

egories of equipment” to clarify the required form and content of the report. The words “The Administrator shall submit a report to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House if the House is not in session) summarizing and analyzing the reports of the executive agencies” are omitted pursuant to section 3003 of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note). See, also, page 173 of House Document No. 103-7.

### SUBCHAPTER III—DISPOSING OF PROPERTY

#### § 541. Supervision and direction

Except as otherwise provided in this subchapter, the Administrator of General Services shall supervise and direct the disposition of surplus property in accordance with this subtitle.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1086.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
541 .....	40:484(a).	June 30, 1949, ch. 288, title II, §203(a), 63 Stat. 385.

The words “shall supervise and direct the disposition of surplus property in accordance with this subtitle” are substituted for “shall have supervision and direction over the disposition of surplus property. Such property shall be disposed of to such extent, at such time, in such areas, by such agencies, at such terms and conditions, and in such manner, as may be prescribed in or pursuant to this Act” for clarity and to eliminate unnecessary words.

#### TRANSFERRED PROPERTIES; REQUESTS PRIOR TO NOVEMBER 30, 1983

Pub. L. 98-181, title I, §126(a)(2), (3), Nov. 30, 1983, 97 Stat. 1175, provided that:

“(2) Notwithstanding paragraph (1) [repealing former 40 U.S.C. 484b], the Secretary of Housing and Urban Development and the Secretary of Agriculture may dispose of Federal surplus real property pursuant to the terms of section 414 of such Act [former 40 U.S.C. 484b] if, prior to the date of the enactment of this Act [Nov. 30, 1983], either Secretary had requested the Administrator of General Services to transfer such property for such disposition.

“(3) Notwithstanding paragraph (1), section 414(b) [former 40 U.S.C. 484b(b)] of such Act shall continue to apply, where applicable, to all property transferred by either Secretary pursuant to section 414 of such Act, including properties transferred pursuant to paragraph (2).”

#### § 542. Care and handling

The disposal of surplus property, and the care and handling of the property pending disposition, may be performed by the General Services Administration or, when the Administrator of General Services decides, by the executive agency in possession of the property or by any other executive agency that agrees.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1086.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
542 .....	40:484(b).	June 30, 1949, ch. 288, title II, §203(b), 63 Stat. 385.

#### § 543. Method of disposition

An executive agency designated or authorized by the Administrator of General Services to dispose of surplus property may do so by sale, exchange, lease, permit, or transfer, for cash, credit, or other property, with or without warranty, on terms and conditions that the Administrator considers proper. The agency may execute documents to transfer title or other interest in the property and may take other action it considers necessary or proper to dispose of the property under this chapter.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1086.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
543 .....	40:484(c).	June 30, 1949, ch. 288, title II, §203(c), 63 Stat. 385.

#### § 544. Validity of transfer instruments

A deed, bill of sale, lease, or other instrument executed by or on behalf of an executive agency purporting to transfer title or other interest in surplus property under this chapter is conclusive evidence of compliance with the provisions of this chapter concerning title or other interest of a bona fide grantee or transferee for value and without notice of lack of compliance.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1087.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
544 .....	40:484(d).	June 30, 1949, ch. 288, title II, §203(d), 63 Stat. 385.

#### § 545. Procedure for disposal

##### (a) PUBLIC ADVERTISING FOR BIDS.—

##### (1) REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Administrator of General Services may make or authorize a disposal or a contract for disposal of surplus property only after public advertising for bids, under regulations the Administrator prescribes.

(B) EXCEPTIONS.—This subsection does not apply to disposal or a contract for disposal of surplus property—

- (i) under subsection (b) or (d); or
- (ii) by abandonment, destruction, or donation or through a contract broker.

(2) TIME, METHOD, AND TERMS.—The time, method, and terms and conditions of advertisement must permit full and free competition consistent with the value and nature of the property involved.

(3) PUBLIC DISCLOSURE.—Bids must be publicly disclosed at the time and place stated in the advertisement.

(4) AWARDS.—An award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, is most advantageous to the Federal Government, price and other factors considered. However, all bids may be rejected if it is in the public interest to do so.

(b) **NEGOTIATED DISPOSAL.**—Under regulations the Administrator prescribes, disposals and contracts for disposal may be negotiated without regard to subsection (a), but subject to obtaining competition that is feasible under the circumstances, if—

(1) necessary in the public interest—

(A) during the period of a national emergency declared by the President or Congress, with respect to a particular lot of personal property; or

(B) for a period not exceeding three months, with respect to a specifically described category of personal property as determined by the Administrator;

(2) the public health, safety, or national security will be promoted by a particular disposal of personal property;

(3) public exigency will not allow delay incident to advertising certain personal property;

(4) the nature and quantity of personal property involved are such that disposal under subsection (a) would impact an industry to an extent that would adversely affect the national economy, and the estimated fair market value of the property and other satisfactory terms of disposal can be obtained by negotiation;

(5) the estimated fair market value of the property involved does not exceed \$15,000;

(6) after advertising under subsection (a), the bid prices for the property, or part of the property, are not reasonable or have not been independently arrived at in open competition;

(7) with respect to real property, the character or condition of the property or unusual circumstances make it impractical to advertise publicly for competitive bids and the fair market value of the property and other satisfactory terms of disposal can be obtained by negotiation;

(8) the disposal will be to a State, territory, or possession of the United States, or to a political subdivision of, or a tax-supported agency in, a State, territory, or possession, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation; or

(9) otherwise authorized by law.

(c) **DISPOSAL THROUGH CONTRACT BROKERS.**—Disposals and contracts for disposal of surplus real and related personal property through contract realty brokers employed by the Administrator shall be made in the manner followed in similar commercial transactions under regulations the Administrator prescribes. The regulations must require that brokers give wide public notice of the availability of the property for disposal.

(d) **NEGOTIATED SALE AT FIXED PRICE.**—

(1) **AUTHORIZATION.**—The Administrator may make a negotiated sale of personal property at a fixed price, either directly or through the use of a disposal contractor, without regard to subsection (a). However, the sale must be publicized to an extent consistent with the value and nature of the property involved and the price established must reflect the estimated fair market value of the property. Sales under this subsection are limited to categories of personal property for which the Administrator

determines that disposal under this subsection best serves the interests of the Government.

(2) **FIRST OFFER.**—Under regulations and restrictions the Administrator prescribes, an opportunity to purchase property at a fixed price under this subsection may be offered first to an entity specified in subsection (b)(8) that has expressed an interest in the property.

(e) **EXPLANATORY STATEMENTS FOR NEGOTIATED DISPOSALS.**—

(1) **REQUIREMENT.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), an explanatory statement of the circumstances shall be prepared for each disposal by negotiation of—

(i) personal property that has an estimated fair market value in excess of \$15,000;

(ii) real property that has an estimated fair market value in excess of \$100,000, except that real property disposed of by lease or exchange is subject only to clauses (iii)–(v) of this subparagraph;

(iii) real property disposed of by lease for a term of not more than 5 years, if the estimated fair annual rent is more than \$100,000 for any year;

(iv) real property disposed of by lease for a term of more than 5 years, if the total estimated rent over the term of the lease is more than \$100,000; or

(v) real property or real and related personal property disposed of by exchange, regardless of value, or any property for which any part of the consideration is real property.

(B) **EXCEPTION.**—An explanatory statement is not required for a disposal of personal property under subsection (d), or for a disposal of real or personal property authorized by any other law to be made without advertising.

(2) **TRANSMITTAL TO CONGRESS.**—The explanatory statement shall be transmitted to the appropriate committees of Congress in advance of the disposal, and a copy of the statement shall be preserved in the files of the executive agency making the disposal.

(3) **LISTING IN REPORT.**—A report of the Administrator under section 126 of this title must include a listing and description of any negotiated disposals of surplus property having an estimated fair market value of more than \$15,000, in the case of real property, or \$5,000, in the case of any other property, other than disposals for which an explanatory statement has been transmitted under this subsection.

(f) **APPLICABILITY OF OTHER LAW.**—Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply to a disposal or contract for disposal made under this section.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1087.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
545 .....	40:484(e).	June 30, 1949, ch. 288, title II, §203(e), 63 Stat. 386; July 12, 1952, ch. 703, §1(i), 66 Stat. 593; Aug. 8, 1953, ch. 399, 67 Stat. 521; July 14, 1954, ch. 481, 68 Stat. 474; Aug. 3, 1956, ch. 942, 70 Stat. 1020; Pub. L. 85-486, July 2, 1958, 72 Stat. 288; Pub. L. 100-612, §§3, 4, Nov. 5, 1988, 102 Stat. 3180.

In subsection (e)(3), the words “A report” are substituted for “the annual report” for consistency in the revised title. See the revision note under section 126 of this title.

**§ 546. Contractor inventories**

Subject to regulations of the Administrator of General Services, an executive agency may authorize a contractor or subcontractor with the agency to retain or dispose of contractor inventory.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1089.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
546 .....	40:484(f).	June 30, 1949, ch. 288, title II, §203(f), 63 Stat. 386.

**§ 547. Agricultural commodities, foods, and cotton or woolen goods**

(a) POLICIES.—The Administrator of General Services shall consult with the Secretary of Agriculture to formulate policies for the disposal of surplus agricultural commodities, surplus foods processed from agricultural commodities, and surplus cotton or woolen goods. The policies shall be formulated to prevent surplus agricultural commodities, or surplus foods processed from agricultural commodities, from being dumped on the market in a disorderly manner and disrupting the market prices for agricultural commodities.

(b) TRANSFERS TO DEPARTMENT OF AGRICULTURE.—

(1) IN GENERAL.—The Administrator shall transfer without charge to the Department of Agriculture any surplus agricultural commodities, foods, and cotton or woolen goods for disposal, when the Secretary determines that a transfer is necessary for the Secretary to carry out responsibilities for price support or stabilization.

(2) DEPOSIT OF RECEIPTS.—Receipts resulting from disposal by the Department under this subsection shall be deposited pursuant to any authority available to the Secretary. When applicable, however, net proceeds from the sale of surplus property transferred under this subsection shall be credited pursuant to section 572(a) of this title.

(3) LIMITATION OF SALES.—Surplus farm commodities transferred under this subsection may not be sold, other than for export, in quantities exceeding, or at prices less than, the applicable quantities and prices for sales of those commodities by the Commodity Credit Corporation.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1089.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
547(a) .....	40:484(g).	June 30, 1949, ch. 288, title II, §203(g), (h), 63 Stat. 386.
547(b) .....	40:484(h).	

**§ 548. Surplus vessels**

The Maritime Administration shall dispose of surplus vessels of 1,500 gross tons or more which the Administration determines to be merchant vessels or capable of conversion to merchant use. The vessels shall be disposed of in accordance with part F of subtitle V of title 46 and other laws authorizing the sale of such vessels.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1090; Pub. L. 109-304, §17(g)(1), Oct. 6, 2006, 120 Stat. 1708.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
548 .....	40:484(i).	June 30, 1949, ch. 288, title II, §203(i), 63 Stat. 386; Pub. L. 97-31, §12(15), Aug. 6, 1981, 95 Stat. 154.

AMENDMENTS

2006—Pub. L. 109-304 substituted “part F of subtitle V of title 46” for “the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.);”.

**§ 549. Donation of personal property through state agencies**

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) PUBLIC AGENCY.—The term “public agency” means—

(A) a State;

(B) a political subdivision of a State (including a unit of local government or economic development district);

(C) a department, agency, or instrumentality of a State (including instrumentalities created by compact or other agreement between States or political subdivisions); or

(D) an Indian tribe, band, group, pueblo, or community located on a state reservation.

(2) STATE.—The term “State” means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

(3) STATE AGENCY.—The term “state agency” means an agency designated under state law as the agency responsible for fair and equitable distribution, through donation, of property transferred under this section.

(b) AUTHORIZATION.—

(1) IN GENERAL.—The Administrator of General Services, in the Administrator’s discretion and under regulations the Administrator may prescribe, may transfer property described in paragraph (2) to a state agency.

(2) PROPERTY.—

(A) IN GENERAL.—Property referred to in paragraph (1) is any personal property that—

(i) is under the control of an executive agency; and