reimbursement in an amount up to the fair market value of the property when the transfer involves property meeting conditions in § 102–36.285(a)(1) through (a)(4).

(b) When you or the recipient is the DC Government or a wholly owned or mixed-ownership Government corporation (§ 102–36.285(a)(5) and (a)(6)), you may only require fair value reimbursement. Fair value

reimbursement is 20 percent of the original acquisition cost for new or unused property (*i.e.*, condition code 1), and zero percent for other personal property. A higher fair value may be used if you and the recipient agency agree. Due to special circumstances or the nature of the property, you may use other criteria for establishing fair value if approved or directed by GSA. You must refer any disagreements to the appropriate regional GSA Personal Property Management office.

**Report of Disposal Activity**

**§ 102–36.295 Is there any reporting requirement on the disposition of excess personal property?**

Yes, you must report annually to GSA personal property furnished in any manner in that year to any non-Federal recipients, with respect to property obtained as excess or as property determined to be no longer required for the purposes of the appropriation from which it was purchased. GSA will subsequently submit a summary of these Non-Federal Recipients Reports to Congress.

**§ 102–36.300 How do we report the furnishing of personal property to non-Federal recipients?**

(a) Submit your annual report of personal property furnished to non-Federal recipients, in letter form, to GSA, Personal Property Management Policy Division (MTP), 1800 F Street, NW, Washington, DC 20405, within 90 calendar days after the close of each fiscal year. The report must cover personal property disposed during the fiscal year in all areas within the United States, the U.S. Virgin Islands, American Samoa, Guam, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands. Negative reports are required.

(b) The report (interagency report control number 0154—GSA—AN) must reference this part and contain the following:

(1) Names of the non-Federal recipients.

(2) Status of the recipients (contractor, cooperative, project grantee, etc.).

(3) Total original acquisition cost of excess personal property furnished to each type of recipient, by type of property (two-digit FSC groups).

**Abandonment/Destruction**

**§ 102–36.305 May we abandon or destroy excess personal property without reporting it to GSA?**

Yes, you may abandon or destroy excess personal property when you have made a written determination 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. An item has no commercial value when it has neither utility nor monetary value (either as an item or as scrap).

**§ 102–36.310 Who makes the determination to abandon or destroy excess personal property?**

To abandon or destroy excess personal property, an authorized official of your agency makes a written finding that must be approved by a reviewing official who is not directly accountable for the property.

**§ 102–36.315 Are there any restrictions to the use of the abandonment/destruction authority?**

Yes, the following restrictions apply:  
 (a) You must not abandon or destroy property in a manner which is detrimental or dangerous to public health or safety. Additional guidelines for the abandonment/destruction of hazardous materials are prescribed in part 101–42 of this title.  
 (b) If you become aware of an interest from an entity in purchasing the property, you must implement sales procedures in lieu of abandonment/destruction.

**§ 102–36.320 May we transfer or donate excess personal property that has been determined appropriate for abandonment/destruction without GSA approval?**

In lieu of abandonment/destruction, you may donate such excess personal property only to a public body without going through GSA. A public body is any department, agency, special purpose district, or other instrumentality of a State or local government; any Indian tribe; or any

agency of the Federal Government. If you become aware of an interest from an eligible non-profit organization (see part 101–44 of this title) that is not a public body in acquiring the property, you must contact the regional GSA Personal Property Management office and implement donation procedures in accordance with part 101–44 of this title.

**§ 102–36.325 What must be done before the abandonment/destruction of excess personal property?**

Except as provided in § 102–36.330, you must provide public notice of intent to abandon or destroy excess personal property, in a format and timeframe specified by your agency regulations (such as publishing a notice in a local newspaper, posting of signs in common use facilities available to the public, or providing bulletins on your website through the internet). You must also include in the notice an offer to sell in accordance with part 101–45 of this title.

**§ 102–36.330 Are there occasions when public notice is not needed regarding abandonment/destruction of excess personal property?**

Yes, you are not required to provide public notice when:  
 (1) The value of the property is so little or the cost of its care and handling, pending abandonment/destruction, is so great that its retention for advertising for sale, even as scrap, is clearly not economical;  
 (2) Abandonment or destruction is required because of health, safety, or security reasons; or  
 (3) When the original acquisition cost of the item (estimated if unknown) is less than \$500.

**Subpart E—Personal Property Whose Disposal Requires Special Handling**

**§ 102–36.335 Are there certain types of excess personal property that must be disposed of differently from normal disposal procedures?**

Yes, you must comply with the additional provisions in this subpart when disposing of the types of personal property listed in this subpart.

**Aircraft and Aircraft Parts**

**§ 102–36.340 What must we do when disposing of excess aircraft?**

- (a) You must report to GSA all excess aircraft, regardless of condition or dollar value, and provide the following information on the SF 120:
  - (1) Manufacturer, date of manufacture, model, serial number.
  - (2) Major components missing from the aircraft (such as engines, electronics).
  - (3) Whether or not the:
    - (i) Aircraft is operational;
    - (ii) Dataplate is available;
    - (iii) Historical and maintenance records are available;
    - (iv) Aircraft has been previously certificated by the Federal Aviation Administration (FAA) and/or has been maintained to FAA airworthiness standards;
    - (v) Aircraft was previously used for non-flight purposes (*i.e.*, ground training or static display), and has been subjected to extensive disassembly and re-assembly procedures for ground training, or repeated burning for fire-fighting training purposes.
  - (4) For military aircraft, indicate Category A, B, or C as designated by DOD, as follows:

Category of aircraft	Description
A .....	Aircraft authorized for sale and exchange for commercial use.
B .....	Aircraft previously used for ground instruction and/or static display.
C .....	Aircraft that are combat configured as determined by DOD.

**Note to § 102–36.340(a)(4):** For additional information on military aircraft see Defense Materiel Disposition Manual, DOD 4160.21-M, accessible at [www.drms.dla.mil](http://www.drms.dla.mil) under Publications.

(b) When the designated transfer or donation recipient's intended use is for non-flight purposes, you must remove and return the dataplate to GSA Property Management Branch, San Francisco, California prior to releasing the aircraft to the authorized recipient. GSA will forward the dataplates to FAA.

(c) You must also submit a report of the final disposition of the aircraft to the Federal Aviation Interactive Reporting System (FAIRS) maintained by the Aircraft Management Policy Division (MTA), GSA, 1800 F Street, NW, Washington, DC 20405. For additional instructions on reporting to FAIRS see part 101–37 of this title.

**§ 102–36.345 May we dispose of excess Flight Safety Critical Aircraft Parts (FSCAP)?**

Yes, you may dispose of excess FSCAP, but first you must determine whether the documentation available is adequate to allow transfer, donation, or sale of the part in accordance with part 101–37, subpart 101–37.6, of this title. Otherwise, you must mutilate undocumented FSCAP that has no traceability to its original equipment manufacturer and dispose of it as scrap. When reporting excess FSCAP, annotate

the manufacturer, date of manufacture, part number, serial number, and the appropriate Criticality Code on the SF 120, and ensure that all available historical and maintenance records accompany the part at the time of issue.

**§ 102-36.350 How do we identify a FSCAP?**

Any aircraft part designated as FSCAP is assigned an alpha Criticality Code,

and the code is annotated on the original transfer document when you acquire the part. You must perpetuate the appropriate FSCAP Criticality Code on all personal property records. You may contact the Federal agency or Military service that originally owned the part for assistance in making this determination, or query DOD's Federal Logistics Information System (FLIS)

using the National Stock Number (NSN) for the part. For assistance in subscribing to the FLIS service contact the FedLog Consumer Support Office, 800-351-4381.

**§ 102-36.355 What are the FSCAP Criticality Codes?**

The FSCAP Criticality Codes are contained in the following table:

FSCAP code	Description
E .....	FSCAP specially designed to be or selected as being nuclear hardened.
F .....	Flight Safety Critical Aircraft Part.

**§ 102-36.360 How do we dispose of aircraft parts that are life-limited but have no FSCAP designation?**

When disposing of life-limited aircraft parts that have no FSCAP designation, you must ensure that tags and labels, historical data and maintenance records accompany the part on any transfers, donations or sales. For additional information regarding the disposal of life-limited parts with or without tags or documentation refer to part 101-37 of this title.

**Canines, Law Enforcement**

**§ 102-36.365 May we transfer or donate canines that have been used in the performance of law enforcement duties?**

Yes, under Public Law 105-27 (111 Stat. 244), when the canine is no longer needed for law enforcement duties, you may donate the canine to an individual who has experience handling canines in the performance of those official duties.

**Disaster Relief Property**

**§ 102-36.370 Are there special requirements concerning the use of excess personal property for disaster relief?**

Yes, upon declaration by the President of an emergency or a major disaster, you may loan excess personal property to State and local governments, with or without compensation and prior to reporting it as excess to GSA, to alleviate suffering and damage resulting from any emergency or major disaster (Disaster Relief Act of 1974 (Public Law 93-288 (42 U.S.C. 5121)) and Executive Orders 11795 (3 CFR, 1971-1975 Comp., p. 887) and 12148 (3 CFR, 1979 Comp., p. 412), as amended). If the loan involves property that has already been reported excess to GSA, you may withdraw the item from the disposal process subject to approval by GSA. You may also withdraw excess personal property for use by your agency in providing assistance in disaster relief. You are still accountable for this

property and your agency is responsible for developing agencywide procedures for recovery of such property.

**Firearms**

**§ 102-36.375 May we dispose of excess firearms?**

Yes, unless you have specific statutory authority to do otherwise, excess firearms may be transferred only to those Federal agencies authorized to acquire firearms for official use. GSA may donate certain classes of surplus firearms to State and local government activities whose primary function is the enforcement of applicable Federal, State, and/or local laws and whose compensated law enforcement officers have the authority to apprehend and arrest. Firearms not transferred or donated must be destroyed and sold as scrap. For additional guidance on the disposition of firearms refer to part 101-42 of this title.

**Foreign Excess Personal Property**

**§ 102-36.380 Who is responsible for disposing of foreign excess personal property?**

Your agency is responsible for disposing of your foreign excess personal property, as provided by title IV of the Property Act.

**§ 102-36.385 What are our responsibilities in the disposal of foreign excess personal property?**

When disposing of foreign excess personal property you must:

- (a) Determine whether it is in the interest of the U.S. Government to return foreign excess personal property to the U.S. for further re-use or to dispose of the property overseas.
- (b) Ensure that any disposal of property overseas conforms to the foreign policy of the United States and the terms and conditions of any applicable Host Nation Agreement.
- (c) Ensure that, when foreign excess personal property is donated or sold

overseas, donation/sales conditions include a requirement for compliance with U.S. Department of Commerce and Department of Agriculture regulations when transporting any personal property back to the U.S.

(d) Inform the U.S. State Department of any disposal of property to any foreign governments or entities.

**§ 102-36.390 How may we dispose of foreign excess personal property?**

To dispose of foreign excess personal property, you may:

- (a) Offer the property for re-use by U.S. Federal agencies overseas;
- (b) Return the property to the U.S. for re-use by eligible recipients;
- (c) Sell, exchange, lease, or transfer such property for cash, credit, or other property;
- (d) Donate medical materials or supplies to nonprofit medical or health organizations, including those qualified under sections 214(b) and 607 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2174, 2357); or
- (e) Abandon, destroy or donate such property when you determine that it has no commercial value or the estimated cost of care and handling would exceed the estimated proceeds from its sale, in accordance with sec. 402(a) of the Property Act. Abandonment, destruction or donation actions must also comply with the laws of the country in which the property is located.

**§ 102-36.395 How may GSA assist us in disposing of foreign excess personal property?**

You may request GSA's assistance in the screening of foreign excess personal property for possible re-use by eligible recipients within the U.S. GSA may, after consultation with you, designate property for return to the United States for transfer or donation purposes.

**§ 102–36.400 Who pays for the transportation costs when foreign excess personal property is returned to the United States?**

When foreign excess property is to be returned to the U.S. for the purpose of an approved transfer or donation under the provisions of Sections 202 and 203 of the Property Act, the receiving agency is responsible for all direct costs involved in the transfer, which include packing, handling, crating, and transportation.

**Gifts**

**§ 102–36.405 May we keep gifts given to us from the public?**

If your agency has gift retention authority, you may retain gifts from the public. Otherwise, you must report gifts you receive on a SF 120 to GSA. You must report gifts received from a foreign government in accordance with part 101–49 of this title.

**§ 102–36.410 How do we dispose of a gift in the form of money or intangible personal property?**

Report intangible personal property to GSA, Personal Property Management Division (FBP), Washington, D.C. 20406. You must not transfer or dispose of this property without prior approval of GSA. The Secretary of the Treasury will dispose of money and negotiable instruments such as bonds, notes, or other securities under the authority of 31 U.S.C. 324.

**§ 102–36.415 How do we dispose of gifts other than intangible personal property?**

(a) When the gift is offered with the condition that the property be sold and the proceeds used to reduce the public debt, report the gift to the regional GSA Personal Property Management office in which the property is located. GSA will convert the gift to money upon acceptance and deposit the proceeds into a special account of the U.S. Treasury.

(b) When the gift is offered with no conditions or restrictions, and your agency has gift retention authority, you may use the gift for an authorized official purpose without reporting to GSA. The property will then lose its identity as a gift and you must account for it in the same manner as Federal personal property acquired from authorized sources. When the property is no longer needed, you must report it as excess personal property to GSA.

(c) When the gift is offered with no conditions or restrictions, but your agency does not have gift retention authority, you must report it to the regional GSA Personal Property Management office. GSA will offer the

property for screening for possible transfer to a Federal agency or convert the gift to money and deposit the funds with U.S. Treasury. If your agency is interested in keeping the gift for an official purpose, you must annotate your interest on the SF 120 and also submit a SF 122.

**§ 102–36.420 How do we dispose of gifts from foreign governments or entities?**

Report foreign gifts on a SF 120 to GSA, Personal Property Management Division (FBP), Washington, DC 20406, for possible use by your agency, or for transfer, donation or sale in accordance with the provisions of part 101–49 of this title.

**Hazardous Personal Property**

**§ 102–36.425 May we dispose of excess hazardous personal property?**

Yes, but only in accordance with part 101–42 of this title. When reporting excess hazardous property to GSA, certify on the SF 120 that the property has been packaged and labeled as required. Annotate any special requirements for handling, storage, or use, and provide a description of the actual or potential hazard.

**Munitions List Items/Commerce Control List Items (MLIs/CCLIs)**

**§ 102–36.430 May we dispose of excess Munitions List Items (MLIs)/Commerce Control List Items (CCLIs)?**

You may dispose of excess MLIs/CCLIs only when you comply with the additional disposal and demilitarization (DEMIL) requirements contained in part 101–42 of this title. MLIs may require demilitarization when issued to any non-DoD entity, and will require appropriate licensing when exported from the U.S. CCLIs usually require export licensing when transported from the U.S.

**§ 102–36.435 How do we identify Munitions List Items (MLIs)/Commerce Control List Items (CCLIs) requiring demilitarization?**

You identify MLIs/CCLIs requiring demilitarization by the demilitarization code that is assigned to each MLI or CCLI. The code indicates the type and scope of demilitarization and/or export controls that must be accomplished, when required, before issue to any non-DOD activity. For a listing of the codes and additional guidance on DEMIL procedures see DOD Demilitarization and Trade Security Control Manual, DOD 4160.21–M–1.

**Printing Equipment and Supplies**

**§ 102–36.440 Are there special procedures for reporting excess printing and binding equipment and supplies?**

Yes, in accordance with 44 U.S.C. 312, you must submit reports of excess printing and binding machinery, equipment, materials, and supplies to the Public Printer, Government Printing Office (GPO), Customer Service Manager, North Capitol and H Streets, NW, Washington, DC 20401. If GPO has no requirement for the property, you must then submit the report to GSA.

**Red Cross Property**

**§ 102–36.445 Do we report excess personal property originally acquired from or through the American National Red Cross?**

Yes, when reporting excess personal property which was processed, produced, or donated by the American National Red Cross, note “RED CROSS PROPERTY” on the SF 120 or report document. GSA will offer to return this property to the Red Cross if no other Federal agency has a need for it. If the Red Cross has no requirement the property continues in the disposal process and is available for donation.

**Shelf-Life Items**

**§ 102–36.450 Do we report excess shelf-life items?**

(a) When there are quantities on hand that would not be utilized by the expiration date and cannot be returned to the vendor for credit, you must report such expected overage as excess for possible transfer and disposal to ensure maximum use prior to deterioration.

(b) You need not report expired shelf-life items. You may dispose of property with expired shelf-life by abandonment/destruction in accordance with § 102–36.305 and in compliance with Federal, State, and local waste disposal and air and water pollution control standards.

**§ 102–36.455 How do we report excess shelf-life items?**

You must identify the property as shelf-life items by “SL”, indicate the expiration date, whether the date is the original or an extended date, and if the date is further extendable. GSA may adjust the screening period based on re-use potential and the remaining useful shelf life.

**§ 102–36.460 Do we report excess medical shelf-life items held for national emergency purposes?**

When the remaining shelf life of any medical materials or supplies held for national emergency purposes is of too short a period to justify their continued retention, you should report such

property excess for possible transfer and disposal. You must make such excess determinations at such time as to ensure that sufficient time remains to permit their use before their shelf life expires and the items are unfit for human use. You must identify such items with "MSL" and the expiration date, and indicate any specialized storage requirements.

**§ 102-36.465 May we transfer or exchange excess medical shelf-life items with other Federal agencies?**

Yes, you may transfer or exchange excess medical shelf-life items held for national emergency purposes with any other Federal agency for other medical materials or supplies, without GSA approval and without regard to part 101-46 of this title. You and the transferee agency will agree to the terms and prices. You may credit any proceeds derived from such transactions to your agency's current applicable appropriation and use the funds only for the purchase of medical materials or supplies for national emergency purposes.

**Vessels**

**§ 102-36.470 What must we do when disposing of excess vessels?**

(a) When you dispose of excess vessels you must indicate on the SF 120 the following information:

(1) Whether the vessel has been inspected by the Coast Guard.

(2) Whether testing for hazardous materials has been done. And if so, the result of the testing, specifically the presence or absence of PCB's and asbestos and level of contamination.

(3) Whether hazardous materials clean-up is required, and when it will be accomplished by your agency.

(b) In accordance with section 203(i) of the Property Act, the Federal Maritime Administration (FMA), Department of Transportation, is responsible for disposing of surplus vessels determined to be merchant vessels or capable of conversion to merchant use and weighing 1,500 gross tons or more. The SF 120 for such vessels shall be forwarded to GSA for submission to FMA.

(c) Disposal instructions regarding vessels in this part do not apply to battleships, cruisers, aircraft carriers, destroyers, and submarines.

**Subpart F—Miscellaneous Disposition**

**§ 102-36.475 What is the authority for transfers under "Computers for Learning"?**

(a) The Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3710(i)), authorizes Federal agencies to transfer excess education-related Federal equipment to educational institutions or nonprofit

organizations for educational and research activities. Executive Order 12999 (3 CFR, 1996 Comp., p. 180) requires, to the extent permitted by law and where appropriate, the transfer of computer equipment for use by schools or non-profit organizations.

(b) Each Federal agency is required to identify a point of contact within the agency to assist eligible recipients, and to publicize the availability of such property to eligible communities. Excess education-related equipment may be transferred directly under established agency procedures, or reported to GSA as excess for subsequent transfer to potential eligible recipients as appropriate. You must include transfers under this authority in the annual Non-Federal Recipients Report (See § 102-36.295) to GSA.

(c) The "Computers for Learning" website has been developed to streamline the transfer of excess and surplus Federal computer equipment to schools and nonprofit educational organizations. For additional information about this program access the "Computers for Learning" website, <http://www.computers.fed.gov>.

Dated: April 28, 2000.

**David J. Barram,**

*Administrator of General Services.*

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