

## § 102-38.120

price or for any sale made without advertising when authorized by law other than 40 U.S.C. 545; and

(b) Report annually to GSA, Personal Property Management Policy Division (MTP), 1800 F Street, NW., Washington, DC, 20405, within 60 calendar days after the close of each fiscal year, a listing and description of all negotiated sales of personal property with an estimated fair market value in excess of \$5,000. You may submit the report electronically or manually (see §102-38.330).

### **§102-38.120 When may we conduct negotiated sales of personal property at fixed prices (fixed price sale)?**

You may conduct negotiated sales of personal property at fixed prices (fixed price sale) under this section when:

(a) The items are authorized to be sold at fixed price by the Administrator of General Services, as reflected in GSA Bulletin FMR B-10 (located at <http://www.gsa.gov/fmrbulletin>). You may also contact the GSA Office of Travel, Transportation, and Asset Management (MT) at the address listed in §102-38.115 to determine which items are on this list of authorized items;

(b) The head of your agency, or designee, determines in writing that such sales serve the best interest of the Government. When you are selling property on behalf of a holding agency, you must consult with the holding agency in determining whether a fixed price sale meets this criterion; and

(c) You must publicize such sales to the extent consistent with the value and nature of the property involved, and the prices established must reflect the estimated fair market value of the property. Property is sold on a first-come, first-served basis. You or the holding agency may also establish additional terms and conditions that must be met by the successful purchaser in accordance with §102-38.75.

[73 FR 20803, Apr. 17, 2008]

### **§102-38.125 May we sell personal property at fixed prices to State agencies?**

Yes, before offering to the public, you may offer the property at fixed prices (through the State Agencies for Surplus Property) to any States, territories, possessions, political subdivi-

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sions thereof, or tax-supported agencies therein, which have expressed an interest in obtaining the property. For additional information, see subpart G of this part.

### ADVERTISING

### **§102-38.130 Must we publicly advertise sales of Federal personal property?**

Yes, you must provide public notice of your sale of personal property to permit full and open competition.

### **§102-38.135 What constitutes a public advertisement?**

Announcement of the sale using any media that reaches the public and is appropriate to the type and value of personal property to be sold is considered public advertising. You may also distribute mailings or flyers of your offer to sell to prospective purchasers on mailing lists. Public notice should be made far enough in advance of the sale to ensure adequate notice, and to target your advertising efforts toward the market that will provide the best return at the lowest cost.

### **§102-38.140 What must we include in the public notice on sale of personal property?**

In the public notice, you must provide information necessary for potential buyers to participate in the sale, such as—

- (a) Date, time and location of sale;
- (b) General categories of property being offered for sale;
- (c) Inspection period;
- (d) Method of sale (i.e., spot bid, sealed bid, auction);
- (e) Selling agency; and
- (f) Who to contact for additional information.

### PRE-SALE ACTIVITIES

### **§102-38.145 Must we allow for inspection of the personal property to be sold?**

Yes, you must allow for an electronic or physical inspection of the personal property to be sold. You must allow prospective bidders sufficient time for inspection. If inspection is restricted to

electronic inspections only, due to unusual circumstances prohibiting physical inspection, you must notify your General Services Administration Regional Personal Property Office in writing, with the circumstances surrounding this restriction at least 3 days prior to the start of the screening period.

**§ 102–38.150 How long is the inspection period?**

The length of the inspection period allowed depends upon whether the inspection is done electronically or physically. You should also consider such factors as the circumstances of sale, volume of property, type of property, location of the property, and accessibility of the sales facility. Normally, you should provide at least 7 calendar days to ensure potential buyers have the opportunity to perform needed inspections.

OFFER TO SELL

**§ 102–38.155 What is an offer to sell?**

An offer to sell is a notice listing the terms and conditions for bidding on an upcoming sale of personal property, where prospective purchasers are advised of the requirements for a responsive bid and the contractual obligations once a bid is accepted.

**§ 102–38.160 What must be included in the offer to sell?**

The offer to sell must include—

- (a) Sale date and time;
- (b) Method of sale;
- (c) Description of property being offered for sale;
- (d) Selling agency;
- (e) Location of property;
- (f) Time and place for receipt of bids;
- (g) Acceptable forms of bid deposits and payments; and
- (h) Terms and conditions of sale, including any specific restrictions and limitations.

**§ 102–38.165 Are the terms and conditions in the offer to sell binding?**

Yes, the terms and conditions in the offer to sell are normally incorporated into the sales contract, and therefore binding upon both the buyer and the seller once a bid is accepted.

**Subpart C—Bids**

BUYER ELIGIBILITY

**§ 102–38.170 May we sell Federal personal property to anyone?**

Generally, you may sell Federal personal property to anyone of legal age. However, certain persons or entities are debarred or suspended from purchasing Federal property. You must not enter into a contract with such a person or entity unless your agency head or designee responsible for the disposal action determines that there is a compelling reason for such an action.

**§ 102–38.175 How do we find out if a person or entity has been suspended or debarred from doing business with the Government?**

Refer to the List of Parties Excluded from Federal Procurement and Non-procurement Programs to ensure you do not solicit from or award contracts to these persons or entities. The list is available through subscription from the U.S. Government Printing Office, or electronically on the Internet at <http://epls.arnet.gov>. For policies, procedures, and requirements for debarring/suspending a person or entity from the purchase of Federal personal property, follow the procedures in the Federal Acquisition Regulation (FAR) subpart 9.4 (48 CFR part 9, subpart 9.4).

[68 FR 51421, Aug. 26, 2003; 68 FR 53219, Sept. 9, 2003]

**§ 102–38.180 May we sell Federal personal property to a Federal employee?**

Yes, you may sell Federal personal property to any Federal employee whose agency does not prohibit their employees from purchasing such property. However, unless allowed by Federal or agency regulations, employees having nonpublic information regarding property offered for sale may not participate in that sale (see 5 CFR 2635.703). For purposes of this section, the term “Federal employee” also applies to an immediate member of the employee’s household.