

Agencies selling property under authority of this subpart are still required to report sales metrics in accordance with eFAS ESC-approved format and content.

PART 102-39—REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

Subpart A—General

Sec.

- 102-39.5 What is the exchange/sale authority?
- 102-39.10 What does this part cover?
- 102-39.15 How are the terms “I” and “you” used in this part?
- 102-39.20 What definitions apply to this part?
- 102-39.25 Which exchange/sale provisions are subject to deviation?
- 102-39.30 How do I request a deviation from this part?

Subpart B—Exchange/Sale Considerations

- 102-39.35 When should I consider using the exchange/sale authority?
- 102-39.40 Why should I consider using the exchange/sale authority?
- 102-39.45 When should I not use the exchange/sale authority?
- 102-39.50 How do I determine whether to do an exchange or a sale?
- 102-39.55 When should I offer property I am exchanging or selling under the exchange/sale authority to other Federal agencies or State Agencies for Surplus Property (SASP)?
- 102-39.60 What restrictions and prohibitions apply to the exchange/sale of personal property?
- 102-39.65 What conditions apply to the exchange/sale of personal property?

Subpart C—Exchange/Sale Methods and Reports

- 102-39.70 What are the exchange methods?
- 102-39.75 What are the sales methods?
- 102-39.80 What are the accounting requirements for the proceeds of sale?
- 102-39.85 What information am I required to report?

AUTHORITY: 40 U.S.C. 121(c); 40 U.S.C. 503.

SOURCE: 66 FR 48614, Sept. 21, 2001, unless otherwise noted.

Subpart A—General

§ 102-39.5 What is the exchange/sale authority?

The exchange/sale authority is a statutory provision, (40 U.S.C. 503), which states in part: “In acquiring personal property, an executive agency may exchange or sell similar items and may apply the exchange allowance or proceeds of sale in whole or in part payment for the property acquired.”

[73 FR 50880, Aug. 29, 2008]

§ 102-39.10 What does this part cover?

This part covers the exchange/sale authority, and applies to all personal property owned by executive agencies worldwide. For the exchange/sale of aircraft parts and hazardous materials, you must meet the requirements in this part and in parts 101-33 and 101-42 of this title.

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

§ 102-39.15 How are the terms “I” and “you” used in this part?

Use of pronouns “I” and “you” throughout this part refer to executive agencies.

[66 FR 48614, Sept. 21, 2001. Redesignated at 73 FR 50880, Aug. 29, 2008]

§ 102-39.20 What definitions apply to this part?

The following definitions apply to this part:

Acquire means to procure or otherwise obtain personal property, including by lease (sometimes known as rent).

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

Excess property means any personal property under the control of any Federal agency that is no longer required for that agency’s needs or responsibilities, as determined by the agency head or designee.

Exchange means to replace personal property by trade or trade-in with the supplier of the replacement property.

Exchange/sale means to exchange or sell non-excess, non-surplus personal

Federal Management Regulation

§ 102-39.40

property and apply the exchange allowance or proceeds of sale in whole or in part payment for the acquisition of similar property.

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

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).

Historic item means property having added value for display purposes because its historical significance is greater than its fair market value for continued use. Items that are commonly available and remain in use for their intended purpose, such as military aircraft still in use by active or reserve units, are not historic items.

Replacement means the process of acquiring personal property to be used in place of personal property that is still needed but:

(1) No longer adequately performs the tasks for which it is used; or

(2) Does not meet the agency's need as well as the personal property to be acquired.

Service Life Extension Program (SLEP) means the modification of a personal property item undertaken to extend the life of the item beyond that which was previously planned. SLEPs extend capital asset life by retrofit, major modification, remanufacturing, betterment, or enhancement.

Similar means the acquired item(s) and replaced item(s):

(1) Are identical; or

(2) Fall within a single Federal Supply Classification (FSC) Group of property (includes any and all forms of property within a single FSC Group); or

(3) Are parts or containers for similar end items; or

(4) Are designed or constructed for the same purpose (includes any and all forms of property regardless of the FSC Group to which they are assigned).

Surplus property means excess personal property not required for the needs of any Federal agency, as deter-

mined by GSA under part 102-37 of this chapter.

[66 FR 48614, Sept. 21, 2001, as amended at 73 FR 50880, Aug. 29, 2008]

§ 102-39.25 Which exchange/sale provisions are subject to deviation?

All of the provisions in this part are subject to deviation (upon presentation of adequate justification) except those mandated by statute. See the link on "Exchange/Sale" at www.gsa.gov/personalpropertypolicy for additional information on requesting deviations from this part.

[73 FR 50880, Aug. 29, 2008]

§ 102-39.30 How do I request a deviation from this part?

See part 102-2 of this chapter (41 CFR part 102-2) to request a deviation from the requirements of this part.

[73 FR 50880, Aug. 29, 2008]

Subpart B—Exchange/Sale Considerations

§ 102-39.35 When should I consider using the exchange/sale authority?

You should consider using the exchange/sale authority when replacing personal property.

[73 FR 50880, Aug. 29, 2008]

§ 102-39.40 Why should I consider using the exchange/sale authority?

You should consider using the exchange/sale authority to reduce the cost of replacement personal property. When you have personal property that is wearing out or obsolete and must be replaced, you should consider either exchanging or selling that property and using the exchange allowance or sales proceeds to offset the cost of the replacement personal property. Conversely, if you choose not to replace the property using the exchange/sale authority, you may declare it as excess and dispose of it through the normal disposal process as addressed in part 102-36 of this chapter. Keep in mind, however, that any net proceeds from the eventual sale of that property as surplus generally must be forwarded to the miscellaneous receipts account at the United States Treasury and thus