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SUPPLEMENTING

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PART 110-32 – MANAGEMENT OF PERSONAL PROPERTY

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[RESERVED]

AGRICULTURE PROPERTY MANAGEMENT REGULATION
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Subpart A--How These Rules Apply

General

102-33.5 To whom do these rules apply?

The rules in this part apply to all federally funded aviation activities of executive agencies of the U.S. Government, except those listed in paragraphs (a), (b), (c), and (d) of this section, who use Government aircraft to accomplish their official business.

(a) The Armed Forces are exempt from all but--

(1) Section 102-33.25(e) and (g), which concern responsibilities related to the Interagency Committee for Aviation Policy (ICAP); and

(2) Subpart D of this part.

(b) The President or Vice President and their offices are exempt.

(c) When an executive agency provides Government-furnished avionics for commercially owned or privately owned aircraft for the purpose of technology demonstration or testing, those aircraft are exempt.

(d) Privately owned aircraft that agency personnel use for official travel (even though such use is federally funded) are exempt.

110-33.05 Scope

This Regulation applies to all Government aircraft and related aircraft services used by agencies of the Department.

102-33.10 May we request approval to deviate from these rules?

Yes, see sections 102-2.60 through 102-2.110 of subchapter A of this chapter for guidance on requesting a deviation from the requirements in this part. GSA may not grant deviations from the requirements in OMB Circular A-126, "Improving the Management of Government Aircraft," revised May 22, 1992. You should consult with GSA's Aircraft Management Policy Division (MTA) before you request a deviation. Also, you should fax a copy of your letter of request to MTA at 202-501-6742 at the same time you mail it to GSA's Regulatory Secretariat (see section 102-2.90 of subchapter A of this chapter). In most cases, GSA will respond to your written request within 30 days.

102-33.15 How does this part relate to the Federal Aviation Regulations?

This part does not supersede any of the regulations in 14 CFR chapter I (Federal Aviation Regulations).

102-33.20 What definitions apply to this part?

The following definitions apply to this part:

Acquisition date means the date that the acquiring executive agency took responsibility for the aircraft, e.g., received title (through purchase, exchange, or gift), signed a bailment agreement with the Department of Defense (DOD), took physical custody (in the case of reassignment or interagency transfer), received a court order (in the case of forfeiture), put into operational status an aircraft that is newly manufactured by the agency, or otherwise accepted physical transfer (for example, in the case of a borrowed aircraft).

Aircraft Management Policy Division (MTA) is a division in the Office of Transportation and Personal Property, Office of Governmentwide Policy, GSA. Contact MTA staff at 1800 F Street, NW., Washington, DC 20405, Room 1221; (202) 501-4866; fax (202) 501-6742; Web site at http://www.gsa.gov/aircraftpolicy.

Aircraft part means an individual component or an assembly of components that is primarily designated for and used on aircraft.

Armed Forces means the Army, Navy, Air Force, Marine Corps, and Coast Guard, including their regular and Reserve components and members serving without component status. For purposes of this part, the National Guard is also included in the Armed Forces.

Aviation life support equipment (ALSE) means equipment that protects flight crewmembers and others aboard an aircraft, assisting their safe escape, survival, and recovery during an accident or other emergency.

Bailed aircraft means a Federal aircraft that is owned by one executive agency, but is in the custody of and operated by another executive agency under an agreement that may or may not include cost-reimbursement. Bailments are executive agency-to-executive agency agreements and involve only aircraft, not services.

Borrowed aircraft means an aircraft owned by a non-executive agency and provided to an executive agency for use without compensation. The executive agency operates and maintains the aircraft.

Chartered aircraft means an aircraft that an executive agency hires commercially under a contractual agreement specifying performance and one-time exclusive use. The commercial source operates and maintains a charter aircraft. A charter is one form of a

full service contract.
Commercial aviation services (CAS) include--

(1) Leasing aircraft for exclusive use or lease-purchasing an aircraft with the intent of taking title;

(2) Chartering or renting aircraft for exclusive use;

(3) Contracting for full services (i.e., aircraft and related aviation services for exclusive use) or obtaining full services through an inter-service support agreement (ISSA); or

(4) Obtaining related aviation services (i.e., services but not aircraft) by commercial contract or ISSA, except those services acquired to support a Federal aircraft.

Crewmember means a person assigned to operate or assist in operating an aircraft during flight time. Crewmembers perform duties directly related to the operation of the aircraft (e.g., as pilots, co-pilots, flight engineers, navigators) or duties assisting in operation of the aircraft (e.g., as flight directors, crew chiefs, electronics technicians, mechanics). For related terms, see *Qualified non-crewmember* and *Passenger* elsewhere is this section.

Criticality code means a single digit code that DOD assigns to military Flight Safety Critical Aircraft Parts (FSCAP) (see section 102-33.370).

Data plate means a fireproof plate that is inscribed with certain information required by the Federal Aviation Regulations (14 CFR part 45) and secured to an aircraft, aircraft engine, propeller, or propeller blade. The information must be marked by etching, stamping, engraving, or other approved method of fireproof marking. The plate must be attached in such a manner that it is not likely to be defaced or removed during normal service or lost or destroyed in an accident. Data plates are required only on certificated aircraft; however, uncertificated aircraft may also have data plates.

Declassify means to remove a non-operational aircraft from the Federal aircraft inventory. Agencies may declassify only non-operational aircraft that they will retain for ground use only. Agencies must declassify an aircraft following the rules in sections 102-33.415 and 102-33.420.

Disposal date means the date that the disposing executive agency relinquishes responsibility for an aircraft, for example, when the agency transfers title in the case of a sale or exchange; returns the aircraft to the lessor or bailer; declassifies it (for FAIRS, declassification is considered a "disposal" action, even though the agency retains the property); or relinquishes custody to another agency (i.e., in the case of excess (transferred) or surplus (donated or sold) aircraft).

Donated aircraft means an aircraft disposed of as surplus by GSA through donation to a non-federal government, a tax-exempt nonprofit entity, or other eligible recipient, following the rules in part 102-37 of this subchapter. (Some agencies, for example DOD,

may have independent donation authority.)
Exclusive use means a condition under which--

(1) An aircraft is operated for the sole benefit of the U.S. Government; and

(2) The executive agency using the aircraft has operational control of the aircraft and the authority to define departure times, origins and destinations of flights, and payloads, passengers, and cargo.

Executive agency means any executive department or independent establishment in the executive branch of the United States Government, including any wholly owned Government corporation. See 40 U.S.C. 472(a).

Federal Acquisition Regulation (48 CFR chapter 1, parts 1 through 53) is a codified regulation of the U.S. Government that provides uniform policies and procedures for acquisition of personal property and services by executive agencies.

Federal aircraft means an aircraft that an executive agency owns (i.e., holds title to) or borrows for any length of time. When an executive agency loans or bails an aircraft that meets the criteria for Federal aircraft, that loaned or bailed aircraft is still considered a Federal aircraft in the owning agency's inventory except when DOD is the owning agency of a bailed aircraft. In that case, the aircraft is recorded in the inventory of the bailee.

Federal Aviation Interactive Reporting System (FAIRS). (See sections 102-33.395 through 102-33.440.)

Federal Aviation Regulation (14 CFR chapter I) is a codified publication of the U.S. Government that describes uniform policies and procedures for regulating aviation within the national airspace system.

Federal Supply Service (FSS) is a component of GSA. FSS is organized by geographical regions. The FSS Property Management Division in GSA's Region 9, 450 Golden Gate Ave., 9FBP, San Francisco, CA 94102-3434, (415) 522-3029, has responsibility for disposing of excess and surplus aircraft.

Federal Travel Regulation (FTR) (41 CFR chapters 300-304) is a codified publication of the U.S. Government that describes uniform policies and procedures for managing travel of the executive agencies.

Flight Safety Critical Aircraft Part (FSCAP) means any military aircraft part, assembly, or installation containing a critical characteristic whose failure, malfunction, or absence could cause a catastrophic failure resulting in loss or serious damage to the aircraft or an uncommanded engine shut-down resulting in an unsafe condition.

Forfeited aircraft means an aircraft acquired by the Government either by summary

process or by order of a court of competent jurisdiction pursuant to any law of the United States.

Full service contract means a contractual agreement through which an executive agency acquires an aircraft and related aviation services (for example, pilot, crew, maintenance, catering) for exclusive use. Aircraft hired under full service contracts are commercial aviation services (CAS), not Federal aircraft, regardless of the length of the contract.

Government aircraft means an aircraft that is operated for the exclusive use of an executive agency and is a--

(1) Federal aircraft, which an executive agency owns, bails, loans, or borrows; or

(2) Commercial aircraft hired as commercial aviation services (CAS), which an executive agency--

(i) Leases or lease-purchases with the intent to take title;

(ii) Charters or rents; or

(iii) Hires as part of a full service contract or an inter-service support agreement (ISSA).

Government Aircraft Cost Accounting Guide (CAG) means guidance published by GSA based on the cost elements defined in Attachments A and B to OMB Circular A-126 and in OMB Circular A-76, FAIRS, and the U.S. Government Standard General Ledger to account for Government aircraft costs.

Governmental function means a federally funded activity that an executive agency performs in compliance with its statutory authorities.

Intelligence agencies mean the following agencies or organizations within the U.S. intelligence community:

(1) Central Intelligence Agency.

(2) National Security Agency.

(3) Defense Intelligence Agency.

(4) National Reconnaissance Office.

(5) The Bureau of Intelligence and Research of the Department of State.

(6) Intelligence elements of the Army, Navy, Air Force, Marine Corps, Department of Justice, Department of the Treasury, and Department of Energy.

Inter-service support agreement (ISSA) means any agreement between two or more executive agencies (including the Department of Defense) in which one agency consents to perform aviation support services (i.e., providing an aircraft and other aviation services or providing only services) for another agency with or without cost-reimbursement. An executive agency-to-executive agency agreement that involves only the use of an aircraft, not services, is a bailment, not an ISSA.

Leased aircraft means an aircraft hired under a commercial contractual agreement in which an executive agency has exclusive use of the aircraft for an agreed upon period of time. The acquiring executive agency operates and maintains the aircraft. Leased aircraft are hired as commercial aviation services (CAS).

Lease-purchase aircraft means a leased aircraft for which the leasing executive agency holds an option to purchase.

Life-limited part means any aircraft part that has an established replacement time, inspection interval, or other time-related procedure associated with it. For non-military parts, FAA specifies life-limited parts' airworthiness limitations in 14 CFR chapter I, sections 21.50, 23.1529, 25.1529, 27.1529, 29.1529, 31.82, 33.4, and 35.5, and on product Type Certificate Data Sheets (TCDS) for products certified before airworthiness limitations were added to 14 CFR chapter I. Letters authorizing Technical Standards Orders (TSO) must also note or reference mandatory replacement or inspection of parts.

Loaned aircraft means a Federal aircraft owned by an executive agency, but in the custody of a non-executive agency under an agreement that does not include compensation.

Military aircraft part means an aircraft part used on an uncertificated aircraft that was developed for the Armed Forces.

Non-operational aircraft means a Federal aircraft that is not safe for flight and, in the owning executive agency's determination, cannot economically be made safe for flight. This definition refers to the aircraft's flight capability, not its mission-support equipment capability. An aircraft that is temporarily out of service for maintenance or repair and can economically be made safe for flight is considered operational.

Official Government business, in relation to Government aircraft--

(1) Includes, but is not limited to--

(i) Carrying crewmembers, qualified non-crewmembers, and cargo directly required for or associated with performing Governmental functions (including travel-related Governmental functions);

(ii) Carrying passengers authorized to travel on Government aircraft (see OMB Circular A-126); and

(iii) Training pilots and other aviation personnel.

(2) Does not include--

(i) Using Government aircraft for personal or political purposes, except for required use travel and space available travel as defined in OMB Circular A-126; or
(ii) Carrying passengers who are not officially authorized to travel on Government aircraft.

Operational aircraft means a Federal aircraft that is safe for flight or, in the owning executive agency's determination, can economically be made safe for flight. This definition refers to the aircraft's flight capability, not its mission-support capability. An aircraft temporarily out of service for maintenance or repair is considered operational.

Original equipment manufacturer means the person or company who originally designed, engineered, and manufactured, or who currently holds the data rights to manufacture, a specific aircraft or aircraft part.

Owned aircraft means an aircraft for which title or rights of title are vested in an executive agency. Owned aircraft are considered Federal aircraft.

Passenger means a person flying onboard a Government aircraft who is officially authorized to travel and who is not a crewmember or qualified non-crewmember.

Production approval holder means the person or company who holds a Production Certificate (PC), Approved Production Inspection System (APIS), Parts Manufacturer Approval (PMA), or Technical Standards Order (TSO) authorization, issued under provisions of 14 CFR part 21, Certification Procedures for Products and Parts, and who controls the design and quality of a specific aircraft part.

Qualified non-crewmember means a person flying onboard a Government aircraft whose skills or expertise are required to perform or are associated with performing the Governmental function for which the aircraft is being operated (qualified non-crewmembers may be researchers, law enforcement agents, fire fighters, agricultural engineers, biologists, etc.). Qualified non-crewmembers are not passengers.

Registration mark means the unique identification mark that is assigned by the Federal Aviation Administration and displayed on Government aircraft (including foreign aircraft hired as CAS). *Tail number* is commonly used for *registration mark*.

Related aviation services contract means a commercial contractual agreement through which an executive agency hires aviation services only (not aircraft), e.g., pilot, crew, maintenance, cleaning, dispatching, or catering.

Rental aircraft means an aircraft hired commercially under an agreement in which the

executive agency has exclusive use of the aircraft for an agreed upon period of time. The executive agency operates, but does not maintain, a rental aircraft.

Required use means use of a Government aircraft for the travel of an executive agency officer or employee to meet bona fide communications or security needs of the agency or to meet exceptional scheduling requirements. Required use travel must be approved as described in OMB Circular A-126.

Risk analysis and management means a systematic process for--

(1) Identifying risks associated with alternative courses of action involved in an aviation operation; and

(2) Choosing from among these alternatives the course(s) of action that will promote optimum aviation safety.

Safe for flight means approved for flight and refers to an aircraft, aircraft engine, propeller, appliance, or part that has been inspected and certified to meet the requirements of applicable regulations, specifications, or standards. When applied to an aircraft that an executive agency operates under the Federal Aviation Regulations (14 CFR chapter I), safe for flight means "airworthy," i.e., the aircraft or related parts meet their type designs and are in a condition, relative to wear and deterioration, for safe operation. When applied to an aircraft that an executive agency uses, but does not operate or require to be operated under the Federal Aviation Regulations, safe for flight means a state of compliance with military specifications or the executive agency's own Flight Program Standards, and as approved, inspected, and certified by the agency.

Senior Aviation Management Official means the person in an executive agency who will be the agency's primary member of the Interagency Committee for Aviation Policy (ICAP). This person must be of appropriate grade and position to represent the agency and promote flight safety and adherence to standards.

Serviceable aircraft part means a part that is safe for flight, can fulfill its operational requirements, and is sufficiently documented to indicate that the part conforms to applicable standards/specifications.

Suspected unapproved part means a non-military aircraft part, component, or material that any person suspects of not meeting the requirements of an "approved part." Approved parts are those that are produced in compliance with the Federal Aviation Regulations (14 CFR part 21), are maintained in compliance with 14 CFR parts 43 and 91, and meet applicable design standards. A part, component, or material may be suspect because of its questionable finish, size, or color; improper (or lack of) identification; incomplete or altered paperwork; or any other questionable indication. See detailed guidance in FAA Advisory Circular 21-29, "Detecting and Reporting Suspected Unapproved Parts," available from FAA at http://www.faa.gov/.

Tail number (See *registration mark*.).
Traceable part means an aircraft part whose original equipment manufacturer or production approval holder can be identified by documentation, markings/characteristics on the part, or packaging of the part. Non-military parts are traceable if you can establish that the parts were manufactured under rules in 14 CFR part 21 or were previously determined to be airworthy under rules in 14 CFR part 43. Possible sources for making a traceability determination could be shipping tickets, bar codes, invoices, parts marking (e.g., PMA, TSO), data plates, serial/part numbers, manufacturing production numbers, maintenance records, work orders, etc.

Training means instruction for flight program personnel to enable them to qualify initially for their positions and to maintain qualification for their positions over time.

Travel Management Policy Division (MTT) means GSA's Office of Transportation and Personal Property, Office of Governmentwide Policy. MTT is responsible for publishing the Federal Travel Regulation (41 CFR chapters 300 through 304), which contains policy for management of travel of U.S. Government personnel and certain others. Contact the MTT staff at 1800 F Street, NW., Washington, DC 20405, Room G-219; (202) 501-1538; see their Web site at http://www.gsa.gov/travelpolicy.

Unsalvageable aircraft part means an aircraft part that cannot be restored to a condition that is safe for flight because of its age, its physical condition, a non-repairable defect, insufficient documentation, or its non-conformance with applicable standards/specifications.

110-33.20 Definitions.

For purposes of this policy, the following definitions will apply:

(a) Operate an aircraft - means to cause the aircraft to be flown by furnishing a flight crew and controlling the aircraft.

(b) Contract aircraft - means to procure commercially operated aircraft or aircraft services under detailed specifications and all applicable Federal Acquisition Regulations. The four basic types of use under aviation contracts are:

(1) Chartered aircraft

(2) Rented aircraft

(3) Exclusive use aircraft or aircraft services.

(4) Call-when-needed use aircraft or aircraft services.

(c) Mission requirements - means activities that constitute the discharge of the Department's official responsibilities. Such activities include, but are not limited to, the transport of emergency response personnel and/or equipment, training, evacuation, intelligence and counter-narcotics activities, search and rescue, agricultural aerial research and development, fire detection and suppression, predator control, animal and plant disease eradication and other such activities. For purposes of this Regulation, mission requirements do not include official travel to give speeches, to attend conferences or meetings, or to make routine site visits.

(d) Official travel - means (i) travel to meet mission requirements, (ii) required use travel, and (iii) other travel for the conduct of agency business.

(e) Senior Federal Officials are:

(1) The Secretary, Deputy Secretary, Under Secretaries, and Assistant Secretaries, the General Counsel, the Inspector General, and the Chief Financial Officer.

(2) Department Agency Heads, all levels (1-6) of Senior Executive Service (SES) employees, Administrative Law Judges, Judges on the Board of Contract Appeals and all employees formerly GS-16 through 18 (ST and SL).

(f) Full coach fare - means a coach fare available to the general public between the day that the travel was planned and the day the travel occurred.

Responsibilities

102.33.25 What are our responsibilities under this part?

Under this part, your responsibilities are to--

(a) Acquire, manage, and dispose of Government aircraft (i.e., Federal aircraft and commercial aviation services (CAS); see section 102-33.45) as safely, efficiently, and effectively as possible consistent with the nature of your agency's aviation missions;

(b) Document and report the--

(1) Types and numbers of your Federal aircraft;

(2) Costs of acquiring and operating Government aircraft;

(3) Amount of time that your agency uses Government aircraft; and

(4) Accidents and incidents involving Government aircraft;

(c) Ensure that your Government aircraft are used only to accomplish your agency's official Government business;
(d) Ensure that all passengers traveling on your agency's Government aircraft are authorized to travel on such aircraft (see OMB Circular A-126);

(e) Appoint (by letter to the Associate Administrator, Office of Governmentwide Policy, GSA) a Senior Aviation Management Official (SAMO), who will be your agency's primary member of the Interagency Committee for Aviation Policy (ICAP) (this paragraph (e) applies to all executive agencies that use aircraft, including the Department of Defense (DOD), the Federal Aviation Administration (FAA), and the National Transportation Safety Board (NTSB);

(f) Designate an official (by letter to the Associate Administrator, Office of Governmentwide Policy, GSA) to certify the accuracy and completeness of information reported by your agency through the Federal Aviation Interactive Reporting System (FAIRS) (this official may be the SAMO or may be another individual who has the appropriate authority). (Armed Forces agencies, which include DOD and the U.S. Coast Guard, are not required to report information to FAIRS.);

(g) Appoint representatives of the agency as members of ICAP subcommittees and working groups; and

(h) Ensure that your agency's internal policies and procedures are consistent with the requirements of OMB Circulars A-126 and A-76 and this part.

102-33.30 What are the duties of an agency's Senior Aviation Management Official (SAMO)?

The SAMO's duties are to--

(a) Represent the agency's views to the ICAP and vote on behalf of the agency as needed; contribute technical and operational policy expertise to ICAP deliberations and activities; and serve as the designated approving official for FAIRS when the agency elects to have one person serve as both the SAMO and the designated official for FAIRS (DOD will not have a designated official for FAIRS); and

(b) Appoint representatives of the agency as members of ICAP subcommittees and working groups.

102-33.35 How can we get help in carrying out our responsibilities?

To get help in carrying out your responsibilities under this part, you may--

(a) Call or write to GSA's Aircraft Management Policy Division (MTA) (see section 102-33.20); or

(b) Find more information on the Internet from the following Web sites:
(1) http://www.gsa.gov/aircraftpolicy (GSA Aircraft Management Policy Division).
(2) http://www.gsa.gov/travelpolicy (GSA Travel Management Policy Division).

102-33.40 What are GSA's responsibilities for Federal aviation management?

Under OMB Circular A-126, "Improving the Management and Use of Government Aircraft," revised May 22, 1992 (available from http://www.whitehouse.gov/omb), GSA's chief responsibilities for Federal aviation management are to maintain--

(a) A single office (i.e., MTA) for developing policy for improving the management of Federal aviation, including acquisition, operation, safety, and disposal of Government aircraft, and publishing that policy;

(b) An interagency committee (i.e., the ICAP), whose members represent the executive agencies that use Government aircraft to conduct their official business (including FAA and NTSB specifically) and advise GSA on developing policy for managing Government aircraft; and

(c) A management information system to collect, analyze, and report information on the inventory, cost, usage, and safety of Government aircraft.

Note to section 102-33.40: See OMB Circular A-126 for a complete listing of GSA's responsibilities related to Federal aviation.

110-33.40 USDA Responsibilities

(a) The Office of Procurement and Property Management, Property Management Division, is responsible for assuring that:

(1) All aircraft are acquired, utilized and disposed of by agencies in compliance with all applicable laws and regulations.

(2) GSA is provided with a Department-wide contact point for the FAIRS reporting system and that data reported is accurate and timely.

(3) Accountability for aircraft and aircraft services is maintained.

(4) Department internal policies and procedures for procuring aircraft and related services are consistent with the requirements of OMB Circular No. A-76.

(5) Department aircraft programs comply with the internal control requirements of OMB Circular A-123 and that they are included in the agency's Management Control Plan. Any material weaknesses in these

programs are to be reported in the annual Federal Managers Financial Integrity Act (FMFIA) reports.

(6) Department personnel and agencies cooperate fully with GSA in the development of aircraft management policies and standards and in the collection of aircraft information.

(7) The Department and agencies have aircraft information systems that conform to the generic data and reporting standards developed by GSA. GSA has developed and operates FAIRS that will gather and maintain data on inventory of aircraft and related facilities, the costs involved in their operations (as well as those aircraft chartered, rented, or contracted for), and the utilization of those aircraft that are operated in-house by commercial firms for agencies.

(8) A report of inventory data related to aircraft/facilities eligible for interagency sharing will be prepared by GSA.

(b) Each agency shall be responsible for the following:

(1) Managing all aircraft and aircraft services in accordance with all applicable laws and regulations in an effective and efficient manner. Incorporate aircraft operations into agency internal control review and FMFIA reporting requirements.

(2) Ensuring that accurate aircraft cost and operational data is recorded which will permit USDA agencies to:

(a) fully justify the use of Government-owned or leased aircraft in lieu of commercially available aircraft, or the use of one Government aircraft in lieu of another;

(b) recover the costs of operating Government-owned or leased aircraft when appropriate;

(c) determine the cost effectiveness of various aspects of their aircraft program; and

(d) conduct the cost comparisons required by OMB Circular A-76 to justify in-house operation of Government aircraft versus procurement of commercially available aircraft or aircraft services. In conducting the cost comparisons, agencies must accumulate costs which can be summarized in the standard aircraft Program Cost Elements defined in the "Government Aircraft Cost Accounting Guide".

(3) Satisfying the recording and reporting requirements of the Department, Federal Management Regulation Section 102-33 and OMB Circular A-126 as follows:

(a) Report on aircraft and aircraft related facilities inventory additions and/or deletions as they occur.

(b) Specify aircraft and facilities that are not available for interagency use.

(c) Document all use of Government aircraft and retain this documentation for at least 2 years. At a minimum, the documentation of each use of Government aircraft must include:

- ***The tail number of the plane used***
- ***The date(s) used***
- ***The name(s) of the pilot(s) and flight crew***
- ***The purpose(s) of the flight***
- ***The cost and utilization of the flight***
- ***The route(s) flown***
- ***The names of all passengers***

(4) Complying with all policies outlined above.

(5) Sending copies of all agency internal implementing policies to OPPM, PMD, for review prior to issuance.

Subpart B--Acquiring Government Aircraft and Aircraft Parts

Overview

102-33.45 What is a Government aircraft?

A Government aircraft is one that is operated for the exclusive use of an executive agency and is a--

(a) Federal aircraft, which an executive agency owns, bails, loans, or borrows; or

(b) Commercial aircraft hired as commercial aviation services (CAS), which an executive agency--

(1) Leases or lease-purchases with the intent to take title;

(2) Charters or rents; or

(3) Hires as part of a full service contract or an inter-service support agreement (ISSA).

102-33.50 Under what circumstances may we acquire Government aircraft?

Your agency may acquire Government aircraft when you meet the requirements for operating an in-house aviation program contained in OMB Circular A-76, "Performance of Commercial Activities," August 4, 1983 (available from http://www.whitehouse.gov/omb), and when--

(a) For Federal aircraft--

(1) Aircraft are the optimum means of supporting your agency's official business;

(2) You do not have aircraft that can support your agency's official business safely (i.e., in compliance with applicable safety standards and regulations) and cost-effectively;

(3) No commercial or other Governmental source is available to provide aviation services safely (i.e., in compliance with applicable safety standards and regulations) and cost-effectively; and

(4) Congress has specifically authorized your agency to purchase, lease, or transfer aircraft and to maintain and operate those aircraft (see 31 U.S.C. 1343).

(b) For commercial aviation services (CAS)--

(1) Aircraft are the optimum means of supporting your agency's official business; and

(2) Using commercial aircraft and services is safe (i.e., conforms to applicable laws, safety standards, and regulations) and is more cost effective than using Federal aircraft, aircraft from any other Governmental source, or scheduled air carriers.

102-33.55 Are there restrictions on acquiring Government aircraft?

Yes, you may not acquire--

(a) More aircraft than you need to carry out your official business;

(b) Aircraft of greater size or capacity than you need to perform your Governmental functions cost-effectively; or

(c) Federal aircraft that Congress has not authorized your agency to acquire or Federal aircraft or commercial aircraft and services for which you have not followed the requirements in OMB Circular A-76.

102-33.60 What methods may we use to acquire Government aircraft?

Following the requirements of sections 102-33.50 and 102-33.55, you (or an internal bureau or sub-agency within your agency) may acquire Government aircraft by means including, but not limited to--

(a) Purchase;

(b) Borrowing from a non-federal source;

(c) Bailment from another executive agency;

(d) Exchange/sale (but only with approval from GSA; see section 102-33.275);

(e) Reimbursable transfer from another executive agency (see sections 102-36.75 through 102-36.85 of this subchapter B);

(f) Transfer from another executive agency as approved by GSA;

(g) Reassignment from one internal bureau or subagency to another within your agency;

(h) Forfeiture (you must have specific authority to seize aircraft);

(i) Insurance replacement (i.e., receiving a replacement aircraft);

(j) Lease or lease-purchase;

(k) Rent or charter;

(l) Contract for full services (i.e., aircraft plus crew and related aviation services) from a commercial source; or

(m) Inter-service support agreements with other executive agencies for aircraft and services.

102-33.65 What is the process for acquiring Government aircraft?

Acquiring aircraft generally follows a three-step process; planning, budgeting, and contracting, as described in sections 102-33.70 through 102-33.105.

110-33.65 Acquiring Aircraft

Aircraft shall be limited to the number necessary to meet mission requirements and, in the case of owned aircraft, are specifically authorized in appropriations. The number and type of aircraft and their capacity to carry passengers and cargo shall not exceed the level necessary to meet essential mission requirements, except when larger aircraft would be more cost effective. Aircraft may be acquired as excess by Departmental agencies from other

Federal Agencies prior to completion of an A-76 study, however, they should not be modified or placed in operational status until the A-76 study is completed.

Planning to Acquire Government Aircraft

102-33.70 What directives must we follow when planning to acquire Government aircraft?

When planning to acquire aircraft, you must follow the requirements in--

(a) 31 U.S. Code Section 1343, "Buying and Leasing Passenger Motor Vehicles and Aircraft";

(b) OMB Circular A-126 "Improving the Management and Use of Government Aircraft," revised May 22, 1992;

(c) OMB Circular A-11, Part 7, "Planning, Budgeting, Acquisition, and Management of Capital Assets," revised June 2002;

(d) OMB Circular A-76, "Performance of Commercial Activities," revised June 14, 1999; and

(e) OMB Circular A-94, "Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs," revised January 22, 2002.

Note to section 102-33.70: OMB Circulars are available from http://www.whitehouse.gov/omb.

102-33.75 What other guidance is available to us in planning to acquire Government aircraft?

You can find guidance for acquisition planning in the "ICAP Fleet Modernization Planning Guide," which is available from GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW., Washington, DC 20405, and in OMB's "Capital Programming Guide," which is a supplement to OMB Circular A-11.

OMB Circular A-76

102-33.80 Must we comply with OMB Circular A-76 before we acquire Government aircraft?

Yes, before you acquire Government aircraft, you must comply with OMB Circular A-76 to assure that the private sector cannot provide Government aircraft or related aviation services more cost-effectively than you can provide Federal aircraft and related services

(see particularly the Circular's Revised Supplemental Handbook's Appendix 6, Aviation Competitions).

110-33.80 Agency responsibility.

All A-76 studies shall be reviewed and approved by the agency's Chief Financial Officer before aircraft are acquired or placed in operation.

102-33.85 Where should we send our OMB Circular A-76 Cost-Comparison Studies?

You should forward copies of the completed A-76 Cost-Comparison studies to OMB upon request or as required by OMB Circular A-11 to justify aircraft purchases and to GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW., Washington, DC 20405, upon completion of a study.

110-33.85 Cost comparison studies

Two copies of each agency A-76 cost comparison study shall be submitted to the Office of Procurement and Property Management (OPPM), Property Management Division (PMD), when completed and one copy submitted with the agency's next budget submission to OMB. A-76 studies are not necessary for replacement aircraft unless the original A-76 qualification period is no longer in effect; the replacement aircraft will perform different duties; or the replacement aircraft cost is significantly different than that of the original aircraft. When the A-76 cost comparison study expires, agencies shall conduct another A-76 study.

The Process for Budgeting to Acquire Government Aircraft

102-33.90 What is the process for budgeting to acquire a Federal aircraft (including a Federal aircraft transferred from another executive agency)?

(a) The process for budgeting to acquire a Federal aircraft or to accept a Federal aircraft transferred from another executive agency requires that you have specific authority from Congress in your appropriation, as called for in 31 U.S.C. 1343, to--

(1) Purchase, lease-purchase, or lease a Federal aircraft and to operate and maintain it; or

(2) Accept a Federal aircraft transferred from another executive agency and to operate and maintain it.

(b) For complete information on budgeting to own Government aircraft (i.e., large purchase of a capital asset), see OMB Circular A-11, Part 7, and the "Capital Programming Guide," Supplement to Part 7, Appendix 7.

102-33.95 What is the process for budgeting to acquire commercial aviation services (CAS)?

Except for leases and lease-purchases, for which you must have specific Congressional authorization as required under 31 U.S.C. 1343, you may budget to fund your commercial aviation services (CAS) hires out of your agency's operating budget.

Contracting to Acquire Government Aircraft

102-33.100 What are our responsibilities when contracting to purchase or lease-purchase a Federal aircraft or to award a CAS contract?

In contracting to purchase or lease-purchase a Federal aircraft or to award a CAS contract, you must follow the Federal Acquisition Regulation (FAR) (48 CFR chapter 1) unless your agency is exempt from following the FAR.

102-33.105 What special requirements must we put into our CAS contracts?

At a minimum, your contracts and agreements must require that any provider of CAS comply with--

(a) Civil standards in the Federal Aviation Regulations (14 CFR chapter I) applicable to the type of operations you are asking the contractor to conduct;

(b) Applicable military standards; or

(c) Your agency's Flight Program Standards (see sections 102-33.140 through 102-33.185 for the requirements for Flight Program Standards).

Acquiring Aircraft Parts

102-33.110 What are our responsibilities when acquiring aircraft parts?

When acquiring aircraft parts, you must do the following:

(a) Acquire the parts cost-effectively and acquire only what you need.

(b) Inspect and test (as appropriate) all incoming parts and ensure that they are documented as safe for flight before installing them.

(c) Obtain all logbooks and maintenance records (for guidance on maintaining records for non-military parts, see FAA Advisory Circular 43-9C, "Maintenance Records," which is available from the Federal Aviation Administration (FAA) at http://www.faa.gov/).

(d) Plan for adequate storage and protection.

(e) Report all Suspected Unapproved Parts (SUP) to the FAA, SUP Program Office, AVR-20, 45005 Aviation Drive, Suite 214, Dulles, VA 20166-7541, by telephone at 703-661-0580, or by calling the FAA Aviation Safety Hotline at 800-255-1111.

102-33.115 Are there special requirements for acquiring military Flight Safety Critical Aircraft Parts (FSCAP)?

Yes, when you acquire Flight Safety Critical Aircraft Parts (FSCAP), you must--

(a) Accept a FSCAP only when it is documented or traceable to its original equipment manufacturer (a FSCAP's DOD FSCAP Criticality Code should be marked or tagged on the part or appear on its invoice/transfer document; see section 102-33.375 for further explanation of the FSCAP Criticality Codes); and

(b) Not install undocumented, but traceable FSCAP until you have the parts inspected and recertified by the original equipment manufacturer or FAA-approved production approval holder (see section 102-33.370 on FSCAP).

102-33.120 Are there special requirements for acquiring life-limited parts?

Yes, when you acquire new or used life-limited parts, you must--

(a) Identify and inspect the parts, ensuring that they have civil or military-certified documentation (i.e., complete life histories); and

(b) Mutilate and dispose of any expired life-limited parts (see section 102-33.370 on handling life-limited parts).

Subpart C--Managing Government Aircraft and Aircraft Parts

Overview

102-33.125 If we use Federal aircraft, what are our management responsibilities?

If you use Federal aircraft, you are responsible for--

(a) Establishing agency-specific Flight Program Standards, as defined in sections 102-33.140 through 102-33.185;

(b) Accounting for the cost of acquiring, operating, and supporting your aircraft;

(c) Accounting for use of your aircraft;

(d) Maintaining and accounting for aircraft parts;

(e) Reporting inventory, cost, and utilization data (for reporting requirements, see subpart

E of this part); and

(f) Properly disposing of aircraft and parts following this part and FMR subchapter B (41 CFR chapter 102, subchapter B).

102-33.130 If we hire CAS, what are our management responsibilities?

If you hire CAS, you are responsible for--

(a) Establishing agency-specific Flight Program Standards, as defined in sections 102-33.140 through 102-33.185, as applicable, and requiring compliance with these standards in your contracts and agreements;

(b) Accounting for the cost of your aircraft and services hired as CAS;

(c) Accounting for use of your aircraft hired as CAS; and

(d) Reporting the cost and usage data for your CAS hires (for reporting requirements, see subpart E of this part).

102-33.135 Do we have to follow the direction in OMB Circular A-123, "Management Accountability and Control," June 21, 1995, for establishing management controls for our aviation program?

Yes, you must follow the direction in OMB Circular A-123, "Management Accountability and Control," June 21, 1995, for establishing management controls for your aviation program. (See Note to section 102-33.70.) The circular requires that you establish organizations, policies, and procedures to ensure that, among other things, your aviation program achieves its intended results and you use your resources consistently with your agency's missions.

Establishing Flight Program Standards

102-33.140 What are Flight Program Standards?

Flight Program Standards are standards specific to your agency's aviation operations, including your commercial aviation services (CAS) contracts. Your Flight Program Standards must meet the requirements in sections 102-33.155 through 102-33.185, and they must meet or exceed applicable civil or military rules. When civil or military rules do not apply, you must use risk management techniques to develop Flight Program Standards specifically for your program. In your standards, you must address all aspects of your program, e.g., uncertificated aircraft, high-risk operations, special personnel requirements, that may not be addressed under the rules for civil aircraft in the Federal Aviation Regulations (14 CFR chapter I). The requirements for Flight Program Standards in sections 102-33.155 through 102-33.185 incorporate and adapt the ICAP's "Safety Standards Guidelines for Federal Flight Programs," revised December 22, 1999,

and available from GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW., Washington, DC 20405.

102-33.145 Why must we establish Flight Program Standards?

You must establish Flight Program Standards to ensure that aircraft your agency uses are operated safely, effectively, and efficiently.

102-33.150 Is any agency exempt from establishing Flight Program Standards under this part?

Yes, in addition to the Armed Forces and intelligence agencies, entities outside the executive branch of the Federal Government are exempt from establishing Flight Program Standards when using aircraft loaned to them by an executive agency (that is, owned by an executive agency, but operated by and on behalf of the loanee) unless the loanee--

(a) Uses the aircraft to conduct official Government business; or

(b) Is required to follow sections 102-33.140 through 102-33.185 under a Memorandum of Agreement governing the loan.

102-33.155 How must we establish Flight Program Standards?

To establish Flight Program Standards, you must write, publish (as appropriate), implement, and comply with detailed, agency-specific standards, which establish or require (contractually, where applicable) policies and procedures for--

(a) Management/administration of your flight program (in this part, "flight program" includes CAS contracts);

(b) Operation of your flight program;

(c) Maintenance of your Government aircraft;

(d) Training for your flight program personnel; and

(e) Safety of your flight program.

Management/Administration

102-33.160 What standards must we establish or require (contractually, where applicable) for management/administration of our flight program?

For management/administration of your flight program, you must establish or require (contractually, where applicable) the following:

(a) A management structure responsible for the administration, operation, safety, training, maintenance, and financial needs of your aviation operation (including establishing minimum requirements for these items for any commercial contracts).

(b) Guidance describing the roles, responsibilities, and authorities of your flight program personnel, e.g., managers, pilots and other crewmembers, flight safety personnel, maintenance personnel, and dispatchers.

(c) Procedures to record and track flight time, duty time, and training of crewmembers.

(d) Procedures to record and track duty time and training of maintenance personnel.

Operations

102-33.165 What standards must we establish or require (contractually, where applicable) for operation of our flight program?

For operation of your flight program, you must establish or require (contractually, where applicable) the following:

(a) Basic qualifications and currency requirements for your pilots and other crewmembers, maintenance personnel, and other mission-related personnel.

(b) Limitations on duty time and flight time for pilots and other crewmembers.

(c) Compliance with owning-agency or military safety of flight notices and operational bulletins.

(d) Flight-following procedures to notify management and initiate search and rescue operations for lost or downed aircraft.

(e) Dissemination, as your agency determines appropriate, of a disclosure statement to all crewmembers and qualified non-crewmembers who fly aboard your agency's Government aircraft, as follows:

Disclosure Statement for Crewmembers and Qualified Non-Crewmembers Flying on Board Government Aircraft Operated as Public Aircraft

Generally, an aircraft used exclusively for the U.S. Government may be considered a "public aircraft" as defined in Public Law 106-181, provided it is not a Government-owned aircraft transporting passengers or operating for commercial purposes. A public aircraft is not subject to many Federal Aviation Regulations, including

requirements relating to aircraft certification, maintenance, and pilot certification. If an agency transports passengers on a Government-owned aircraft or uses that aircraft for commercial purposes, the agency must comply with all Federal Aviation Regulations applicable to civil aircraft. If you have any questions concerning whether a particular flight will be a public aircraft operation or a civil aircraft operation, you should contact the agency sponsor of that flight.

You have certain rights and benefits in the unlikely event you are injured or killed while working aboard a Government-owned or operated aircraft. Federal employees and some private citizens are eligible for workers' compensation benefits under the Federal Employees' Compensation Act (FECA). When FECA applies, it is the sole remedy. For more information about FECA and its coverage, consult with your agency's benefits office or contact the Branch of Technical Assistance at the Department of Labor's Office of Workers' Compensation Programs at (202) 693-0044.

State or foreign laws may provide for product liability or "third party" causes of actions for personal injury or wrongful death. If you have questions about a particular case or believe you have a claim, you should consult with an attorney.

Some insurance policies may exclude coverage for injuries or death sustained while working or traveling aboard a Government or military aircraft or while within a combat area. You may wish to check your policy or consult with your insurance provider before your flight. The insurance available to Federal employees through the Federal Employees Group Life Insurance Program does not contain an exclusion of this type.

If you are the victim of an air disaster resulting from criminal activity, Victim and Witness Specialists from the Federal Bureau of Investigation (FBI) and/or the local U.S. Attorney's Office will keep you or your family informed about the status of the criminal investigation(s) and provide you or your family with information about rights and services, such as crisis intervention, counseling and emotional support. State crime victim compensation may be able to cover crime-related expenses, such as medical

costs, mental health counseling, funeral and burial costs, and lost wages or loss of support. The Office for Victims of Crime (an agency of the Department of Justice) and the U.S. Attorneys Office are authorized by the Antiterrorism Act of 1996 to provide emergency financial assistance to State programs for the benefit of victims of terrorist acts or mass violence.

If you are a Federal employee. If you are injured or killed on the job during the performance of duty, including while traveling or working aboard a Government aircraft or other Government-owned or operated conveyance for official Government business purposes, you and your family are eligible to collect workers' compensation benefits under FECA. You and your family may not file a personal injury or wrongful death suit against the United States or its employees. However, you may have cause of action against potentially liable third parties.

You or your qualifying family member must normally also choose between FECA disability or death benefits, and those payable under your retirement system (either the Civil Service Retirement System or the Federal Employees Retirement System). You may choose the benefit that is more favorable to you.

If you are a private citizen not employed by the Federal government. Even if the Federal government does not regularly employ you, if you are rendering personal service to the Federal government on a voluntary basis or for nominal pay, you may be defined as a Federal employee for purposes of FECA. If that is the case, you and your family are eligible to receive workers' compensation benefits under FECA, but may not collect in a personal injury or wrongful death lawsuit against the United States or its employees. You and your family may file suit against potentially liable third parties. Before you board a Government aircraft, you may wish to consult with the department or agency sponsoring the flight to clarify whether you are considered a Federal employee.

If the agency determines that you are not a "Federal employee," you and your family will not be eligible to receive workers' compensation benefits under FECA. If you are onboard the aircraft for purposes of official Government business, you may be eligible for workman's

compensation benefits under state law. If an accident occurs within the United States, or its territories, its airspace, or over the high seas, you and your family may claim against the United States under the Federal Tort Claims Act or Suits in Admiralty Act. If you are killed aboard a military aircraft, your family may be eligible to receive compensation under the Military Claims Act, or if you are an inhabitant of a foreign country, under the Foreign Claims Act.

NOTE: This disclosure statement is not all-inclusive. You should contact your agency's personnel office, or if you are a private citizen, your agency sponsor or point-of-contact for further assistance.

(f) At the origin of each flight, creation of a manifest containing the full names of all persons on board for each leg of flight, a point of contact for each person, and phone numbers for the points of contact.

(g) Documentation of any changes in the manifest by leg, and retention of manifests for two years from the time of flight.

(h) Procedures for reconciling flight manifests with persons actually on board and a method to test those procedures periodically.

(i) At the origin of each flight, preparation of a complete weight and balance computation and a cargo-loading manifest, and retention of this computation and manifest for 30 days from the time of flight.

(j) Appropriate emergency procedures and equipment for specific missions.

(k) Procedures to ensure that required Aviation Life Support Equipment (ALSE) is inspected and serviceable.

Maintenance

102-33.170 What standards must we establish or require (contractually, where applicable) for maintenance of our Government aircraft?

For maintenance of your Government aircraft, you must establish or require (contractually, where applicable) the following:

(a) Aircraft maintenance and inspection programs that comply with whichever is most applicable among --

(1) Programs for ex-military aircraft;

(2) Manufacturers' programs;

(3) FAA-approved programs (i.e., following the Federal Aviation Regulations);
(4) FAA-accepted programs (i.e., those following ICAP guides that have been accepted by the FAA); or

(5) Your agency's self-prescribed programs.

(b) Compliance with owning-agency or military safety of flight notices, FAA airworthiness directives, or mandatory manufacturers' bulletins applicable to the types of aircraft, engines, propellers, and appliances you operate.

(c) Procedures for operating aircraft with inoperable equipment.

(d) Technical support, including appropriate engineering documentation and testing, for aircraft, powerplant, propeller, or appliance repairs, modifications, or equipment installations.

(e) A quality control system for acquiring replacement parts, ensuring that the parts you acquire have the documentation needed to determine that they are safe for flight and are inspected and tested, as applicable.

(f) Procedures for recording and tracking maintenance actions; inspections; and the flight hours, cycles, and calendar times of life-limited parts and FSCAP.

Training

102-33.175 What standards must we establish or require (contractually, where applicable) to train our flight program personnel?

You must establish or require (contractually, where applicable) an instructional program to train your flight program personnel, initially and on a recurrent basis, in their responsibilities and in the operational skills relevant to the types of operations that you conduct. See section 102-33.180(a) for specific requirements for safety manager training.

Safety

102-33.180 What standards must we establish or require (contractually, where applicable) for flight program safety?

For flight program safety, you must establish or require (contractually, where applicable) the following:

(a) The appointment of qualified aviation safety managers (i.e., those individuals who are

responsible for an agency's aviation safety program, regardless of title), who must be--

(1) Experienced as pilots or crewmembers or in aviation operations management/flight program management; and

(2) Graduated from an aviation safety officer course provided by a recognized training provider and authority in aviation safety before appointment or within one year after appointment.

(b) Risk analysis and risk management to identify and mitigate hazards and provide procedures for managing risk to an optimum level.

(c) Use of independent oversight and assessments (i.e., unbiased inspections) to verify compliance with the standards called for in this part.

(d) Procedures for reporting unsafe operations to senior aviation safety managers.

(e) A system to collect and report information on aircraft accidents and incidents (as required by 49 CFR part 830 and sections 102-33.445 and 102-33.450).

(f) A program for preventing accidents, which includes--

(1) Measurable accident prevention procedures (e.g., pilot proficiency evaluations, fire drills, hazard analyses);

(2) A system for disseminating accident-prevention information;

(3) Safety training;

(4) An aviation safety awards program; and

(5) For Federal aircraft-owning agencies, a safety council.

110-33.180 USDA Aviation Safety Programs

A position shall be designated to administer the aviation safety program at the national level. This person will provide oversight for the agency safety programs and serve as a consultant to the Headquarters office and agencies as required.

The incumbent shall be trained in accordance with the minimum aviation safety management standards established by the ICAP for the Federal Aviation Safety Officer as outlined in FMR 102-33.180 and 185.

Management Responsibility

Aviation safety and aircraft mishap prevention in USDA is based on the philosophy that all aircraft mishaps can be prevented and that mishap prevention is an inherent function of management.

Agency directors are ultimately responsible for the management of aviation resources and the implementation of an effective aircraft mishap prevention program. Supervisors and managers at all levels are responsible for the safety of aviation operations under their control. Within this policy are the practical requirements to provide safe working conditions, prevent injuries to employees, and protect property from damage. Application of approved practices is a fundamental responsibility of managers and supervisors and represents an area in which performance and accountability must be emphasized.

USDA's notification, classification, investigation, and documentation of NTSB reportable aircraft mishaps involving agency aviation activities will be accomplished in accordance with the procedures established in CFR 14 Part 830, Notification and Reporting of Aircraft Accidents.

102-33.185 What standards must we establish or require (contractually, where applicable) for responding to aircraft accidents and incidents?

For responding to aircraft accidents and incidents, you must establish or require (contractually, where applicable) the following:

(a) An aircraft accident/incident reporting capability to ensure that you will comply with the NTSB's regulations (in 49 CFR parts 830 and 831), including notifying NTSB immediately when you have an aircraft accident or an incident as defined in 49 CFR 830.5.

(b) An accident/incident response plan, modeled on the NTSB's "Federal Plan for Aviation Accidents Involving Aircraft Operated by or Chartered by Federal Agencies," and periodic disaster response exercises to test your plan. You can see a copy of the NTSB's plan on the Web at http://www.ntsb.gov/publictn/1999/SPC9904.pdf or htm.

(c) Procedures (see 49 CFR 831.11) for participating as a party in NTSB's investigations of accidents or incidents involving aircraft that your agency owns or hires and for conducting parallel investigations, as appropriate.

(d) Training in investigating accidents/incidents for your agency's personnel who may be asked to participate in NTSB investigations.
(e) Procedures for disseminating, in the event of an aviation disaster that involves one of your Government aircraft, information about eligibility for benefits that is contained in the disclosure statement in section 102-33.165(e) to anyone injured, to injured or deceased persons' points of contact (listed on the manifest), and to the families of injured or deceased crewmembers and qualified non-crewmembers.

Note to section 102-33.185: This part does not supersede any of the regulations in 49 CFR part 830 or part 831. For definitions of terms and complete regulatory guidance on notifying NTSB and reporting aircraft accidents and incidents, see 49 CFR parts 830 and 831.

110-33.185 USDA Aircraft Mishap Prevention Planning

(a) Each agency owning or contracting for aircraft services is encouraged to have a formal (written) Aircraft Safety Plan

Agency Safety Plans

Each agency is encouraged to have a formal written Aircraft Safety Plan consistent with Departmental policy and following the Interagency Committee for Aviation Policy (ICAP) guidelines as minimum standards to follow. Agencies' plans should outline personnel responsibilities and provide implementation guidelines, goals and methods to monitor the success of the program.

The following elements are essential to all aviation safety programs.

(1) Aviation Safety Program Responsibilities
(2) Aircraft Mishap Prevention
(3) Aviation Management and Operations Evaluation
(4) Aviation Safety Awards
(5) Aircraft Mishap Investigation
(6) Aviation Safety Education and Training

Accounting for the Cost of Government Aircraft

102-33.190 What are the aircraft operations and ownership costs for which we must account?

You must account for the operations and ownership costs of your Government aircraft as described in the "Government Aircraft Cost Accounting Guide" (CAG), which follows OMB Circular A-126 and is available from GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW., Washington, DC 20405.

102-33.195 Do we need an automated system to account for aircraft costs?

If you own Federal aircraft or operate bailed Federal aircraft, you must maintain an automated system to account for aircraft costs by collecting the cost data elements required by the Federal Aviation Interactive Reporting System (FAIRS). The functional specifications and data definitions for a FAIRS-compliant system are described in the "Common Aviation Management Information Standard" (C-AMIS), which is available from GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW.,

Washington, DC 20405. See sections 102-33.395 and 102-33.460 for more information on FAIRS and C-AMIS. Agencies who use only CAS aircraft and do not have Federal aircraft must keep records adequate for reporting information through FAIRS, but are not required to have an automated system (see sections 102-33.435 and 102-33.440 for the information on CAS that you must report through FAIRS).

102-33.200 Must we periodically justify owning and operating Federal aircraft?

Yes, after you have held a Federal aircraft for five years, you must justify owning and operating the aircraft by reviewing your operations and establishing that you have a continuing need for the aircraft, as required in OMB Circular A-76. You must also establish the cost-effectiveness of all your aircraft operations following OMB-approved cost justification methodologies, which are described in OMB Circular A-76 every five years.

102-33.205 When we use our aircraft to support other executive agencies, must we recover the operating costs?

(a) Under 31 U.S.C. 1535 and other statutes, you may be required to recover the costs of operating aircraft in support of other agencies. Depending on the statutory authorities under which you acquired and operate your aircraft, you will use either of two methods for establishing the rates charged for using your aircraft:

(1) The variable cost recovery rate; or

(2) The full cost recovery rate.

(b) See the Government Aircraft CAG, which is available from GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW., Washington, DC 20405, for definitions of these terms.

Accounting for the Use of Government Aircraft

102-33.210 How do we account for the use of our Government aircraft?

To account for the use of Government aircraft, you must document all flights and keep this documentation for two years after the date of the flight. For each flight, record the--

(a) Aircraft's registration mark;

(b) Owner and operator (e.g., the owner may not be the operator, as is the case when a CAS aircraft, owned commercially, is operated by U.S. Government personnel);

(c) Purpose of the flight (i.e., the Governmental function that the aircraft was dispatched to perform);

(d) Departure and destination points;

(e) Flight date(s) and times;

(f) A manifest (see sections 102-33.165(g) and (h)); and

(g) Name(s) of the pilot(s) and crewmembers.

102-33.215 May we use Government aircraft to carry passengers?

Yes, you may use Government aircraft to carry passengers with the following restrictions:

(a) You may carry passengers only on aircraft that you operate or require contractually to be operated according to the rules and requirements in Federal Aviation Regulations (14 CFR chapter I).

(b) For certain kinds of travel, your agency must justify passengers' presence on Government aircraft (see OMB Circular A-126 and the Government Aircraft Cost Accounting Guide (CAG) published by GSA, for complete information on authorizing travel and analyzing costs before authorizing travel on Government aircraft).

110-33.215 Carrying Passengers

Government aircraft shall only be used for transportation when such use is more economical than commercial airline or aircraft services, or when commercial service is not available to effectively meet the Department's transportation needs. A determination must be made that other modes of transportation, such as Department owned motor vehicles, are not more cost effective than using Government aircraft. Space available travel for other than the conduct of agency business except as authorized under 10 U.S.C. 4744 and regulations implementing the statute or by civilian personnel and their dependents in remote locations shall be prohibited.

The transportation of passengers or cargo on Government aircraft shall be limited in accordance with this Regulation and authorized by law. Further, such use will comply with travel requirements contained in the Federal Travel Regulations (41 C.F.R. 301) and the Agriculture Travel Regulations (DM-2300-1). Non-Federal employees or family members of employees shall not be transported on Government aircraft unless they have an official purpose and advance written approval in accordance with this Regulation.

Government aircraft will only be used for official purposes, i.e, (i) to meet mission requirements, (ii) required use travel, (iii) other travel for the conduct of agency business. Transportation of Department employees, Government

authorized cargo, other official Government passengers, and others, whose transportation on these aircraft is permitted by statute or an official Department directive or policy, may fall into either category.

Whenever possible, agencies shall use the most cost effective aircraft to satisfy transportation requirements. Exceptions to this usage shall be documented in writing.

No employee or officer of the Department may use, nor may any USDA agency authorize the use of, Government aircraft in connection with any travel involving private business or activities (personal or political).

102-33.220 What are the responsibilities of an agency's aviation program in justifying the use of a Government aircraft to transport passengers?

(a) Upon request from an agency's travel approving authority, the agency's aviation program must provide cost estimates to assist in determining whether or not use of a Government aircraft to carry passengers is justified. See OMB Circular A-126 for more information on justifying travel on Government aircraft. See also the Government Aircraft Cost Accounting Guide (CAG) published by GSA (defined in section 102-33.20) for guidance on estimating the cost of using a Government aircraft. The cost of using a Government aircraft is--

(1) The variable cost of using a Federal aircraft;

(2) The amount your agency will be charged by a CAS provider; or

(3) The variable cost of using an aircraft owned by another agency as reported by the owning agency if you are not charged for the use of the aircraft.

(b) In weighing alternatives for travel on Government aircraft, you must also consider the following:
(1) If no follow-on trip is scheduled, all time required positioning the aircraft to begin the trip and to return the aircraft to its normal base of operations.

(2) If a follow-on trip requires repositioning, the cost for the repositioning should be charged to the associated follow-on trip.

(3) If an aircraft supports a multi-leg trip (a series of flights scheduled sequentially), the use of the aircraft for the total trip may be justified by comparing the total variable cost of the entire trip to the commercial aircraft cost (including charter) for all legs of the trip.

(4) The use of foreign aircraft as CAS is authorized when the agency has determined that an equivalent level of safety exists as compared to U.S. operations of a like kind. The safety of passengers shall be the overriding consideration for the selection of travel mode when comparing foreign sources of scheduled commercial airlines and CAS.

110-33.220 Use of Government Aircraft for Transportation

Justification. Each use of a Government aircraft to transport passengers must be justified and documented. Documentation shall include written justification and approvals by the Agency Head or his or her designees authorizing the use of Government aircraft. Agencies may justify the use of aircraft to transport passengers using any of the following criteria:

(a) The aircraft was scheduled to perform a bona fide mission or training activity, and the minimum mission or training requirements have not been exceeded.

(b) Failure to use the aircraft to carry passengers and/or cargo would result in the failure to meet the minimum mission or training requirements.

(c) No commercial airline or aircraft service was reasonably available to effectively fulfill the transportation requirements, i.e., within the same calendar year.

(d) The actual cost of using a Government aircraft (as defined in Appendix A) is not more than the cost of using commercial airline or aircraft service. The cost of using commercial airline or aircraft service includes the costs of any additional travel and lost employees' work time (computed at gross hourly costs to the Government, including benefits). When the flight is being made to meet a mission or training requirement (and is certified as such in writing), secondary use of the flight for transportation may be presumed to be a cost savings and cost comparisons would not be required.

110-33.220a Authorizing/Approving Travel on Government Aircraft

The following policies apply to the procedures under which travel on Government aircraft may be authorized/approved by the agency that sponsors the travel:

(a) Authorizing Authority - USDA Agency Heads shall have the authority to authorize the use of agency aircraft for official travel. This authority may be re-delegated.

(b) General authorizing/approval requirements - All travel on Government aircraft must be authorized by the approving official in accordance with this Regulation and the Department's Travel Regulations and, when applicable, documented on an official travel order. No employee or officer may authorize thier own travel/transportation on Government aircraft. Where possible, such travel must be approved by at least one organizational level above the person(s) traveling. If review by a higher organizational level is not possible, another appropriate approval is required.

(c) Special requirements for required use travel - In addition to general authorization requirements, use of Government aircraft for required use travel must be authorized/approved in advance and in writing. A Federal official or employee must obtain written approval for all required use travel on a trip-by-trip basis from the Department's General Counsel or his or her principal deputy, unless, in the case of an officer or employee other than the Secretary, the Secretary has determined that all travel by the officer or employee or travel in specified categories qualifies as required use travel. All determinations by the Secretary for required use travel must be in writing and set forth the basis for that determination. In special emergency situations, an after-the-fact written certification by the Secretary is permitted.

USDA agencies may request the Secretary to determine that certain types of travel by an officer or employee is required use travel. In such an event, agencies shall establish written standards for determining this type of travel as required use travel for approval by the Secretary. After approval, such travel is not permitted unless in conformance with such written standards.

(d) Special requirements for travel that is not to meet mission requirements or required use travel. Use of Government aircraft for such travel by the following categories of people must be authorized in advance and in writing:

(1) Senior Federal officials;

(2) members of families of such senior Federal officials; and

(3) non-Federal travelers.

Such authorizations must be approved and signed on a trip-by-trip basis by the Department's General Counsel or his or her principal deputy certifying the trip appears to be in compliance with this Regulation; or be in conformance with an agency review and approval system that has been approved by the Department and OMB. In special emergency situations, an after-the-fact written certification is permitted. Proposed agency processes shall be submitted to OPPM, PMD, for Departmental approval prior to implementation.

Travel by such individuals that is deemed to be official travel shall be subject to the same rules and conditions as any other official travel.

Managing Aircraft Parts

102-33.225 How must we manage aircraft parts?

You must manage your aircraft parts by maintaining proper storage, protection, maintenance procedures, and records for the parts throughout their life cycles.

102-33.230 May we use military FSCAP on non-military FAA-type certificated Government aircraft?

You may use dual-use military FSCAP on non-military aircraft operated under restricted or standard airworthiness certificates if the parts are inspected and approved for such installation by the FAA. See detailed guidance in FAA Advisory Circular 20-142, "Eligibility and Evaluation of U.S. Military Surplus Flight Safety Critical Aircraft Parts, Engines, and Propellers."

102-33.235 What documentation must we maintain for life-limited parts and FSCAP?

For life-limited parts and FSCAP, you must hold and update the documentation that accompanies these parts for as long as you use or store them. When you dispose of life-limited parts or FSCAP, the up-to-date documentation must accompany the parts. (See section 102-33.370.)

Subpart D--Disposing of Government Aircraft and Aircraft Parts

Overview

102-33.240 What must we consider before disposing of aircraft and aircraft parts?

Before disposing of aircraft and aircraft parts, you must first determine if the aircraft or parts are excess to your agency's mission requirements or if you will need replacements (i.e., your aircraft or parts are not excess) as follows:

(a) If your aircraft/parts are…	And…	Then…
No longer needed to perform, or cannot perform, any Governmental function for your agency, i.e., they are excess to your needs,	You will not replace them,	You must report them to GSA as excess property (see part 102-36 of this subchapter B).

(b) If your aircraft/parts are…	But…	Then…
No longer suitable for performing their mission(s) for your agency,	You need to replace them to continue performing your mission(s),	You are prohibited from exchanging or selling your aircraft unless you ask for and receive approval from GSA to deviate from part 102-39 of this subchapter B. However, exchange/sale of aircraft parts is permitted.

102-33.245 May we report as excess, or replace (i.e., by exchange/sale), both operational and non-operational aircraft?

Yes, you may report as excess both operational and non-operational aircraft by following the rules governing excess property in part 102-36 of this subchapter B. Exchange or sale of aircraft is prohibited by part 102-39 of this subchapter B, so you will need approval from GSA to deviate from that part to replace operational or non-operational aircraft by exchange/sale. (See section 102-33.275 for further guidance on this restriction).

102-33.250 May we report as excess, or replace, declassified aircraft?

Yes, you may report as excess, or replace, a declassified aircraft (see sections 102-33.415 through 102-33.420 for information on declassifying aircraft). However, a declassified aircraft is no longer considered an aircraft, but may be considered as a group of aircraft parts or other property for ground use only. You must carry such "aircraft parts or other property" on your property records under the appropriate Federal Supply Classification group(s) (e.g., miscellaneous property, but not as an "aircraft"). For disposal of the property remaining after declassification of an aircraft, you must follow the property disposal regulations in parts 102-36, 102-37, and 102-39 of this subchapter B.

102-33.255 Must we document FSCAP or life-limited parts installed on aircraft that we will report as excess or replace?

Yes, you must comply with the documentation procedures described in section 102-33.370 if your aircraft and/or engines contain FSCAP or life-limited parts.

102-33.260 When we report as excess, or replace, an aircraft (including a declassified aircraft), must we report the change in inventory to the Federal Aviation Interactive Reporting System (FAIRS)?

(a) Yes, when you report as excess, or replace, an aircraft, you must report the change in inventory to the Federal Aviation Interactive Reporting System (FAIRS). For complete information, see the "FAIRS User's Manual," which is available from GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW., Washington, DC 20405.

(b) Within 14 calendar days of the date you dispose of the aircraft, you must report--

(1) The disposal method (e.g., reassignment, inter-agency transfer, donation, sale as surplus or scrap, declassification, or exchange/sale);

(2) The disposal date; and

(3) The identity and type of recipient (e.g., State, educational institution, executive agency, commercial vendor).

Reporting Excess Government Aircraft

102-33.265 What are our options if aircraft are excess to our needs?

If aircraft are excess to your needs, your options include first determining if any of your sub-agencies can use the aircraft. If so, you may reassign the aircraft within your agency. If not, you must report the aircraft as excess property to GSA (see parts 102-36 and 102-37 of this subchapter B). GSA will dispose of the property, giving priority first to transferring it to another Federal agency, next to donating it as surplus property, and finally to selling it to the public as surplus.

110-33.265 See Departmental Requirement 110-36.35

102-33.270 What is the process for reporting an excess aircraft?

To report an excess aircraft, you must submit a Standard Form (SF) 120, Report of Excess Personal Property (see section 102-2.135 of this chapter), to GSA (Federal Supply Service (FSS) Region 9, 450 Golden Gate Ave., 9FBP, San Francisco, CA 94102-3434, (415) 522-3029). You may also report electronically to GSA's Federal Disposal System (FEDS). For information on reporting excess property electronically, contact the FSS Office of Transportation and Personal Property (FBP), 1941 Jefferson Davis Highway, Room 812, Arlington, VA 22202, (703) 305-7240.

Replacing Aircraft Through Exchange or Sale

102-33.275 Are there restrictions on replacing aircraft by exchange or sale?

Yes, because aircraft are on GSA's exchange/sale prohibited list (see part 102-39 of this subchapter B), you may not exchange or sell aircraft unless you obtain approval from GSA to deviate from part 102-39 of this subchapter B (see section 102-33.10 on how to request a deviation). In your letter of request to GSA, you must include the full details of your situation and the proposed transaction and certify that--

(a) Your agency's mission is dependent upon receiving a replacement aircraft;

(b) You will be replacing the aircraft with similar-type property (see section 102-39.15 of this subchapter B for a definition of "similar");

(c) Your replacement will be on a one-for-one basis (you must request and justify a waiver from GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW., Washington, DC 20405, to deviate from the one-for-one rule); and

(d) The exchange or sale meets all other requirements in part 102-39 of this subchapter B.

Note to section 102-33.275: The requirement to get GSA's approval for an exchange/sale does not apply if a Federal statute specifically authorizes your agency to exchange or sell certain aircraft.

102-33.280 What are our options if we need a replacement aircraft?

If you need to replace an aircraft, and you have GSA's prior written approval for a deviation (see section 102-33.275), your options include--

(a) Negotiating and conducting an exchange transaction directly with an aircraft provider and obtaining credit toward the purchase of a replacement aircraft, following the procurement rules applicable to your agency; or

(b) Selling the aircraft and using the proceeds to offset the cost of purchasing a replacement aircraft, following part 102-39 of this subchapter B. The GSA can conduct sales for you; contact GSA (Region 9) for more information.

102-33.285 Do we need to include any special disclaimers in our exchange/sale agreements for uncertificated aircraft or aircraft that we have operated as public aircraft (i.e., not in compliance with the Federal Aviation Regulations, 14 CFR chapter I)?

Yes, when you exchange or sell uncertificated aircraft or aircraft maintained as public aircraft, you must ensure that the exchange or sales offerings contain the following statement:

> *Warning to purchasers/recipients.* The aircraft you have purchased or received in an exchange may not be in compliance with applicable FAA requirements. You are solely responsible for bringing the aircraft into compliance with 14 CFR chapter I, or other applicable standards, by obtaining all necessary FAA inspections or modifications.

102-33.290 What other disclaimers must we include in our exchange/sale agreements for aircraft?

When you exchange or sell aircraft, you must ensure that the following disclaimer is signed by the purchaser/recipient and received by the Government before releasing the aircraft to the purchaser/recipient:

> The purchaser/recipient agrees that the Government shall not be liable for personal injuries to, disabilities of, or death of the purchaser/recipient, the purchaser's/recipient's employees, or to any other persons arising from or incident to the purchase of this aircraft, its use, or disposition. The purchaser/recipient shall hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to purchase, use, or resale of this item.

102-33.295 May we exchange or sell an aircraft through reimbursable transfer to another executive agency?

Yes, you may exchange or sell aircraft through reimbursable transfer to another executive agency if you have prior written approval from GSA to deviate from part 102-39 of this subchapter B (see section 102-33.275). See part 102-39, subpart B, and part 102-36 of this subchapter B for more information on reimbursable transfer of property. Before offering to the public an aircraft that is eligible for exchange/sale, you should consult with other executive agencies to find out if any agency is interested in taking the aircraft for reimbursement in funds or in kind (as you are directed in part 102-39 of this subchapter B).

Note to section 102-33.295: Some agencies may also have special congressional authorization to recover costs.

> ***Note: Any request for deviation from this part must be submitted to OPPM, PMD.***

Disposing of Aircraft Parts

102-33.300 What must we consider before disposing of aircraft parts?

Before disposing of aircraft parts, you must determine if they are excess to your agency's mission requirements or if you will need replacements (i.e., they are not excess). The table in section 102-33.240 shows the differences between excess and replacement parts.

> **110-33.300**
>
> ***See 110-36.35***

102-33.305 May we report as excess, or replace, FSCAP and life-limited parts?

Yes, you may report as excess, or replace, FSCAP and life-limited parts, but they require special handling. See the tables in section 102-33.370.

> **110-33.305**
>
> ***See 110-36.35***

102-33.310 May we report as excess, or replace, unsalvageable aircraft parts?

No, you may not report unsalvageable aircraft parts as excess or exchange or sell them for replacements. You must mutilate unsalvageable parts. You may sell the mutilated parts only as scrap or report that scrap to GSA for sale.

110-33.310

See 110-36.35

102-33.315 What are the procedures for mutilating unsalvageable aircraft parts?

To mutilate unsalvageable aircraft parts, you must--

(a) Destroy the data plates, remove the serial/lot/part numbers, and cut, crush, grind, melt, burn, or use other means to prevent the parts from being misidentified or used as serviceable aircraft parts. See detailed guidance in the FAA's Advisory Circular 21-38, "Disposition of Unsalvageable Aircraft Parts and Materials," available from the FAA. Call your regional FAA Flight Standards District Office for additional guidance;

(b) Ensure that an authorized official of your agency witnesses and documents the mutilation; and

(c) Retain a signed certification and statement of mutilation.

102-33.320 What must we do if we are unable to perform required mutilation of aircraft parts?

If you are unable to perform the required mutilation of aircraft parts, you must turn in the parts to a Federal or federally approved facility for mutilation and proper disposition. Ensure that any contractor follows the provisions of section 102-33.315 for mutilating and disposing of the parts.

102-33.325 What documentation must we furnish with excess/surplus or replaced parts when they are transferred, donated, exchanged, or sold?

When you transfer, donate, exchange, or sell excess/surplus or replaced parts, you must--

(a) Furnish all applicable labels, tags, and historical and modification records for serviceable aircraft parts;

(b) Mark mutilated parts as unsalvageable (mutilated parts may be sold only for scrap; see section 102-33.315); and

(c) Ensure that all available tags, labels, applicable historical data, life-histories, and maintenance records accompany FSCAP and life-limited parts and that FSCAP criticality

codes (see section 102-33.375) are perpetuated on documentation (see section 102-33.330 for additional requirements).

Reporting Excess Aircraft Parts

102-33.330 What must we do with aircraft parts that are excess to our needs?

If you have aircraft parts that are excess to your needs, you must first determine if any of your sub-agencies can use the parts. If they can, you may reassign them within your agency. If they cannot, then you must report the excess parts to the GSA FSS Office in your region, using SF 120, Report of Excess Personal Property (see section 102-2.135 of subchapter A of this chapter). When reporting excess FSCAP, you must include the manufacturer's name, date of manufacture, part number, serial number, and the appropriate Criticality Code on the SF 120. You may report electronically using the FEDS system. For information on reporting excess property electronically, contact the FSS Office of Transportation and Personal Property (FBP), 1941 Jefferson Davis Highway, Room 812, Arlington, VA 22202, (703) 305-7240. See parts 102-36 and 102-37 of this subchapter B on disposing of excess property.

110-33.330

See 110-36.35

102-33.335 What are the receiving agency's responsibilities in the transfer or donation of aircraft parts?

An agency that receives transferred or donated aircraft parts must:

(a) Verify that all applicable labels and tags and historical and modification records are furnished with serviceable aircraft parts (i.e., parts that are intended for flight use). This requirement does not apply to parts for ground use only. See the tables at section 102-33.370.

(b) Mutilate all transferred or donated parts that you discover to be unsalvageable, and dispose of them properly, following the procedures in section 102-33.315.

102-33.340 What are GSA's responsibilities in disposing of excess and surplus aircraft parts?

In disposing of excess aircraft parts, the GSA Federal Supply Service office in your region reviews your SF 120, Report of Excess Personal Property (see section 102-2.135 of subchapter A of this chapter) for completeness and accuracy (of status, condition, and FSCAP and demilitarization codes if applicable) and ensures that the following certification is included on disposal documents (e.g., transfer orders or purchasers' receipts):

Because of the critical nature of aircraft parts' failure and the resulting potential safety threat, recipients of aircraft parts must ensure that any parts installed on an aircraft meet applicable Federal Aviation Regulations and must obtain required certifications. GSA makes no representation as to a part's conformance with the Federal Aviation Administration's requirements.

102-33.345 What are a State agency's responsibilities in the donation of Federal Government aircraft parts?

When a State agency accepts surplus Federal Government aircraft parts for donation, the agency must--

(a) Review donation and transfer documents for completeness and accuracy, and ensure that the certification in section 102-33.340 is included;

(b) Ensure that when the donee determines the part to be unsalvageable, the donee mutilates the part following the procedures in section 102-33.315; and

(c) Ensure that the donee retains, maintains, and perpetuates all documentation for serviceable parts (i.e., parts intended for flight use).

Replacing Aircraft Parts Through Exchange or Sale

102-33.350 Do we need approval from GSA to replace aircraft parts by exchange or sale?

No, you don't need approval from GSA to replace parts by exchange or sale. However, you must follow the provisions of this subpart and part 102-39 of this subchapter B. Replacement parts do not have to be for the same type or design of aircraft, but you must use the exchange allowance or sales proceeds to purchase aircraft parts to support your aviation program to meet the "similarity" requirement in part 102-39 of this subchapter B.

102-33.355 May we do a reimbursable transfer of parts with another executive agency?

Yes, you may request that the Federal Supply Service office in your region approve a reimbursable transfer of aircraft parts under the exchange/sale authority in part 102-39 of this subchapter B to another executive agency as a way to receive parts in exchange or money to be used to purchase replacement parts.

102-33.360 What is the process for selling or exchanging aircraft parts for replacement?

(a) You or your agent (e.g., another Federal agency or GSA, Federal Supply Service (FSS)) may transact an exchange or sale directly with a non-federal source or do a reimbursable transfer with another executive agency as long as you or your agent--

(1) Follow the provisions in this part and in part 102-39 of this subchapter B.

(2) Ensure that the applicable labels and tags, historical data and modification records accompany the parts at the time of sale, and that sales offerings on aircraft parts contain the following statement:

> *Warning to purchasers/recipients.* The parts you have purchased or received in an exchange may not be in compliance with applicable FAA requirements. You are solely responsible for bringing the parts into compliance with 14 CFR part 21 or other applicable standards, by obtaining all necessary FAA inspections or modifications.

(3) Ensure that the following certification is signed by the purchaser/recipient and received by the Government before releasing parts to the purchaser/recipient:

> The purchaser/recipient agrees that the Government shall not be liable for personal injuries to, disabilities of, or death of the purchaser/recipient, the purchaser's/recipient's employees, or to any other persons arising from or incident to the purchase of this item, its use, or disposition. The purchaser/recipient shall hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to purchase, use, or resale of this item.

(b) GSA, Federal Supply Service (FSS), can conduct sales of aircraft parts for you. Contact your GSA Regional Office for more information.

102-33.365 Must we report exchange or sale of parts to FAIRS?

No, you don't have to report exchange or sale of parts to FAIRS. However, you must keep records of the transactions, which GSA may request to see.

Special Requirements for Disposing of Flight Safety Critical Aircraft Parts (FSCAP) and Life-Limited Parts

102-33.370 What must we do to dispose of military FSCAP or life-limited parts?

To dispose of military FSCAP or life-limited parts, you must use the following tables:

(a) Table 1 for disposing of uninstalled FSCAP and life-limited parts follows:

Table 1 for disposing of uninstalled FSCAP and life-limited parts

(1) If an Uninstalled FSCAP (i.e., not installed in an aircraft or engine)--		
(i) Is documented--	Then…	(A) You may exchange or sell it or transfer it to another executive agency under parts 102-36 and 102-39 of this subchapter B and the rules in this part; (B) GSA may donate it for flight use under part 102-37 of this subchapter B; or (C) GSA may donate it for ground use only, after you mutilate and mark it, "FSCAP--NOT AIRWORTHY" (the State Agency for Surplus Property must certify that the part has been mutilated and marked before donation).
(ii) Is undocumented, but traceable to its original equipment manufacturer (OEM) or production approval holder (PAH)--	Then…	(A) You may exchange or sell it only to the OEM or PAH under part 102-39 of this subchapter B; (B) GSA may transfer or donate it for flight use, but only by making it a condition of the transfer or donation agreement that the recipient will have the part inspected, repaired, and certified by the OEM or PAH before putting it into service (Note: Mark parts individually to ensure that the recipient is aware of the parts' service status); or (C) GSA may donate it for ground use only, after you mutilate and mark it, "FSCAP--NOT AIRWORTHY" (the State Agency for Surplus Property must certify that the part has been mutilated and marked before donation).
(iii) Is undocumented and untraceable, you must mutilate it, and--	Then…	(A) GSA may transfer or donate it for ground use only, after you mark it, "FSCAP--NOT AIRWORTHY" (the State Agency for Surplus Property must certify that the part has been mutilated and marked before donation); or (B) You may sell it only for scrap under sections 102-33.310 and 102-33.315.
(2) If an uninstalled life-limited part (i.e.,		

not installed in an aircraft or engine)--		
(i) Is documented with service life remaining--	Then…	(A) You may exchange or sell it or transfer it to another executive agency under parts 102-36 and 102-39 of this subchapter B and the rules in this part; (B) GSA may donate it for flight use under part 102-37 of this subchapter B; or (C) GSA may donate it for ground use only, after you mutilate and mark it, "EXPIRED LIFE-LIMITED--NOT AIRWORTHY" (the State Agency for Surplus Property must certify that the part has been mutilated and marked before donation).
(ii) Is documented with no service life remaining, or undocumented, GSA may not transfer it to another executive agency for flight use--	But…	(A) GSA may transfer or donate it for ground use only, after you mutilate and mark it, "EXPIRED LIFE-LIMITED --NOT AIRWORTHY" (the State Agency for Surplus Property must certify that the part has been mutilated and marked before donation); or (B) You must mutilate it and may sell it only for scrap.

(b) Table 2 for disposing of installed life-limited parts follows:

Table 2 for disposing of installed life-limited parts

(1) If a life-limited part is installed in an aircraft or an engine, and it--		
(i) Is documented with service life remaining--	Then…	(A) You may exchange or sell the aircraft or engine, or GSA may transfer the aircraft or engine to another executive agency under parts 102-36 and 102-39 of this subchapter B and the rules in this part; (B) GSA may donate the aircraft or engine for flight use; or (C) GSA may donate the aircraft or engine for ground use only, after you remove the part, mutilate it and mark it, "EXPIRED LIFE-LIMITED--NOT AIRWORTHY." (Note: An internal engine part may be left installed, if, as a condition of the donation agreement, the receiving donee agrees to remove and

		mutilate the part, and mark it (the State Agency for Surplus Property must certify that the part has been mutilated and marked)).
(ii) Is documented with no service life remaining, or undocumented--	Then…	(A) You must remove and mutilate the part before you exchange or sell the aircraft or engine (see rules for disposing of uninstalled life-limited parts in Table 1 of paragraph (a) of this section). (Note: If an aircraft or engine is exchanged or sold to its OEM or PAH, you do not have to remove the expired life-limited part); (B) You must remove and mutilate it before GSA may transfer or donate the aircraft or engine for flight use (see the rules for disposing of uninstalled FSCAP in Table 1 in paragraph (a) of this section). (Note: An internal engine part may be left installed, if you identify the part individually to ensure that the receiving agency is aware of the part's service status and, as a condition of the transfer or donation agreement, the receiving agency agrees to remove and mutilate the part before the engine is put into service. You must certify mutilation for transfers, and the State Agency for Surplus Property must certify that the part has been mutilated for donations); or (C) GSA may donate the aircraft or engine for ground use only, after you remove the part, mutilate and mark it "EXPIRED LIFE-LIMITED--NOT AIRWORTHY." (Note: An internal engine part may be left installed, if, as a condition of the donation agreement, the receiving agency agrees to remove and mutilate the part and mark it (the State Agency for Surplus Property must certify that the part has been mutilated and marked)).

102-33.375 What is a FSCAP Criticality Code?

A FSCAP Criticality Code is a code assigned by DOD to indicate the type of FSCAP: Code "F" indicates a standard FSCAP; Code "E" indicates a nuclear-hardened FSCAP. You must perpetuate a FSCAP's Criticality Code on all property records and reports of excess. If the code is not annotated on the transfer document that you received when you acquired the part, you may contact the appropriate military service or query DOD's Federal Logistics Information System (FLIS--FedLog) using the National Stock Number (NSN) or the part number. For assistance in subscribing to the FLIS service, contact the FedLog Consumer Support Office, 800-351-4381.

Subpart E--Reporting Information on Government Aircraft

Overview

102-33.380 Who must report information to GSA on Government aircraft?

You must report information to GSA on Government aircraft if your agency--
(a) Is an executive agency of the United States Government; and

(b) Owns, lease-purchases, bails, borrows, loans, leases, rents, charters, or contracts for (or obtains by inter-service support agreement) Government aircraft.

110-33.380 Reports.

All reports should be submitted to OPPM, PMD.

102-33.385 Is any civilian executive agency exempt from the requirement to report information to GSA on Government aircraft?

No civilian executive agency is exempt, however, the Armed Forces (including the U.S. Coast Guard, the Reserves, and the National Guard) and U.S. intelligence agencies are exempt from the requirement to report to GSA on Government aircraft.

102-33.390 What information must we report on Government aircraft?

(a) You must report the following information to GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW., Washington, DC 20405:

(1) Inventory data on Federal aircraft through FAIRS.

(2) Cost and utilization data on Federal aircraft through FAIRS.

(3) Cost and utilization data on CAS aircraft and related aviation services through FAIRS.

(4) Accident and incident data through the ICAP Aircraft Accident Incident Reporting System (AAIRS).

(5) The results of cost-comparison studies in compliance with OMB Circular A-76 to justify purchasing, leasing, modernizing, replacing, or otherwise acquiring aircraft and related aviation services.

(b) Information on senior Federal officials and others who travel on Government aircraft to GSA, Travel Management Policy Division (MTT), 1800 F Street, NW., Washington,

DC 20405 (see OMB Circular A-126 for specific rules and a definition of senior Federal official).

Federal Aviation Interactive Reporting System (FAIRS)

102-33.395 What is FAIRS?

FAIRS is a management information system operated by GSA (MTA) to collect, maintain, analyze, and report information on Federal aircraft inventories and cost and usage of Federal aircraft and CAS aircraft (and related aviation services). Users access FAIRS through a highly-secure Web site. The "FAIRS User's Manual" contains the business rules for using the system and is available from GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW., Washington, DC 20405.

102-33.400 How must we report to FAIRS?

You must report to FAIRS electronically through a secure Web interface to the FAIRS application on the Internet. For information on becoming a FAIRS user, call GSA, Aircraft Management Policy Division, (MTA).

102-33.405 When must we report to FAIRS?

You must report any changes in your Federal aircraft inventory within 14 calendar days. You must report cost and utilization data to FAIRS at the end of every quarter of the fiscal year (December 31, March 31, June 30, and September 30). However, you may submit your information to FAIRS on a daily, weekly, or monthly basis. To provide enough time to calculate your cost and utilization data, you may report any one quarter's cost and utilization in the following quarter, as follows:

Quarter	Submit
QTR 1 - October 1 - December 31	Federal inventory for QTR 1. Federal cost and utilization for previous QTR 4. CAS cost and utilization for previous QTR 4.
QTR 2 - January 1 - March 31	Federal inventory for QTR 2. Federal cost and utilization for QTR 1. CAS cost and utilization for QTR 1.
QTR 3 - April 1 - June 30	Federal inventory for QTR 3. Federal cost and utilization for QTR 2. CAS cost and utilization for QTR 2.
QTR 4 - July 1 - September 30	Federal inventory for QTR 4. Federal cost and utilization for QTR 3. CAS cost and utilization for QTR 3.

Federal Inventory Data

102-33.410 What are Federal inventory data?

Federal inventory data include information on each of the operational and non-operational Federal aircraft that you own, bail, borrow, or loan. See the "FAIRS User's Manual," published by GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW., Washington, DC 20405, for a complete listing and definitions of the FAIRS Federal inventory data elements.

102-33.415 When may we declassify an aircraft and remove it from our Federal aircraft inventory?

When an aircraft is lost or destroyed, or is otherwise non-operational and you want to retain it, you may declassify it and remove it from your Federal aircraft inventory. When you declassify an aircraft, you remove the data plate permanently, and the resulting "aircraft parts or other property" are no longer considered an aircraft. See sections 102-33.415 through 102-33.420 for rules on declassifying aircraft, and see part 102-36 or 102-37 of this subchapter B on reporting declassified aircraft as excess.

102-33.420 How must we declassify an aircraft?

To declassify an aircraft, you must--

(a) Send a letter to GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW., Washington, DC 20405, requesting approval to declassify the aircraft and stating that the aircraft is non-operational (which includes lost or destroyed). In this letter, identify the Federal Supply Classification (FSC) group(s) that the declassified aircraft/parts will fall under if applicable, describe the condition of the aircraft (crash-damaged, unrecoverable, parts unavailable, etc.), and include photographs as appropriate.

(b) Within 14 calendar days of receiving GSA's approval to declassify the aircraft--

(1) Following applicable Federal Aviation Regulations (14 CFR 45.13), request approval from your local FAA Flight Standards District Office (FSDO) to remove the manufacturer's data plate;

(2) Within 14 calendar days of receiving approval from FAA to remove the data plate, inform GSA (MTA) of FAA's approval, send the data plate by courier or registered mail to the FAA, as directed by your FSDO, and remove any Certificate of Airworthiness and the aircraft's registration form from the aircraft, complete the reverse side of the registration form, and send both documents to the FAA.

(c) Delete the aircraft from your FAIRS inventory records and update your personal

property records, deleting the declassified aircraft from the aircraft category and adding it to another Federal Supply Classification group or groups, as appropriate.

Federal Aircraft Cost and Utilization Data

102-33.425 What Federal aircraft cost and utilization data must we report?

You must report certain costs for each of your Federal aircraft and the number of hours that you flew each aircraft. In reporting the costs of your Federal aircraft, you must report both the amounts you paid as Federal costs, which are for services the Government provides, and the amounts you paid as commercial costs in support of your Federal aircraft. For a list and definitions of the Federal aircraft cost and utilization data elements, see the "FAIRS User's Manual," which is available from GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW., Washington, DC 20405.

102-33.430 Who must report Federal aircraft cost and utilization data?

Executive agencies, except the Armed Forces and U.S. intelligence agencies, must report Federal cost and utilization data on all Federal aircraft. Agencies should report Federal cost and utilization data for loaned aircraft only if Federal money was expended on the aircraft.

Commercial Aviation Services (CAS) Cost and Utilization Data

102-33.435 What CAS cost and utilization data must we report?

You must report the costs and flying hours for each CAS aircraft you hire. You must also report the costs and contractual periods for related aviation services that you hire (i.e., by contract or through an inter-service support agreement (ISSA)). Report related aviation services that you hire commercially in support of Federal aircraft as "paid out" Federal aircraft costs--do not report them as CAS. See the "FAIRS User's Manual," available from GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW., Washington, DC 20405 for a complete description of the CAS data elements reportable to FAIRS.

102-33.440 Who must report CAS cost and utilization data?

Executive agencies, except the Armed Forces and U.S. intelligence agencies, must report CAS cost and utilization data. You must report CAS cost and utilization data if your agency makes payments to--

(a) Charter or rent aircraft;

(b) Lease or lease-purchase aircraft;

(c) Hire aircraft and related services through an ISSA or a full service contract; or

(d) Obtain related aviation services through an ISSA or by contract except when you use the services in support of Federal aircraft.

Accident and Incident Data

102-33.445 What accident and incident data must we report?

You must report within 14 calendar days to GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW., Washington, DC 20405, all aviation accidents and incidents that your agency is required to report to the NTSB. You may also report other incident information. The GSA and the ICAP will use the collected accident/incident information in conjunction with FAIRS' data, such as flying hours and missions, to calculate safety statistics for the Federal aviation community and to share safety lessons-learned.

110-33.445 Accident/Incident Information

DA agencies owning/operating aircraft must report all accident/incident information to OPPM, PMD, Branch Chief, Personal Property, as soon as such information becomes available. Include those details relevant to USDA Senior Officials.

102-33.450 How must we report accident and incident data?

You must report accident and incident data through the ICAP Aviation Accident and Incident Reporting System (AAIRS), which is accessible from the Internet. Instructions for using the system and the data elements and definitions for accident/incident reporting are available through the system or from GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW., Washington, DC 20405.

Common Aviation Management Information Standard (C-AMIS)

102-33.455 What is C-AMIS?

Common Aviation Management Information Standard (C-AMIS), jointly written by the ICAP and GSA and available from GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW., Washington, DC 20405, is a guide to assist agencies in developing or modernizing their internal aviation management information systems. C-AMIS includes standard specifications and data definitions related to Federal aviation operations.

102-33.460 What is our responsibility in relation to C-AMIS?

If you use a management information system to provide data to FAIRS by batch upload, you are responsible for ensuring that your system is C-AMIS-compliant. For more

information on compliance with C-AMIS, contact GSA, Aircraft Management Policy Division (MTA), 1800 F Street, NW., Washington, DC 20405.

AGRICULTURE PROPERTY MANAGEMENT REGULATIONS
CHAPTER 110 – 34 MOTOR VEHICLE MANAGEMENT

SUPPLEMENTING

CHAPTER 102—FEDERAL MANAGEMENT REGULATION
SUBCHAPTER B—PERSONAL PROPERTY
PART 102–34—MOTOR VEHICLE MANAGEMENT

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Combined Motor Vehicle

102-34.5 Preamble.

(a) This part governs the economical and efficient management and control of motor vehicles that the Government owns or leases. Agencies will incorporate appropriate provisions of this part into contracts offering Government-furnished equipment in order to ensure adequate control over the use of motor vehicles.

(b) The questions and associated answers in this part are regulatory in effect. Thus compliance with the written text of this part is required by all executive agencies.

(c) The terms "we," "I," "our," "you," and "your," when used in this part, mean you as an executive agency, as your agency's fleet manager, or as a motor vehicle user or operator, as appropriate.

110-34.5 Preamble

This part supplements and implements the Federal Management Regulations (FMR) which provide Government-wide policy on motor vehicles as well as Executive Orders, published laws, Secretary Memoranda, Announcements, and Directives affecting the management and operation of the Department's motor vehicle fleet.

110-34.5a Responsibility.

This part states responsibilities of the Director, Office of Procurement and Property Management (OPPM), and provides general guidelines for the procurement, use and disposal of motorized vehicle equipment.

The Director, OPPM, is responsible for establishing and operating a central monitoring system for, and providing oversight of, the motor vehicle operations of USDA, related activities, and reporting requirements. This includes consolidating and issuing Department-wide reports; conducting analyses and forecasts of Departmental motor vehicle requirements; and issuing Departmental policy on all areas regarding motor vehicles.

All requests for exemptions to the FMR, which are referred to herein, and the Agriculture Property Management Regulations (AGPMR) must be submitted in writing to the Director, OPPM.

The Agency Heads are responsible for managing and directing their motor vehicle fleets in accordance with laws, implementing regulations and the supplemental guidance described herein.

102-34.10 What definitions apply to motor vehicle management?
The following definitions apply to this part:

Commercial design motor vehicle means a motor vehicle procurable from regular production lines and designed for use by the general public.

Domestic fleet (see section 102-34.20(a))

Foreign fleet (see section 102-34.20(b))

GSA Fleet lease (see section 102-34.25(d))

Large fleet (see section 102-34.20(d))

Law enforcement motor vehicle means a passenger automobile or light truck that is specifically approved in an agency's appropriation act for use in apprehension, surveillance, police or other law enforcement work or specifically designed for use in law enforcement. If not identified in an agency's appropriation language, a motor vehicle qualifies as a law enforcement motor vehicle only in the following cases:

(1) A passenger automobile having heavy duty components for electrical, cooling and suspension systems and at least the next higher cubic inch displacement or more powerful engine than is standard for the automobile concerned.

(2) A light truck having emergency warning lights and identified with markings such as "police."

(3) An unmarked motor vehicle certified by the agency head as essential for the safe and efficient performance of intelligence, counterintelligence, protective, or other law enforcement duties.

(4) A motor vehicle seized by a Federal agency that is subsequently used for the purpose of performing law enforcement activities.

Light duty motor vehicle means any motor vehicle with a gross motor vehicle weight rating (GVWR) of 8,500 pounds or less.

Light truck means a motor vehicle on a truck chassis with a gross motor vehicle weight rating (GVWR) of 8,500 pounds or less.

Military design motor vehicle means a motor vehicle (excluding general-purpose motor vehicles) designed according to military specifications to support directly combat or tactical operations or training for such operations.

Motor vehicle means any vehicle, self propelled or drawn by mechanical power, designed and operated principally for highway transportation of property or passengers, but does

not include a military design motor vehicle or vehicles not covered by this part (see section 102-34.15).

Motor vehicle identification (also referred to as "motor vehicle markings") means the legends "For Official Use Only" and "U.S. Government" placed on a motor vehicle plus other legends showing the full name of the department, agency, establishment, corporation, or service by which the motor vehicle is used. This identification is usually a decal placed in the rear window or on the side of the motor vehicle.

Motor vehicle lease (see section 102-34.25(b))

Motor vehicle markings (see "Motor vehicle identification" in this section)

Motor vehicle purchase (see section 102-34.25(a))

Motor vehicle rental (see section 102-34.25(c))

Motor vehicles transferred from excess (see section 102-34.25(e))

Owning agency means the executive agency that holds the vehicle title, manufacturer's Certificate of Origin, or is the lessee of a motor vehicle lease. This term does not apply to agencies that lease motor vehicles from the GSA Fleet.

Passenger automobile means a sedan or station wagon designed primarily to transport people.

Reportable motor vehicles are vehicles which are reported to GSA as outlined in Subpart I of this part:

(1) Included are sedans, station wagons, buses, ambulances, vans, utility motor vehicles, trucks and truck tractors, regardless of fuel type.

(2) Excluded are fire trucks, motorcycles, military-design motor vehicles, semi-trailers, trailers and other trailing equipment such as pole trailers, dollies, cable reels, trailer coaches and bogies, and trucks with permanently mounted equipment such as generators and air compressors.

Small fleet (see section 102-34.20(c))

Using agency means a Federal agency that obtains motor vehicles from the GSA Fleet, commercial firms or another Federal agency and does not hold the vehicle title or manufacturer's Certificate of Origin. However, this does not include a Federal agency that obtains a motor vehicle by motor vehicle rental.

110-34.10 Definition of Terms

Property Management Information System (PMIS). ***PMIS is an information system having reporting interface capability with the Foundation Financial Information System. The system is mandated by Public Law 99-272 and Secretary's Memorandum Number 1987 for all Agencies who own, lease, and operate motor vehicles. This system captures inventory and cost data and is designed to provide a comprehensive equipment management tool by standardization of various reporting systems among USDA agencies. For PMIS purposes, motor vehicles include all leased or owned standard motor vehicles used on and off-road, aircraft, and special equipment. Instructions for the use of this system are contained in Title VI - Systems Access Manual, Chapter 9, Property Management Information System, Subchapter 2, Personal Property System. All USDA agencies are required to participate in PMIS and to enter data for owned, GSA and commercially leased vehicles and special purpose equipment.***

Vehicle sharing/pooling. ***Vehicle sharing means the shared utilization of vehicles within and between Departmental agencies, or with other Federal, State, and county government agencies and activities for official purposes only. Vehicle pooling means the consolidation of Agencies' transportation needs to the maximum extent possible for the purpose of maximizing use of vehicular assets.***

Qualified mechanic. ***A qualified mechanic is determined to be one whose principle occupation is in the field of automotive mechanics.***

Fuel-dispensing facility. A permanent facility constructed to perform the function of dispensing fuel for use in motor vehicles, farm equipment, and other machinery or equipment, including the installation of underground and/or above ground tanks.

102-34.15 What motor vehicles are not covered by this part?

Motor vehicles not covered are:

(a) Designed or used for military field training, combat, or tactical purposes;

(b) Used principally within the confines of a regularly established military post, camp, or depot; or

(c) Used by an agency in the performance of investigative, law enforcement, or intelligence duties if the head of such agency determines that exclusive control of such vehicle is essential to the effective performance of such duties, although such vehicles are subject to subpart C and subpart I of this part.

102-34.20 What types of motor vehicle fleets are there?

The types of motor vehicle fleets are:

(a) *Domestic fleet* means all reportable agency-owned motor vehicles operated in any State, Commonwealth, territory or possession of the United States, and the District of Columbia.

(b) *Foreign fleet* means all reportable agency-owned motor vehicles operated in areas outside any State, Commonwealth, territory or possession of the United States, and the District of Columbia.

(c) *Small fleet* means a fleet of fewer than 2,000 reportable agency-owned motor vehicles, worldwide.

(d) *Large fleet* means a fleet of 2,000 or more reportable agency-owned motor vehicles, worldwide.

102-34.25 What sources of supply are available for obtaining motor vehicles?

The following sources of supply are available:

(a) *Motor vehicle purchase* means buying a motor vehicle from a commercial source, usually a motor vehicle manufacturer or a motor vehicle manufacturer's dealership.

(b) *Motor vehicle lease* means obtaining a motor vehicle by contract or other arrangement from a commercial source for 60 continuous days or more.

(c) *Motor vehicle rental* means obtaining a motor vehicle by contract or other arrangement from a commercial source for less then 60 continuous days.

(d) *GSA Fleet lease* means obtaining a motor vehicle from the General Services Administration (GSA Fleet). Where "lease" is used alone within this part, it refers to "motor vehicle lease" in paragraph (b) of this section and not GSA Fleet lease.

(e) *Motor vehicles transferred from excess* means obtaining a motor vehicle reported as excess and transferred with or without cost.

Subpart A—Obtaining Fuel Efficient Motor Vehicles

102-34.30 Who must comply with motor vehicle fuel efficiency requirements?
Executive agencies located in any State, Commonwealth, territory or possession of the United States, and the District of Columbia which operate motor vehicles owned or leased by the Government in the conduct of official business. This subpart does not apply to motor vehicles exempted by law or other regulations, such as law enforcement and motor vehicles in foreign areas. Other Federal agencies are encouraged to comply so that maximum energy conservation benefits may be realized in obtaining, operating, and managing motor vehicles owned or leased by the Government.

102-34.35 What are the procedures for purchasing and leasing motor vehicles?

Procedures for purchasing and leasing motor vehicles can be found in subpart 101-26.5 of this title.

110-34.35 Determination of vehicle need.

Public Law 99-272, Consolidated Omnibus Reconciliation Act, Subtitle C - Federal Motor Vehicle Expenditure Control requires agencies to conduct cost comparisons to determine what is the most economical way of providing vehicle needs before a vehicle is acquired. Agencies are required to compare the cost of ownership to leasing from GSA and commercially leasing to determine which method is most cost effective. Once this is determined, the agency should acquire the vehicle in the most economical way with available funds. For example, if the cost comparison shows that ownership is the least costly and funds are not available to procure a vehicle, the agency would have to acquire the vehicle from the next most economical source. Agencies should determine that the vehicle acquired achieves maximum fuel efficiency and is limited to the minimum body size, engine size, and optional equipment necessary to meet agency requirements.

When a determination is made that GSA is the source, agencies should contact the Fleet Management System (FMS) to see if a GSA vehicle is available for assignment. Agencies are reminded that GSA provides vehicles to agencies that are fully participating as defined.

An agency is fully participating when:

(a) All agency owned motor vehicles have been consolidated into the GSA Fleet Program.

(b) The agency owns no vehicles to consolidate, but leases all vehicles from GSA Fleet Program.

(c) The agency would otherwise qualify under one of the above paragraphs, but has been authorized by GSA to purchase or commercially lease motor vehicles because GSA was unable to meet the requirements.

In the agency's request to GSA for a vehicle, the following information should be provided:

(1) A certification that the request for the vehicle has not been denied by Congress, the Office of Management and Budget (OMB) or agency headquarters and that public or private means of transportation are not suitable or available and funds are available.

(2) The number and type of vehicle required.

(3) The location where the vehicle is needed and the dates required including the earliest and latest acceptable dates.

(4) The anticipated length of assignment and projected utilization in miles.

110-34.35a Acquisition of motor vehicles.

Passenger automobiles and light trucks acquired by the agencies must meet the statutory fleet average fuel economy standards prescribed in FMR 102-34.55. Requests for waiver exemptions to the fleet average fuel economy standards must be submitted in writing to OPPM, Property Management Division (PMD), detailing the number and vehicle types to which this waiver request applies. All exemptions will be granted by GSA.

110-34.35b Acquisition of Alternative Fuel Vehicles (AFVs).

Agency Alternative Fuel Vehicle (AFV) acquisitions shall adhere to guidance issued in the Energy Policy Act of 1992 (EPAct) and Executive Order (E.O.) 13149, Greening the Government through Federal Fleet and Transportation Efficiency, dated April 21, 2000. Requirements for the acquisition of AFVs are as follows:

- *Each agency will develop, document, and implement aggressive plans to fulfill the AFV acquisition requirements established by EPAct. In accordance with EPAct requirements, 75 percent of all light duty vehicle acquisitions in metropolitan statistical areas (MSAs) with populations of 250,000 or more shall be AFVs. Agencies may acquire AFVs through buying and/or leasing from the GSA, commercially leasing, or through a combination of these methods.*

- *Agency AFV acquisition requirement plans must be based on existing and requested funds, but shall not be exempt from the requirements of EPAct or E.O. 13149 due to limited appropriations.*

110-34.35c Purchase of All Terrain Vehicles (ATVs).

Procurement of ATVs shall be restricted to four-wheel types or larger. Agency Heads are expected to ensure that the employees operating the ATVs are trained or instructed on the proper use and safe operation of all types of ATVs.

The Consumer Product Safety Commission has recommended ATV training through the Specialty Vehicle Institute of America (SVIA), Costa Mesa, California.

USDA, Forest Service (FS), has developed a two-day training seminar on the proper use of all ATVs. Information may be obtained by contacting any area, district or regional office of the FS.

Agencies are not to re-sell any three-wheeled ATV because the vehicle has been classified as "dangerous property". Agencies are to refer to FPMR 101-45.004 for disposal methods.

102-34.40 How are passenger automobiles classified?

Passenger automobiles are classified in the following table:

Sedan class	Station wagon class	Descriptive name
I	II	Subcompact
II	II	Compact
III	III	Midsize
IV	IV	Large
V		Limousine

102-34.45 What size motor vehicles may we purchase and lease?

(a) You must select motor vehicles to achieve maximum fuel efficiency.

(b) Limit motor vehicle body size, engine size and optional equipment to what is essential to meet your agency's mission.

(c) With the exception of motor vehicles used by the President and Vice President and motor vehicles for security and highly essential needs, you must purchase and lease midsize (class III) or smaller sedans.

(d) Purchase and lease large (class IV) sedans only when such motor vehicles are essential to your agency's mission.

102-34.50 What are fleet average fuel economy standards?

(a) The minimum miles per gallon that a fleet of motor vehicles purchased or leased by an executive agency must obtain. The need to meet these standards is set forth in 49 U.S.C. 32917, Standards for Executive Agency Automobiles, and Executive Order 12375, Motor Vehicles. These standards have two categories:

(1) Average fuel economy standard for all passenger automobiles.

(2) Average fuel economy standard for light trucks.
(b) These standards do not apply to passenger automobiles and light trucks designed to perform combat-related missions for the U.S. Armed Forces or motor vehicles designed for use in law enforcement or emergency rescue work.

102-34.55 What are the minimum fleet average fuel economy standards?

The minimum fleet average fuel economy standards appear in the following table:

Fleet Average Fuel Economy Standards:

FISCAL YEAR	PASSENGER[i]	LIGHT TRUCKS[ii]
1995	**27.5**	**20.6[iii]**
1996	**27.5**	**20.7[3]**
1997	**27.5**	**20.7[3]**
1998	**27.5**	**20.7[3]**
1999	**27.5**	**20.7[3]**
2000 & beyond	**27.5**	**[4]**

These figures represent miles/gallon

1 Established by section 49 U.S.C. 32902 and the Secretary of Transportation.

2 Fleet average fuel economy standard set by the Secretary of Transportation and mandated by Executive Order 12375 beginning in fiscal year 1982.

3 Fleet average fuel economy for light trucks is the combined fleet average fuel economy for all 4 x 2 and 4 x 4 light trucks.

4 Requirements not yet set by the Secretary of Transportation.

102-34.60 How do we calculate the average fuel economy for our fleet?

(a) Due to the variety of motor vehicle configurations, you must take an average of all motor vehicles, by category (passenger automobiles or light truck) purchased and leased by your agency during the fiscal year. This calculation is the sum of passenger automobiles or light trucks that your executive agency purchases or leases from commercial sources divided by the sum of the fractions representing the number of motor vehicles of each category by model divided by the unadjusted city/highway mile-per-gallon ratings for that model, developed by the Environmental Protection Agency (EPA) for each fiscal year. The EPA mile-per-gallon rating for each motor vehicle make, model, and model year may be obtained from the:

General Services Administration,
ATTN: FFA,
Washington, DC 20406.

(b) An example follows:

Light trucks : i 600 light trucks acquired in a specific year.
These are broken down into:

A. 200 Six cylinder automatic transmission pick-up trucks, EPA rating: 24.3 mpg, plus

B. 150 Six cylinder automatic transmission mini-vans, EPA rating 24.8 mpg, plus

C. 150 Eight cylinder automatic transmission pick-up trucks, EPA rating: 20.4 mpg, plus

D. 100 Eight cylinder automatic transmission cargo vans, EPA rating: 22.2 mpg.

$$= \frac{600}{\frac{200}{24.3} + \frac{150}{24.8} + \frac{150}{20.4} + \frac{100}{22.2}}$$

$$= \frac{600}{8.2305 + 6.0484 + 7.3530 + 4.5045}$$

$$= \frac{600}{26.1364} = 22.9565$$ (Rounded to nearest 0.1 mpg.)

ii. Fleet average fuel economy for light trucks in this case is 23.0 mpg.

102-34.65 How may we request an exemption from the fuel economy standards?

(a) You must submit your reasons for the exemption in a written request to the:

Administrator of General Services,
ATTN: MTV,
Washington, DC 20405.

(b) GSA will review the request and advise you of the determination within 30 days of receipt. Passenger automobiles and light trucks exempted under the provisions of this section must not be included in calculating your fleet average fuel economy.

102-34.70 How does GSA monitor the fuel economy of purchased and leased motor vehicles?

(a) Executive agencies report to GSA their leases and purchases of passenger automobiles and light trucks. GSA keeps a master record of the miles per gallon for passenger automobiles and light trucks acquired by each agency during the fiscal year. GSA verifies that each agency's passenger automobile and light truck leases and purchases achieve the fleet average fuel economy for the applicable fiscal year, as required by Executive Order 12375.

(b) The GSA Federal Vehicle Policy Division (MTV) issues information about the EPA miles-per-gallon ratings to executive agencies at the beginning of each fiscal year to help agencies with their acquisition plans.

102-34.75 How must we report fuel economy data for passenger automobiles and light trucks we purchase or commercially lease?

(a) You must send copies or synopses of motor vehicle leases and purchases to GSA. Use the unadjusted combined city/highway mile-per-gallon ratings for passenger automobiles and light trucks developed each fiscal year by the Environmental Protection Agency (EPA). All submissions for a fiscal year must reach GSA by December 1 of the next fiscal year. Submit the information as soon as possible after the purchase or effective date of each lease to the:

General Services Administration,
ATTN: MTV,
Washington, DC 20405.

(b) Include in your submission to GSA motor vehicles purchased or leased by your agency for use in any State, Commonwealth, territory or possession of the United States, and the District of Columbia.

(c) Your submission to GSA must include:

(1) Number of passenger automobiles and light trucks, by category.

(2) Year.

(3) Make.

(4) Model.

(5) Transmission type (if manual, number of forward speeds).

(6) Cubic inch displacement of engine.

(7) Fuel type (i.e., gasoline, diesel, or type of alternative fuel).

(8) Monthly lease cost, if applicable.

Note to section 102-34.75: Do not include passenger automobile and light truck lease renewal options as new acquisition motor vehicle leases. Do not report passenger automobiles and light trucks exempted from fleet average fuel economy standards (see section 102-34.50(b) and section 102-34.65).

102-34.80 Do we report fuel economy data for passenger automobiles and light trucks purchased for our agency by the GSA Automotive Division?

No. The GSA Automotive Division provides information for passenger automobiles and light trucks it purchases for agencies.

102-34.85 Do we have to submit a negative report if we don't purchase or lease any motor vehicles in a fiscal year?

Yes. You must submit a negative report if you don't purchase or lease any motor vehicles in a fiscal year.

110-34.85

All negative reports must be submitted to OPPM, Property Management Division (PMD).

102-34.90 Are any motor vehicles exempted from these reporting requirements?

Yes. You do not need to report passenger automobiles and light trucks that are:

(a) Purchased or leased for use outside any State, Commonwealth, territory or possession of the United States, or the District of Columbia.

(b) Designed to perform combat-related missions for the U.S. Armed Forces.

(c) Designed for use in law enforcement or emergency rescue work.

102-34.95 Does fleet average fuel economy reporting affect our acquisition plan?

It may. If previous motor vehicle purchases and leases have caused your fleet to fail to meet the required fuel economy by the end of the fiscal year, GSA may encourage you to adjust future requests to meet fuel economy requirements.

102-34.100 Where may we obtain help with our motor vehicle acquisition plans?

For help with your motor vehicle acquisition plans, contact the:

General Services Administration,
ATTN: MTV,
Washington, DC 20405.

Subpart B—Identifying and Registering Motor Vehicles
Motor Vehicle Identification

102-34.105 What motor vehicles require motor vehicle identification?

All motor vehicles owned or leased by the Government must display motor vehicle identification unless exempted under section 102-34.180, section 102-34.195, or section 102-34.200.

102-34.110 What motor vehicle identification must we put on motor vehicles we purchase or lease?

(a) For motor vehicles with rear windows, display:

(1) "For Official Use Only," in letters ½ to ¾ inch high.

(2) "U.S. Government" in letters ¾ to 1 inch high; and

(3) The full name of the department, agency, establishment, corporation, or service owning or leasing the motor vehicle (in letters 1 to 1 ½ inch high), or in the alternative, a title that describes the activity in which it is operated (if the title readily identifies the department, agency, establishment, corporation, or service concerned).

(b) For other than motor vehicle rear windows, display the motor vehicle identification in paragraphs (a)(1) through (3) of this section, but:

(1) Use letters 1 to 1 ½ inches high in colors contrasting to the motor vehicle.

(2) If you use subsidiary words or titles of subordinate units, use letters ½ inch to ¾ inch high.

(c) The preferred material is a decal of elastomeric pigmented film type for ease of application and removal.

Note to section 102-34.110: Each agency or activity is responsible for acquiring its own decals. Replace this motor vehicle identification when necessary due to damage or wear.

110-34.110 Agency identification.

All vehicles acquired or leased by the USDA shall be marked "U.S. Department of Agriculture" without reference to a particular departmental agency, unless agency identification is required as an integral part of the motor vehicle mission or for safety reasons. Similarly, motor vehicles will not be repainted for the sole purpose of changing the factory delivered color, unless such repainting is required for mission purposes, or is essential to safety. The omission of individual agency identification and elimination of repainting are expected to enhance motor vehicle sharing.

Justification and approval of the need for agency identification or painting must be documented at agency headquarters and kept in a central location for audit purposes. When approved for use, individual agency identification decals shall be obtained through the agency forms acquisition procedures.

110-34.110a Display of unauthorized use decals.

A decal (Form AD-185) stating the penalty for unauthorized use shall be conspicuously displayed on the instrument panel of each motor vehicle displaying the "For Official Use Only" legend. The display of the legend on

motor vehicles assigned motorcycle tags is not required where not practical because of the configuration of the vehicle.

********Note: Decals are not necessary if the vehicle uses the new USDA license plates produced by UNICOR because it has the USDA logo on it.***

102-34.115 What motor vehicle identification must the Department of Defense (DOD) put on motor vehicles it purchases or leases?

The following must appear on DOD purchased or leased motor vehicles:

(a) "For Official Use Only;"

(b) An appropriate title for the DOD component; and

(c) The DOD code and registration number assigned by the DOD component accountable for the motor vehicle.

102-34.120 Where is motor vehicle identification placed on purchased and leased motor vehicles?

(a) *On most motor vehicles*. On the left side of the rear window, 1 ½ inches or less from the bottom of the window.

(b) *On motor vehicles without rear windows or where identification on the rear window would not be easily seen*. Centered on both front doors or in any appropriate position on each side of the motor vehicle.

(c) *On trailers*. Centered on both sides of the front quarter of the trailer in a conspicuous location.

102-34.125 Before we sell a motor vehicle, what motor vehicle identification or markings must we remove?

You must remove all motor vehicle identification before you transfer the title or deliver the motor vehicle.

110-34.125 Removal of U.S. Government tags.

Whenever a motor vehicle is removed from Government service or transferred to another Department or Government activity outside of the USDA, the official U.S. Government tags shall be removed, destroyed and records appropriately annotated. A replacement vehicle should be issued new official U.S. Government tags.

********Note: A new fleet credit card should also be issued for the new vehicle.***

License Plates

102-34.130 Must our motor vehicles use Government license plates?

Yes, you must use Government license plates, with the exception of motor vehicles exempted under section 102-34.180, section 102-34.195, and section 102-34.200.

102-34.135 Do we need to register motor vehicles owned or leased by the Government?

For a motor vehicle owned or leased by the Government that is regularly based or operated outside the District of Columbia and displaying U.S. Government license plates and motor vehicle identification, you need not register it in a State, Commonwealth, territory or possession of the United States. Motor vehicles exempted under section 102-34.180, section 102-34.195, or section 102-34.200 must be registered and inspected in accordance with the laws of the State, Commonwealth, territory or possession of the United States where the motor vehicle is regularly operated.

See 110-34.170

102-34.140 Where may we obtain U.S. Government license plates?

For detailed instructions and an ordering form to obtain U.S. Government license plates, contact the:

Superintendent of Industries,
District of Columbia,
Department of Corrections,
Lorton, VA 22079.

Note to section 102-34.140: You may, but are not required to obtain license plates from the District of Columbia, Department of Corrections.

110-34.140 Registration outside the District of Columbia

All official USDA tags for vehicles shall be requisitioned through the Office of Operations (OO), Beltsville Service Center (BSC), 6351 Ammendale Road, Beltsville, MD 20705, (301) 394-0400, fax 301-394-0300. The form to use is CFPDC-1. Questions concerning license plates, should be forwarded to OPPM, PMD, Personal Property Branch Chief on (202) 720-8873. Agencies should not go directly to UNICOR for tags because they are centrally stocked at the BSC.

102-34.145 How do we display license plates on motor vehicles?

(a) Display official U.S. Government license plates on the front and rear of all motor vehicles owned or leased by the Government. The exception is two-wheeled motor vehicles, which require rear license plates only.

(b) You must display U.S. Government license plates on the motor vehicle to which the license plates were assigned.

(c) Display the U.S. Government license plates until the motor vehicle is removed from Government service or is transferred, or until the plates are damaged and require replacement.

(d) For motor vehicles owned or leased by DOD, follow DOD regulations.

102-34.150 What do we do about a lost or stolen license plate?

You should report the loss or theft of license plates as follows:

(a) *U.S. Government license plates*. Tell your local security office (or equivalent) and local police.

(b) *District of Columbia or State license plates*. Tell your local security office (or equivalent) and either the District of Columbia, Department of Transportation, or the State agency, as appropriate **.**

110-34.150 Lost or stolen tags.

The tag number of all U.S. Government tags, lost or stolen, shall be reported to the responsible agency official maintaining current records of all tags, the issuing authority and to local, state, and federal police. The Property Officer should report the tag number as lost or stolen to PMD.

102-34.155 What records do we need to keep on U.S. Government license plates?
You must keep a central record of all U.S. Government license plates for your agency's motor vehicle purchases and motor vehicle leases. The GSA Fleet must keep such a record for GSA Fleet vehicles. The record must identify:

(a) The motor vehicle to which each set of plates is assigned.

(b) The complete history of any reassigned plates.

(c) A list of destroyed or voided license plate numbers.

110-34.155 Records.

The BSC shall maintain a record of all tags issued to the USDA agencies. Each agency shall maintain current use and disposal records of all tags issued to it. These records shall include the description and location of each motor vehicle to which a tag is attached so that a particular motor vehicle can be promptly identified in case of accident, theft, etc., when only a tag number is available.

Tags from motor vehicles transferred or disposed of and tags rendered unserviceable shall be reported to the responsible agency official. These U.S. Government tags must be destroyed, and all records appropriately annotated. Agencies are responsible for updating PMIS.

**********Note: When vehicles are replaced, the old license plates should be destroyed and new license plates issued. A new fleet credit card should also be issued for the new vehicle.***

102-34.160 How are U.S. Government license plates coded and numbered?

U.S. Government license plates, except those issued by the District of Columbia, Department of Transportation, under section 102-34.170, will be numbered serially for each executive agency, beginning with 101, and preceded by a letter code that designates the owning agency for the motor vehicle as follows:

Agriculture, Department of A
Air Force, Department of the AF
Army, Department of the W
Commerce, Department of C
Consumer Product Safety Commission CPSC
Corps of Engineers, Civil Works CE
Defense, Department of D
Defense Commissary Agency DECA
Defense Contract Audit Agency DA
Defense Logistics Agency DLA
District of Columbia Redevelopment Land Agency LA
Energy, Department of E
Enrichment Corporation, U.S EC
Environmental Protection Agency EPA
Executive Office of the President EO
Council of Economic Advisers,
National Security Council,
Office of Management and Budget.
Federal Communications Commission FC
Federal Deposit Insurance Corporation FD
Federal Emergency Management Agency FE
Federal Mediation and Conciliation Service FM
General Services Administration GS

Government Printing Office GP
GSA Fleet G
Health and Human Services, Department of HHS
Interior, Department of the I
Judicial Branch of the Government JB
Justice, Department of J
Labor, Department of L
Legislative Branch LB
Marine Corps MC
National Aeronautics and Space Administration NA
National Capital Planning Commission NP
National Guard Bureau NG
National Labor Relations Board NL
National Science Foundation NS
Navy, Department of the N
Nuclear Regulatory Commission NRC
Office of Personnel Management OPM
Panama Canal Commission PC
Railroad Retirement Board RR
Selective Service System SS
Small Business Administration SB
Smithsonian Institution SI
National Gallery of Art Soldiers' and Airmen's Home, U.S SH
State, Department of S
Tennessee Valley Authority TV
Transportation, Department of DOT
Treasury, Department of the T
United States Information Agency IA
United States Postal Service P
Veterans Affairs, Department of VA

102-34.165 How can we get a new license plate code designation?

To get a new license plate code designation, write to the:

General Services Administration,
ATTN: MTV,
Washington, DC 20405.

102-34.170 Are there special licensing procedures for motor vehicles operating in the District of Columbia (DC)?

Yes. DC Code, section 40-102(d)(2), requires the issuance of license plates, without charge, for all motor vehicles owned or leased by the Government at the time the motor vehicle is registered or reregistered.

(a) You must register motor vehicles that are regularly based or operated in DC with the DC Department of Transportation. Your application to register must include a manufacturer's Certificate of Origin, bill of sale, or other document attesting Government ownership. Forms for registering motor vehicles are available from the District of Columbia, Department of Transportation.

(b) Motor vehicles owned or leased by the Government and licensed in the District of Columbia may have the letter code designation prescribed in section 102-34.160 stenciled in the blank space beside the embossed numbers. If you add a letter code designation, stencil it on the license plate so that the letters resemble the embossed numbers in size and color. License plates issued by the District of Columbia without an agency letter code designation will usually have the letter code designation "US".

(c) Transfer of U.S. Government license plates issued by the District of Columbia between your agency's own motor vehicles requires prior approval from the District of Columbia, Department of Transportation.

(d) You must have each registered motor vehicle inspected annually according to section 40-204 of the District of Columbia Code and applicable regulations. The District of Columbia issues an inspection verification sticker for each motor vehicle that passes inspection. Inspections and stickers are free.

(e) Return damaged or mutilated license plates to the District of Columbia, Department of Transportation, for cancellation. Also return license plates when you transfer a motor vehicle regularly based or operated in the District of Columbia to operation in a field area, another agency, or remove the motor vehicle from Government service.

110-34.170 In the District of Columbia.

Section 40-102(b)(2) of the District of Columbia Code has been eliminated. USDA agencies owning or leasing motor vehicles for 60 continuous days or more in the District of Columbia must now use USDA license tags beginning with the letter "A".

Identification Exemptions

102-34.175 What types of exemptions are there?

(a) Limited exemption.

(b) Unlimited exemption.

(c) Special exemption.

102-34.180 May we have a limited exemption from displaying U.S. Government license plates and other motor vehicle identification?

Yes. The head of your agency or designee may authorize a limited exemption to the display of U.S. Government license plates and motor vehicle identification upon written certification. (See section 102-34.185.) For motor vehicles leased from the GSA Fleet, send an information copy of this certification to the:

General Services Administration,
ATTN: FFF,
Washington, DC 20406.

Note to section 102-34.180: Not eligible for exemption are motor vehicles regularly used for common administrative purposes and not directly connected to investigative, law enforcement or intelligence duties involving security activities.

110-34.180 USDA Exemptions.

Requests for all exemptions must be submitted in writing by an appropriate certifying agency official to OPPM, PMD.

102-34.185 What information must the certification contain?

The certification must state either:

(a) That the motor vehicle is used primarily for investigative, law enforcement or intelligence duties involving security activities and that identifying the motor vehicle would interfere with those duties; or

(b) That identifying the motor vehicle would endanger the security of the vehicle occupants.

110-34.185 Exemption Requests:

Exemption requests shall include:

(a) A description of the duties which warrant the use of an unidentified motor vehicle threat or endangerment to personnel; reasons why the use of unidentified motor vehicles is essential; location and number of vehicles; and, whether the motor vehicles are Department-owned, commercially-leased or leased from GSA's Fleet.

(b) In emergency situations, if U.S. Government tags or other required identification serve to heighten threats to employees or U.S. Government property, the Agency Head may grant interim motor vehicle identification exemptions. Emergency exemption requests will be forwarded within five working days to OPPM, PMD, Personal Property Branch with the data required in (a) above, for approval.

102-34.190 For how long is a limited exemption valid?

An exemption granted in accordance with section 102-34.180 and section 102-34.185 may last from one day up to one year. If the requirement for exemption still exists at the end of the year, your agency must re-certify the continued exemption. For a motor vehicle leased from the GSA Fleet, send a copy of the re-certification to the:

General Services Administration,
ATTN: FFF,
Washington, DC 20406.

102-34.195 What agencies have an unlimited exemption from displaying U.S. Government license plates and motor vehicle identification?

The following Federal agencies, or activities within agencies, listed below are granted an unlimited exemption based on ongoing mission requirements and do not need to certify:

(a) *Administrative Office of the United States Courts*. All motor vehicles used by United States probation offices and pretrial services agencies of the judicial branch of the U.S. Government.
(b) *Department of Agriculture*. Motor vehicles used for investigative or law enforcement activities by the Agricultural Marketing Service, Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Forest Service, Grain Inspection, Packers and Stockyard Administration, Packers and Stockyard Program, Food and Consumers Service, and Office of the Inspector General.

(c) *Department of Commerce*. Motor vehicles used for surveillance and other law enforcement activities by the Office of Export Enforcement, International Trade Administration, the National Marine Fisheries Service, and the National Oceanic and Atmospheric Administration.

(d) *Department of Defense*. Motor vehicles used for intelligence, investigative, or security activities by the U.S. Army Intelligence Agency and the Criminal Investigation Command of the Department of the Army; Office of Naval Intelligence of the Department of the Navy; Office of Special Investigations of the Department of the Air Force; the Defense Criminal Investigation Service, Office of the Inspector General; and the Defense Logistics Agency.

(e) *District of Columbia*. Motor vehicles used by St. Elizabeth's Hospital in outpatient work, where identifying the motor vehicles would be prejudicial to patients.

(f) *Department of Education*. Motor vehicles used for investigative and law enforcement activities by the Office of the Inspector General.

(g) *Department of Energy*. Motor vehicles used for investigative or security activities.

(h) *Environmental Protection Agency*. Motor vehicles used for investigative and law enforcement activities by the Office of Inspector General and the Office of Enforcement and Compliance Assurance.

(i) *Federal Communications Commission*. Motor vehicles used for investigative activities by the Field Operations Bureau.

(j) *General Services Administration.* Motor vehicles used for investigative, surveillance, and security activities by special agents of the Federal Protective Service, and Office of the Inspector General.

(k) *Department of Health and Human Services*. Motor vehicles used for undercover law enforcement and similar investigative work by the Food and Drug Administration; motor vehicles used to transport mentally disturbed children by the National Institutes of Health; and motor vehicles used for law enforcement and investigative purposes by the Office of Investigations and the Office of the Inspector General.

(l) *Department of Housing and Urban Development*. Motor vehicles used for law enforcement or investigative purposes by the Office of the Inspector General.

(m) *Department of the Interior*. Motor vehicles used to enforce game laws by the U.S. Fish and Wildlife Service; motor vehicles assigned to special agents of the Bureau of Land Management who investigate crimes against public lands; motor vehicles assigned to special officers of the Bureau of Indian Affairs; motor vehicles used for investigating crimes against public lands by the National Park Service and assigned to the U.S. Park Police; and motor vehicles assigned to the special agents of the Office of the Inspector General who investigate possible crimes of fraud and abuse by departmental employees, contractors, and grantees.

(n) *Department of Justice*. All motor vehicles used for undercover law enforcement activities or investigative work by the Department.

(o) *Department of Labor*. All motor vehicles used for investigative, law enforcement, and compliance activities by the Employment and Training Administration, Occupational Safety and Health Administration, Employment Standards Administration, and the Mine Safety and Health Administration.

(p) *National Aeronautics and Space Administration*. Motor vehicles used for investigative or law enforcement activities.

(q) *National Labor Relations Board*. Motor vehicles used for investigative activities by field offices.

(r) *National Security Council*. Motor vehicles used by the Central Intelligence Agency.

(s) *Nuclear Regulatory Commission*. Motor vehicles used for the conduct of security operations or in the enforcement of security regulations.

(t) *Office of Personnel Management*. Motor vehicles used for the investigative program of the Office of Personnel Investigations and regional investigation activities.

(u) *United States Postal Service*. Motor vehicles that the Postal Inspection Service use for investigative and law enforcement activities.

(v) *Department of State*. Motor vehicles used for protecting domestic and foreign dignitaries and investigating passport and visa fraud.

(w) *Department of Transportation*. Motor vehicles used for intelligence, investigative, or security activities by the Office of the Inspector General, the OST Office of Security, the Investigations and Security Division and field counterparts in the U.S. Coast Guard, the Office of Civil Aviation Security and field counterparts in the Federal Aviation Administration, and the Idaho Division Office of Motor Carriers in the Federal Highway Administration.

(x) *Department of Treasury*. Motor vehicles used by the U.S. Secret Service; the Criminal Investigation Division and the Internal Security Division of the Internal Revenue Service; motor vehicles used for investigative activities by the Collection Division of the Internal Revenue Service; motor vehicles used by the Office of Enforcement and the Office of Inspection at the Bureau of Alcohol, Tobacco, and Firearms; and motor vehicles used by the Office of Enforcement, Office of Compliance Operations, and the Office of Internal Affairs at the U.S. Customs Service.

(y) *Department of Veterans Affairs*. Motor vehicles used for investigative activities by the Office of the Inspector General and regional Field Examiners and Property Management Inspectors.

102-34.200 What agencies have a special exemption from displaying U.S. Government license plates and motor vehicle identification?

Motor vehicles assigned for the use of the President and the heads of executive departments specified in 5 U.S.C. 101 are exempt from the requirement to display motor vehicle identification. All motor vehicles, other than those assigned for the personal use of the President, will display official U.S. Government license plates.

102-34.205 What license plates and motor vehicle identification do we use on motor vehicles that are exempt from motor vehicle identification and U.S. Government license plates?

Display the regular license plates of the State, Commonwealth, territory or possession of the United States, or the District of Columbia, where the motor vehicle is principally operated.

102-34.210 What special requirements apply to exempted motor vehicles operating in the District of Columbia?

If your agency wants to use regular District of Columbia license plates for motor vehicles exempt from displaying U.S. government license plates and motor vehicle identification, your agency head must designate an official to authorize them. Provide the name and facsimile signature of that official to the District of Columbia, Department of Transportation, annually.

102-34.215 Can GSA ask for a listing of exempted motor vehicles?

Yes. If asked, the head of each executive agency must submit a report concerning motor vehicles exempted under this subpart. This report, which has been assigned interagency report control number 1537-GSA-AR, should be submitted to the:

General Services Administration,
ATTN: MTV,
Washington, DC 20405.

Subpart C—Official Use of Government Motor Vehicles

102-34.220 What is official use of motor vehicles owned or leased by the Government?

Use of a motor vehicle to perform your agency's mission(s), as authorized by your agency.

110-34.220 USDA Official/Authorized Use.

Refer to Departmental Regulation (DR) 5400-5 and Federal Travel Regulations for specific instructions on travel between the residence and place of employment and personnel in a travel status.

(a) Employee responsibility. Employees assigned the use of Government owned or leased motor vehicles are responsible for assuring that vehicles are used only for official purposes. Employees shall exercise discretion to avoid, wherever

possible, any situation which may tend to convey an impression to the public that the assigned motor vehicle is being used for unofficial purposes. Non-Federal employees should not be transported in U.S. Government vehicles unless for official purposes and written approval has been obtained from the Agency Head or his/her designee in advance.

(b) Supervisory responsibility. Supervisory control over employees assigned the use of Government owned or leased motor vehicles shall include:

(1) Advising employees of the requirements of these regulations.

(2) Establishing prior approval procedures for use of motor vehicles at irregular hours, or under circumstances where motor vehicle use may create an unfavorable public reaction.

(3) Maintaining motor vehicles dispatch records that will provide reasonable assurance of compliance with these regulations.

(4) Ensuring that the type of vehicle assigned is suitable for its intended use and consistent with the achievement of maximum economy.

(5) Ensuring that employees are qualified and properly licensed to operate such motor vehicles as appropriate. Issuance of an Identification Card (Standard Form 46 or Optional Form 346) is optional. However, agencies must have procedures to identify employees who are authorized to operate Government owned or leased motor vehicles and assure that the other requirements of this subpart and the FMR are met.

(6) Appropriate training should be provided to all employees who operate special purpose vehicles and equipment as defined in 110-34.5020f. Such training should be sufficient to ensure safe handling of the vehicles and equipment.

110-34.220-5000 Vehicle sharing.

Agencies will implement a vehicle sharing program with collocated, and closely situated agencies and activities in the field. The objectives of this program are maximizing vehicle utilization and the associated cost savings, without infringing upon the holding agencies' management autonomy.

(a) To insure the objectives of this program are accomplished, holding agencies shall enter into formal (written) agreements with using agencies and activities. The level at which intermittent use agreements are consummated shall be at the discretion of the agencies concerned.

(b) At a minimum, these agreements should include the following terms and conditions:

(1) Operation and Utilization Record, Form AD-187, will be properly maintained so as to accurately reflect operations and maintenance costs in accordance with the holding agency's policy for the collection of this data.

(2) Procedures for performance of maintenance and repair.

(3) Accident report forms completion and submission in the event of an accident.

(4) Reimbursement to the holding agency for accident damage caused by using agency employees.

(5) Responsibility for all Tort Claims resulting from accidents while the vehicle is under the control of the using agency employee.

(6) Vehicle usage guidelines to reduce or avoid travel over terrain with features that exceed vehicle capabilities.

(7) Accounting for miles driven by using agency employees, for inclusion in holding agency's reports.

(8) Procedures for using agency reimbursements to holding agency for intermittent vehicle use, and holding agency method of billing.

(9) Holding agency's responsibility for publication of a schedule of vehicle availability for use by the using agency.

(10) Holding agency's responsibility for instructing using agency's personnel on routine and special record keeping requirements.

(11) Using agency's responsibility for safeguarding fleet credit cards.

110-34.220-5000a Loan of vehicles to USPS.

(a) U.S. Postal Service (USPS) may request the loan of vehicles from Departmental agencies during periods of heavy mail volume. Agencies may loan vehicles when they can be made available without adversely affecting operations.

(b) Reimbursement for the vehicles by the USPS is required by Executive Order 11672. The USPS is to be billed on the basis of current mileage rate per mile during the loan period. Billing will not be made unless the per vehicle cost exceeds $100 in any calendar quarter.

(c) USPS Form PS-4577, Hire and Borrowed Vehicle Condition Report, provided by the USPS, is to be used to determine the condition of the vehicle at the time of loan and return. It should be completed and signed by both parties as concurring in the condition of the vehicle at the time of the loan. The vehicle condition is to be checked against the condition shown in the form when returned. USDA fleet credit card shall be removed from the vehicle before turning it over to the USPS. The

Operation and Utilization Record, AD-187, will remain in the vehicle and be maintained by the USPS.

(d) Mileage accumulated by vehicles in a loan status will not be included in quarterly energy reports. Such mileage will be reported by the USPS.

(e) The USPS is to pay all operating costs and return the vehicle in a clean and safe operable condition. A signed Form AD-732 must be secured from the individual receiving the vehicle for the USPS and retained on file until the vehicle is returned.

(f) The USPS will permit the use of the vehicle only by its employees while on USPS business.

(g) The USPS will be responsible to USDA for any damage to the vehicle, normal wear and tear excepted. The USPS will hold and save harmless USDA from any and all actions, causes of actions, claims and demands for, upon, or property which may be sustained in consequences of the use of the vehicle by USPS employee.

(h) Operation and maintenance costs will be paid by the USPS. Operation and maintenance costs include but are not limited to gasoline, oil, repairs, tires, and parts to maintain the vehicle in a clean and safe operating condition.

******Note: Agencies, upon request, may loan their motor vehicles to other Federal Government agencies, State, and county governments in emergencies. Emergencies as used in this part include national disasters and, defense of our nation.*

110-34.5005 Form AD-187 Operation and Utilization Record.

This record, in booklet form, is available through agency forms supply channels for recording motor vehicle data. The booklet is designed to facilitate the preparation of the Annual Motor Vehicle Report and contains the following forms:

Monthly Operation Record (AD-187)

Maintenance and Inspection Record (Back Cover of AD-187)

General instructions on completing these forms are contained in the booklet. Agencies are to issue specific instructions on completing and routing these forms, and for such management reviews as are necessary to assure efficient utilization of all motor vehicles.

110-34.5010 Commerical Drivers License Requirements.

This section contains requirements for motor vehicle operators as specified in the Office of Personnel Management (OPM), Federal Personnel Manual

(FPM) Chapter 930 and requirements mandated under the Commercial Motor Vehicle Safety Act of 1986, otherwise referred to as the Commercial Drivers License (CDL) Program.

All persons operating Government owned or leased motor vehicles shall have a valid State drivers license in his/her possession at all times. Special equipment operators shall likewise have a valid State drivers license for the particular equipment type as required by each State. The license fee represents a personal expense (incurred incident to qualifying for a position) and may not be reimbursed by an agency without specific statutory authorization.

Physical standards and safety of personnel authorized to operate Government owned or leased motor vehicles are published under the provisions of 5 CFR 930.108.

110-34.5010a Departmental policy.

All persons operating Government owned or leased motor vehicles, shall possess a valid State drivers license for the particular type of vehicle(s) operated. All personnel operating Government owned or leased motor vehicles, must also be authorized to do so by personnel having authority to approve the use of such vehicles. The supervisor is responsible for ensuring the employee possesses a valid State drivers license, including a CDL when applicable. Application for and obtaining the CDL is the responsibility of the employee.

110-34.5010b CDL Purpose.

The purpose of this program is to help reduce or prevent truck and bus related accidents, fatalities, and injuries by requiring motor vehicle operators to have a single commercial motor vehicle drivers license and by disqualifying motor vehicle operators who operate commercial motor vehicles in an unsafe manner.

110-34.5010c Commercial Drivers License disqualifications and penalties.

As specified in 49 CFR Part 383.51, a motor vehicle operator who is disqualified shall not operate a commercial vehicle. A supervisor shall not knowingly allow, require, permit, or authorize a motor vehicle operator who is disqualified to drive such a vehicle.

The following are disqualifying offenses:

(a) driving a commercial vehicle while under the influence of alcohol or a controlled substance;

(b) leaving the scene of an accident involving a commercial vehicle; or

(c) committing a felony involving the use of a commercial vehicle (except for controlled substance felonies).

First time offenders for the above offenses are disqualified for a period of one year, provided the vehicle was not transporting hazardous materials required to be placarded. If the vehicle was transporting such hazardous materials, the period of disqualification is three years.

First time offenders of controlled substance felonies are disqualified for life. A controlled substance felony is defined as the use of a commercial motor vehicle involving the manufacturing, distribution, or dispensing of a controlled substance as defined under Section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), including all substances listed in Schedules I through V of 21 CFR Part 1308.

There are also disqualifications for serious traffic violations during any 3-year period ranging from 60 to 120 days.

110-34.5010d Definitions.

(a) Bus. A bus is any motor vehicle designed, constructed, and or used for the transportation of 16 or more passengers, including the driver or as defined by the State, District of Columbia, Commonwealth of Puerto Rico, or U.S. possessions where it is primarily operated.

(b) Special equipment operator. A special equipment operator is an employee who operates:

(1) Buses

(2) Commercial Motor Vehicle (CMV): CMV is a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(i) has a gross combination weight rating of 11,794 kilograms or more (26,001 pounds or more) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or

(ii) has a gross vehicle weight rating of 11,794 or more kilograms (26,001 pounds or more); or operates the following types and/or sizes of motorized equipment.

(iii) is designed to transport 16 or more passengers, including the driver; or

(iv) is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

(3) Emergency vehicles.

(4) Law enforcement vehicles.

(5) Highway vehicles greater than 16,000 pounds GVWR.

(6) Construction, industrial, and agricultural equipment (e.g., motor graders, crawler tractors, wheeled tractors, wheeled loaders, log skidders, fork lifts, etc.).

(7) Other equipment such as snowmobiles, trail bikes, motorcycles, all-terrain vehicles, motor boats, etc.

110-34.5010e Driver testing.

Agencies should avoid duplication of State test/licensing programs, and rely upon State, the Commonwealth of Puerto Rico, or U.S. possessions' licensing procedures to the maximum extent practical. Each agency needs to determine whether a State's testing program is to be used or a comparable agency operating test.

Departmental operating tests are not required for motor vehicle operators of both 2- and 4-wheeled vehicles up to 16,000 pounds GVWR. However, agencies are responsible for ensuring that special equipment operators are qualified to operate equipment assigned in compliance with applicable State or jurisdiction qualifications or licensing requirements or make the necessary arrangements for specialized testing. Operators of vehicles must be tested by the State in which the employee resides and must meet all necessary requirements to obtain a CDL.

For commercial motor vehicles that require a CDL, agencies may provide a representative type vehicle to currently employed personnel taking the skills (driving) test to obtain or renew the CDL.

110-34.5015 Smoking in Motor Vehicles.

110-34.5015a Coverage.

The requirements contained in this section shall apply to all employees that operate USDA owned or leased motor vehicles. This is in accordance with FMR 102-34.300(d), which prohibits smoking in all GSA Fleet vehicles.

110-34.5015b Departmental Policy.

Smoking is prohibited in USDA owned or leased vehicles (lease agreements for 60 continuous days or longer). This prohibition applies to all tobacco products. Each agency/office is responsible for enforcing this policy.

110-34.5020 Use of Hand Held Wireless Phones in Government Vehicles

See GSA Bulletin (FMR B-2), which shall apply to all employees that operate Government owned or leased motor vehicles.

110-34.5020a Departmental Policy.

Use of hand-held wireless phones while driving motor vehicles owned or leased by the Federal Government is discouraged. A portable hands-free accessory and/or a hands free car kit for government owned wireless phones are recommended. Drivers are required to follow all state and local laws while driving a Government vehicle on official business. New York State has already enacted a ban on the use of hand-held wireless phones by drivers.

110-34.5025 Safe Length of Driving Time

USDA employees are to always use caution and expertise while operating a motor vehicle owned or leased by the Federal government. When it is necessary to operate a motor vehicle for extended periods of time, drivers are strongly encouraged to take at least a 15 minute break after each three hours of driving time, or more often, if the driver feels it will enhance his or her safe operation of the vehicle.

110-34.5030 Use of Employee-Owned in Lieu of Government-Owned Vehicles

This subpart requires agencies to evaluate and determine when the use of employee-owned motor vehicles is advantageous to the Government before authorizing reimbursement for such use.

110-34.5030b Policy.

The use of Government owned motor vehicles for official transportation is generally advantageous to the Government. Normally, Government owned motor vehicles can be made available on a planned basis. In some cases, however, it is more advantageous to the Government for employees to use their own motor vehicle, in lieu of Government owned motor vehicles.

Guidance for determining the travel circumstances and authorized reimbursements related to use of employee-owned motor vehicles is contained in Departmental Manual 2300-1, Travel Regulations.

110-34.5035 Interagency Fleet Management Systems

Upon receipt of notice by the Department of the intent of a study to develop data and justification as to the advisability of establishing a motor pool in a specific area, the agencies concerned will be notified in writing. On receipt of such notice, each agency will designate an agency field official as its representative for the study area, with whom Departmental and GSA representatives may consult and who will furnish needed information and assistance, including reasonable opportunities to observe motor vehicle operations and facilities and to examine pertinent cost and other records. The Director, OPPM, with the concurrence of the head of the agency concerned, will designate, for each study area, an agency official to serve as Departmental Representative for the purpose of coordinating the study from the Departmental standpoint. Usually, the representative will be an official of the agency that has the predominant motor vehicle interest in the area under study.

110-34.5040 GSA Fleet System Services.

Problems with service and/or costs which cannot be resolved at the local GSA fleet office or the GSA regional level shall be submitted, with pertinent information to OPPM, PMD, for resolution.

102-34.225 May I use a motor vehicle owned or leased by the Government for transportation between my residence and place of employment?

No, you may not use a Government motor vehicle for transportation between your residence and place of employment unless your agency authorizes such use after making the necessary determination under 31 U.S.C. 1344 and subpart 101-6.4 of this title. Your agency must keep a copy of the written authorization within the agency and monitor the use of these motor vehicles.

110-34.225 Approval for use of vehicles for home-to-work transportation. See Departmental Regulation (DR) 5400-5.

102-34.230 May Government contractors use motor vehicles owned or leased by the Government?

Yes. Government contractors may use Government motor vehicles when authorized under applicable procedures and the following conditions:

(a) Motor vehicles are used for official purposes only and solely in the performance of the contract.

(b) Motor vehicles cannot be used for transportation between residence and place of employment, unless authorized in accordance with 31 U.S.C. 1344 and subpart 101-6.4 of this title.

(c) Contractors must:

(1) Establish and enforce suitable penalties against employees who use, or authorize the use of, such motor vehicles for unofficial purposes or for other than in the performance of the contract; and

(2) Pay any expenses or cost, without Government reimbursement, for using such motor vehicles other than in the performance of the contract.

102-34.235 What does GSA do if it learns of unofficial use of a motor vehicle owned or leased by the Government?

GSA reports the matter to the head of the agency employing the motor vehicle operator. The employing agency investigates and may, if appropriate, take disciplinary action

under 31 U.S.C. 1349 or may report the violation to the Attorney General for prosecution under 18 U.S.C. 641.

102-34.240 How are Federal employees disciplined for misuse of motor vehicles owned or leased by the Government?

If an employee willfully uses, or authorizes the use of, a motor vehicle for other than official purposes, the employee is subject to suspension of at least one month or, up to and including, removal by the head of the agency (31 U.S.C. 1349).

> ***110-34.240 USDA Penalties for unofficial use.***
>
> ***In addition to employee penalties stated above in FMR 102-34.240, any indiscreet use of a Government owned or leased vehicle shall subject the employee responsible <u>for authorizing</u> such use to disciplinary action in accordance with Chapter 751 of the Departmental Personnel Manual.***

102-34.245 How am I responsible for protecting motor vehicles?
When a Government-owned or -leased motor vehicle is under your control, you must:

(a) Park or store the vehicle in a manner that reasonably protects it from theft or damage.

(b) Lock the unattended motor vehicle. (The only exception to this requirement is when fire regulations or other directives prohibit locking motor vehicles in closed buildings or enclosures.)

102-34.250 Am I bound by State and local traffic laws?

Yes. You must obey all motor vehicle traffic laws of the State and local jurisdiction, except when the duties of your position require otherwise. You are personally responsible if you violate State or local traffic laws. If you are fined or otherwise penalized for an offense you commit while performing your official duties, but which was not required as part of your official duties, payment is your personal responsibility.

102-34.255 Who pays for parking fees and fines?

You must pay parking fees while operating a motor vehicle owned or leased by the Government. However, you can expect to be reimbursed for parking fees incurred while performing official duties. Conversely, if you are fined for a parking violation while operating a motor vehicle owned or leased by the Government, payment is your personal responsibility and you will not be reimbursed.

102-34.260 Do Federal employees in motor vehicles owned or leased by the government have to use safety belts?

Yes. Federal employees must use safety belts, when there is a safety belt.

110-34.260 Mandatory Safety Belt Usage

110-34.260a Policy.

It shall be mandatory for all occupants of motor vehicles owned or leased by the Government, equipped with safety belt restraints, to use them at all times. The only exception is a medical condition that would prevent use of safety belts.

110-34.260b. Agency Responsibility.

Each agency having jurisdiction over property containing public roadways, such as the Forest Service and the Agricultural Research Service, shall revise its agency regulations to incorporate this safety belt policy. It is the agency's responsibility to implement this policy by providing the necessary signs, incorporating this policy in the text of brochures, and other incidental public contact.

110-34.260c. Enforcement.

Enforcement may be by agency enforcement officials only as a secondary offense. This means that a vehicle cannot be stopped for the sole purpose of looking for safety belt violations. The vehicle must be stopped for some other traffic violation, such as reckless driving. The penalty for a violation of this policy can be a fine of not more than $500 or imprisonment for not more than six months or both (7 U.S.C. 1011(f)). Enforcement of State safety belt laws while on USDA public lands may also be enforced by State or local law enforcement officials where applicable. Penalties will be according to State law.

Subpart D—Replacement of Motor Vehicles

102-34.265 What are motor vehicle replacement standards?

Motor vehicle replacement standards specify the minimum number of years in use or miles traveled at which an executive agency may replace a Government-owned motor vehicle (see section 102-34.280).

102-34.270 May we replace a Government-owned motor vehicle sooner?

Yes. You may replace a Government-owned motor vehicle if it needs body or mechanical repairs that exceed the fair market value of the motor vehicle. Determine the fair market value by adding the current market value of the motor vehicle plus any capitalized motor vehicle additions (such as a utility body or liftgate) or repairs. Your agency head or designee must review the replacement in advance.

102-34.275 May we keep a Government-owned motor vehicle even though the standard permits replacement?

Yes. The replacement standard is a minimum only, and therefore, you may keep a Government-owned motor vehicle longer than shown in section 102-34.280 if the motor vehicle can be operated without excessive maintenance costs or substantial reduction in resale value.

102-34.280 How long must we keep a Government-owned motor vehicle?

You must keep a motor vehicle owned or leased by the Government for at least the years or miles shown in the following table:

Table of Minimum Replacement Standards

Motor Vehicle Type	Years a*	or Miles a*
Sedans/Station Wagons	3	60,000
Ambulances	7	60,000
Buses:		
Intercity	n/a	280,000
City	n/a	150,000
School	n/a	80,000
Trucks		
Less than 12,500 pounds GVWR	6	50,000
12,500-23,999 pounds GVWR	7	60,000
24,000 pounds GVWR and over	9	80,000
4- or 6-wheel drive motor vehicles	6	40,000

a Minimum standards are stated in both years and miles; use whichever occurs first.

Subpart E—Scheduled Maintenance of Motor Vehicles

102-34.285 What kind of maintenance programs must we have?

You must have a scheduled maintenance program for each motor vehicle you own or lease. This requirement applies to motor vehicles operated in any State, Commonwealth, territory or possession of the United States, and the District of Columbia. The GSA Fleet will develop maintenance programs for GSA Fleet vehicles. The scheduled maintenance program must:

(a) Meet Federal, State, and local emission standards;

(b) Meet manufacturer warranty requirements;

(c) Ensure the safe and economical operating condition of the motor vehicle throughout its life; and

(d) Ensure that inspections and servicing occur as recommended by the manufacturer or more often if local operating conditions require.

110-34.285 USDA Scheduled Maintenance Guidelines

In addition to the requirements contained above, agencies shall maintain their motor vehicles as described below:

(a) Tires will be checked at least weekly to insure that the correct air pressure recommended by the vehicle manufacturer is maintained. The air pressure prescribed by the manufacturer shown in the owner's manual and on the driver's door will be maintained at all times, unless conditions dictate otherwise. The maintenance of proper tire pressure will reduce fuel consumption and tire wear.

(b) Owned and commercially leased motor vehicles should have mechanical inspections performed by a qualified licensed mechanic in accordance with State and local requirements or manufacturer recommended schedules. Visual safety inspections do not have to be performed by a qualified licensed mechanic. However, these inspections should be conducted annually by anyone the agency designates, except the driver of the vehicle. Visual inspections should include, at a minimum, such items as checking safety belts, parking brakes, head and parking lights, tail and back up lights, tag lights, hazard lights, brake lights, turn signals, horns, windshield wipers/washers, rear and side view mirrors, tire pressure, and tire tread wear. An operator may request an inspection at any time he or she believes an unsafe condition exists.

(c) The Form AD-187, Operation and Utilization Record contains the Maintenance and Inspection Record. The Maintenance and Inspection Record checklist is the pull out page attached to the back of the Operation and Utilization Record book. These forms will be completed annually for each inspection for those agencies that use these forms. Agencies not utilizing these forms may develop their own inspection checklist, with the inspection items contained in the back of the Maintenance and Inspection Record book as a minimum requirement for items to be inspected. These vehicle checklists should be kept with vehicle records for audit purposes.

(d) Government operated maintenance shops shall be used when feasible in lieu of more expensive alternatives. As appropriate, agencies shall negotiate support agreements with other Federal Departments to obtain maintenance support at the lowest overall cost.

(e) In those areas where GSA maintenance support is inadequate, due to problems involving policy matters, agencies should document the problems encountered and submit them to OPPM, PMD, for submission to GSA headquarters for corrective action.

110-34.285-5045 Vehicle Repair Shops

(a) Policy - It is the policy of the Department to rely upon commercial sources to the extent practicable and economical. An agency of the Department will not own or operate motor vehicle repair shops, unless that agency can justify a need and cost effectiveness for managing such a facility in accordance with criteria below.

(b)Test Criteria – Agencies are required to apply the following test criteria when establishing or continuing operation of motor vehicle repair shops. These criteria are to be applied in lieu of an A-76 review to all existing and future repair shop facilities:

1. ***If the motor vehicles or the agency owned shop are located within 30 miles or more from two or more commercial shops, the agency shop shall be closed or not established.***

2. ***If the motor vehicles or agency owned shop is located 30 miles or more from two or more commercial shops, a value analysis, approved by the Agency Head, must show a minimum cost savings of 20 percent over use of commercial facilities, or the agency owned shop shall be closed or not established.***

102-34.290 Must our motor vehicles pass State inspections?

Yes, your motor vehicles must pass State inspections, where mandated.

(a) Each motor vehicle owned or leased by the Government must pass Federally-mandated emission inspections in the jurisdictions in which they operate when required by State motor vehicle administrations or State environmental departments. You must reimburse State activities for the cost of these inspections if the fee is not waived. GSA will pay the cost of these inspections for motor vehicles leased from the GSA Fleet.

(b) Motor vehicles owned or leased by the Government that are exempted from the display of U.S. Government license plates and motor vehicle identification must comply with emission and mechanical inspection programs of the State, Commonwealth, territory or possession of the United States or the District of Columbia in which they are regularly operated. Your agency must pay for these inspections, unless the fee is waived. Payment for these inspections for motor vehicles leased from the GSA Fleet are the responsibility of the using agency.

102-34.295 Where can we obtain help in setting up a maintenance program?

For help in setting up a maintenance program, contact the:

General Services Administration,
ATTN: MTV,

Washington, DC 20405.

110-34.295-5050 Use of retread tires and retread tire services.

(a) This establishes the Department's policy and procedures for the use of retread tires and tire retreading services, as required by the Environmental Protection Agency's (EPA) Comprehensive Procurement Guideline (CPG) (40 CFR Part 247), which implements section 6002 of the Solid Waste Disposal Act, as amended by the Resources Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. 6962.

(b) RCRA Section 6002 requires EPA to designate items that are or can be made with recovered materials and to issue guidelines to assist procuring agencies in meeting the requirements concerning purchase and use of these designated items. In accordance with RCRA Section 6002, EPA has designated retread tires (excluding airplane tires) and tire retreading services as items which Federal agencies must purchase to the maximum extent feasible.

(c) Executive Order 12873, "Federal Acquisition, Recycling, and Waste Prevention", October 20, 1993, Section 506, specifically requires Federal agencies to comply with and implement the EPA procurement guidelines for retread tires and re-refined lubricating oil.

(d) The Federal Acquisition Regulation (FAR) provides procurement policies and procedures concerning these EPA designated items. These policies are supplemented in USDA's procurement regulations (AGAR) Subpart 423.4- Use of Recovered Materials.

110-34.295-5050a Definitions.

(a) Agency. Federal agency or agency in RCRA and the EPA CPG in this section refers to the U.S. Department of Agriculture (USDA) as a whole.

(b) Feasible. Feasible means the product can be purchased at a reasonable price, is available within a reasonable period of time, meets reasonable performance standards for the specific application, and an adequate level of competition exists.

(c) Retread tire. Retread tire means a previously used automobile, truck, or other motor vehicle tire whose tread has been replaced.

(d) Tire. Tire means the following types of tires: passenger car tires, light-, and heavy-duty truck tires, bus tires, and special service tires (including military, agricultural, off-road, and pneumatic industrial).

110-34.295-5050b Policy.

As part of USDA's monitoring program, both USDA employees and those cooperators using USDA owned or leased motor vehicles are to procure retread services (retread existing tires in the system) or retread tires (replacement tires) to the maximum extent feasible.

110-34.295-5050c Exceptions.

Exceptions to the use of retread tires or retreading services are:

(a) Unavailable within a reasonable period of time;

(b) Unable to meet the required performance specifications;

(c) Unavailable at a reasonable price; or

(d) 49 CFR, Chapter II, Subpart G, Section 393.75(d) prohibits the use of regrooved, recapped or retreaded tires on the front wheels of buses.

110-34.295-5050d Reporting.

Annual review and monitoring of the effectiveness of the affirmative procurement program for EPA designated items is required. Each agency shall maintain logs or other records necessary to provide reporting data. These logs or records must be available upon request, and should contain, at a minimum, the following information:

(a) Total dollar amount of new tires (excluding aircraft tires) purchased by an agency during the fiscal year.

(b) Total dollar amount of retread tires (excluding aircraft tires) purchased by an agency during the fiscal year.

110-34.295-5050e Reporting tire failures.

All tire failures are to be reported and deficiencies noted on a Standard Form 368, Quality Deficiency Report, irrespective of satisfactory corrective action taken by the manufacturer's authorized dealer, vendor, or contractor. Please submit a copy of the SF-368 to OPPM, PMD.

EPA has a Recycled Products Information Hotline for questions regarding the Guideline which covers Retread Tires and other items of interest to property and fleet managers. The number is 1-800-424-9346 or in Washington, DC, (703) 412-9810 or TDD (703)412-3323.

110-34.295-5050f Retread and repair service contracts.

The previously established retread and repair service contracts established by GSA regional zone offices have been canceled. The Automotive Commodity Center is currently in the process of developing a National Retread Services Contract.

Subpart F—Motor Vehicle Accident Reporting

102-34.300 What forms do I use to report an accident involving a motor vehicle owned or leased by the Government?

GSA recommends the following forms for use to report an accident in any State, Commonwealth, territory or possession of the United States and the District of Columbia. The forms should be carried in any motor vehicle owned or leased by the Government.

(a) *Standard Form 91, Motor Vehicle Accident Report*. The motor vehicle operator should complete this form at the time and scene of the accident if possible, even if damage to the motor vehicle is not noticeable.

(b) Standard Form 94, Statement of Witness. This form should be completed by any witness to the accident.

102-34.305 To whom do we send accident reports?
Send accident reports as follows:

(a) If the motor vehicle is owned or leased by your agency, follow your internal agency directives.

(b) If the motor vehicle is managed by the GSA Fleet, report the accident to GSA in accordance with subpart 101-39.4 of this title.

110-34.305. Accident reporting forms and their use.

See internal Agency reporting requirements and AGPMR, Subchapter N, 104.50.108.

Subpart G—Disposal of Motor Vehicles

102-34.310 How do we dispose of a motor vehicle in any State, Commonwealth, territory or possession of the United States, or the District of Columbia?

After meeting the replacement standards under subpart D of this part, you may dispose of a Government-owned motor vehicle by transferring the motor vehicle title, or manufacturer's Certificate of Origin, to the new owner. Detailed instructions on the disposal process are in parts 101-45 and 101-46 of this title.

102-34.315 What forms do we use to transfer ownership when selling a motor vehicle?

Use the following forms to transfer ownership:

(a) Standard Form 97, The United States Government Certificate to Obtain Title to a Motor Vehicle, if both of the following apply:

(1) The motor vehicle will be retitled by a State, Commonwealth, territory or possession of the United States or the District of Columbia; and

(2) The purchaser intends to operate the motor vehicle on highways.

Note to section 102-34.315(a)(2): Do not use Standard Form 97 if the Government-owned motor vehicle is either not designed or not legal for operation on highways. Examples are construction equipment, farm machinery, and certain military-design motor vehicles. Instead, use an appropriate bill of sale or award document. Examples are Optional Form 16, Sales Slip-Sale of Government Personal Property, and Standard Form 114, Sale of Government Property—Bid and Award.

(b) Standard Form 97 is optional in foreign countries because foreign governments may require the use of other forms.

Note to section 102-34.315: The original Standard Form 97 is printed on secure paper to identify readily any attempt to alter the form. The form is also pre-numbered to prevent duplicates. State motor vehicle agencies may reject certificates showing erasures or strikeovers.

102-34.320 How do we distribute the completed Standard Form 97?
Standard Form 97 is a 4-part set printed on continuous-feed paper. Distribute the form as follows:

(a) Original SF 97 to the purchaser or donee.

(b) One copy to the owning agency.

(c) One copy to the contracting officer making the sale or transfer of the motor vehicle.

(d) One copy under owning-agency directives.

Subpart H—Motor Vehicle Fueling

102-34.325 How do we obtain fuel for motor vehicles?

You may obtain fuel for any motor vehicle owned or leased by the Government by using:

(a) A Government-issued charge card;

(b) A Government agency fueling facility; or

(c) Personal funds and obtaining reimbursement from your agency.

102-34.330 What Government-issued charge cards may I use to purchase fuel and motor vehicle related services?

(a) You may use a fleet charge card specifically issued for this purpose. These cards are designed to collect motor vehicle data at the time of purchase. Where appropriate, State sales and motor fuel taxes are deducted from fuel purchases by the fleet charge card services contractor before your agency is billed. The GSA contractor issued fleet charge card is the only Government-issued charge card that may be used for GSA Fleet motor vehicles. For further information on acquiring these fleet charge cards and their use, contact the:

General Services Administration,
ATTN: FCX,
Washington, DC 20406.

(b)You may use a Government purchase card if you do not have a fleet charge card or if the use of such a government purchase card is required by your agency mission. However, the Government purchase card does not collect motor vehicle data nor does it deduct State sales and motor fuel taxes.

NOTE: See Departmental Regulation 5013-6 for further information on USDA purchase card policy.

102-34.335 What type of fuel do I use in motor vehicles?

(a) Use the grade (octane rating) of fuel recommended by the motor vehicle manufacturer when fueling motor vehicles owned or leased by the Government.

(b) Do not use premium grade gasoline in any motor vehicle owned or leased by the Government unless the motor vehicle specifically requires premium grade gasoline.

(c) Use unleaded gasoline in all Government owned or leased motor vehicles designed to operate on gasoline and used overseas unless:

(1) Such use would be in conflict with country-to-country or multi-national logistics agreements; or

(2) Such gasoline is not available locally.

110-34.335 Preference for Use of Ethanol and Biodiesel Fuels in USDA Vehicles.

USDA has established a preference policy for the use of fuels such as ethanol and biodiesel which are made from renewable agricultural products. Each USDA agency shall adhere to the following policy:

USDA agencies that maintain diesel fuel tanks for their fleet vehicles, off-road vehicles, marine vessels, and other motorized diesel equipment will buy and use blends of 20 percent (B20) or higher biodiesel fuel where practicable and reasonable in cost. USDA agencies that do not maintain diesel fuel tanks will seek out opportunities to fuel at nearby federal or commercial fueling facilities that offer B20 biodiesel at reasonable cost.

USDA agencies that maintain gasoline fueling facilities will buy and use ethanol-blended fuels containing at least 10% domestically produced ethanol or other alcohol to the extent practicable where the fuel is readily available and reasonably priced compared with unleaded gasoline.

USDA agencies that use commercial fueling stations will buy these fuels when they are readily available and at reasonable cost.

Where flex-fuel vehicles operate in geographic areas that offer E-85 fueling sites, USDA agencies shall strive to fuel the vehicles routinely with E-85.

Consistent with mission requirements, USDA agencies will also purchase or lease alternative fuel vehicles, including E-85 flex-fuel vehicles, for placement in geographic areas that offer alternative fueling stations as part of overall compliance with alternative fuel acquisition requirements of EPAct.

The Assistant Secretary for Administration shall carry out these policy preferences.

110-34.335-5055 Implementation of Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management. Vehicle Fleet Management

110-34.335-5055a. Policy.

In accordance with the Council on Environmental Quality Executive 0rder 13423 implementing instructions and Secretary Memorandum, Implementing Executive Order 13423, dated September 17, 2007, USDA agencies shall carryout the following mandates:

USDA agencies will make annual increases in alternative fuel use by 10 percent measured against the prior year's alternative fuel usage level. If an agency fails to attain the 10 percent increase in any year, in the following year it shall attain both the percentage missed and the 10 percent increase due for that following year.

USDA agencies will reduce covered petroleum use by 2 percent annually measured relative to the baseline year 2005 petroleum usage levels. In planning

for petroleum use reductions, agencies shall assess their petroleum needs across their sub-organizations, taking into account mission needs, and make adjustments where necessary to attain the 2 percent goal on average for the entire agency. If an agency fails to meet the 2 percent petroleum reduction goal in any year, in the following year it shall reduce both the percentage it missed and the percent reduction due for that following year.

Law enforcement and emergency vehicles, including those vehicles that are used in an emergency capacity, by the agency, greater than 75 percent of the year is exempt from the alternative fuel increase and petroleum reduction decrease goals. (DOE will determine if vehicles have been properly exempted by auditing the data agencies provide in the Federal Automotive Statistical Tool (FAST)).

110-34.335-5060 Strategies and Tools for Achieving the Goals of Executive Order 13423.

110-34.335-5060a Policy

Each USDA agency shall strive to reduce vehicle miles traveled through such methods as trip consolidation practices, increased use of videoconferencing and web conferencing, and the use of mass transportation/agency shuttles.

Each USDA agency shall increase overall fleet fuel economy through acquisition of higher fuel economy vehicles (e.g., smaller sized vehicles, hybrid-electric vehicles, and other advanced technology vehicles).

Each USDA agency shall "right-size" its fleet, employing the most fuel efficient vehicle for the required task and having the appropriate number of vehicles relative to need.

Each USDA agency will implement practices and procedures to ensure AFVs maximize alternative fuel use.

Each USDA agency shall assess locations for highest demand of alternative refueling stations and:

- *Identify optimal locations for placing AFVs*
- *Identify and address other critical issues that inhibit the use of alternative fuels*

Each agency shall employ efficiency strategies such as low rolling resistant tire, synthetic oil, and other technologies.

GSA shall issue a fleet order for Plug-In Hybrid Electric Vehicles (PHEVs) in all vehicle categories when PHEVs become commercially available at a cost reasonably comparable, on the basis of life-cycle cost, to non-PHEVS must meet the alternative fuel definitions of EPA Act of 1992, as amended by EPA Act of 2005; to do so, PHEVs will have to meet the minimum driving range as specified

by the U.S. Department of Transportation and use electricity generated from a non-petroleum source or from the grid.

102-34.340 Do I have to use self-service fuel pumps?

Yes. You must use self-service fuel pumps to the fullest extent possible.

110-34.340.5065 Fuel-Dispensing Facility.

110-34.340-5065a Policy.

It is the departmental policy to rely upon commercial sources to the extent practicable and economical. An agency of the Department will not own or operate fuel-dispensing facilities, unless that agency can justify a need and cost effectiveness for owning such a facility. Current EPA and State regulations governing operation of underground storage tanks and their removal must be followed.

Subpart I—Federal Motor Vehicle Fleet Report

102-34.345 What is the Federal Motor Vehicle Fleet Report?

The Federal Motor Vehicle Fleet Report is compiled by GSA annually from information submitted by Federal agencies on motor vehicle inventory, cost, and use data. GSA supplies copies of the report to the Congress, Federal agencies, and other organizations upon request. Recipients of this report use it to evaluate and analyze operations and management of the Federal motor vehicle fleet.

102-34.350 What records do we need to keep?

For owned motor vehicles, you are responsible for developing adequate accounting and reporting procedures to ensure accurate reporting of inventory, cost, and operational data needed to manage and control motor vehicles.

110-34.350 Records.

PMIS (PROP and EMIS) is the Department's mandatory personal property system. All agencies must enter inventory, cost and operating data on all motor vehicles into PMIS.

102-34.355 When and how do we report motor vehicle data?

(a) Within 75 calendar days after the end of the fiscal year, use Standard Form 82, Agency Report of Motor Vehicle Data, to report motor vehicle inventory, cost, and operating information. Send the Standard Form 82 to the:

General Services Administration,
ATTN: MTV,
Washington, DC 20405.

(b) Use separate forms to report data for domestic and foreign fleets.

(1) For motor vehicles lent to another agency during the reporting period, the owning agency reports all data.

(2) For motor vehicles transferred from one owning agency to another, each agency reports data for the time it retained accountability.

(c) Detailed instructions are included as part of the form. You can also complete the Standard Form 82 electronically using a computerized input medium. For further information, contact the:

General Services Administration,
ATTN: MTV
Washington, DC 20405.

110-34.355 USDA Reporting Data Policy

The Federal Automotive Statistical Tool (FAST) is a web-based system developed to measure the compliance of Federal agencies with the Department of Energy's Energy Policy Act (EPA Act) of 1992 (as amended in 2005), the Energy Conservation Reauthorization Act of 1998, and E.O. 13423. FAST is a web-based system that generates the annual SF-82 Federal Motor Vehicle Report federal agencies are required to submit to the General Services Administration and the Alternative Fuel Vehicle (AFV) and AFV Waiver Requests that are required by the Department of Energy.

USDA agencies are required to populate the FAST database annually for each of these reports using PCMS (to be replaced by the new fleet credit card system), GSA Reports Carryout, and all other systems and budget data that detail motor vehicle related information. The data will be populated through the web interface at http://fastweb.inel.gov. Upon completion of the agency FAST report the FAST Administrator will review the reports for accuracy prior to final submission.

USDA agencies will adhere to the following instructions in preparation for FAST reporting:

Federal Motor Vehicle Report

Each USDA agency will collect from their field offices information pertaining to vehicle inventory, acquisition, disposal, fuel and other related motor vehicle data. The information will be collected using the FAST upload template (OPPM will provide instructions.)

Each agency will forward the template to there field offices no later than October 1st of each year and receive the information from field offices no later than November 1st of each year.

Each agency will input this information in FAST no later than November 15th of each year.

EPACT Section 701 Waiver Request

Each USDA agency will provide their field offices with the FAST uploading template for AFV waiver requests (OPPM will provide instructions)

Each agency shall collect and provide information pertaining to the AFV model, model year, fuel type, average miles per gallon, garaged zip code and address of the AFV. Agencies must also state the reason for the waiver; not reasonably available because the alternative fuel that cannot be obtained within a 15-minute drive or within five miles (one way) or the alternative fuel is unreasonably expensive costing at least 15 percent more than gasoline on a gasoline gallon equivalent (GGE) basis. Waiver requests that do not meet these criteria will not be considered.

Each USDA agency will provide the waiver request data no later than April 15th annually.

OMB Circular A-11 AMVFR

Each USDA agency will ensure that the OMB Circular A-11 AMVFR) data is populated electronically in the FAST system and submitted to the agency budget representative no later than the August closing date specified in FAST. The USDA Fleet Manager and the Office of Budget and Program Analysis representative will submit the report to OMB.

Subpart J—Forms

102-34.360 How do we obtain the forms prescribed in this part?

See section 102-2.135 of this chapter for how to obtain forms prescribed in this part.

CHAPTER 110 - AGRICULTURE PROPERTY MANAGEMENT REGULATIONS
SUBCHAPTER B - PERSONAL PROPERTY
PART 110-35 - DISPOSITION OF PERSONAL PROPERTY

SUPPLEMENTING

CHAPTER 102 - FEDERAL MANAGEMENT REGULATION
SUBCHAPTER B - PERSONAL PROPERTY
PART 102-35 - DISPOSITION OF PERSONAL PROPERTY

102-35.5	What is the scope of the General Services Administration's regulations on the disposal of personal property?
110-35.5	USDA's scope of the regulations on the disposal of personal property.
102-35.10	How are these regulations for the disposal of personal property organized?
110-35.10	Organization of AGPMRs.
102-35.15	What are the goals of GSA's personal property regulations?
110-35.15	USDA's goals for personal property regulations.
102-35.20	What definitions apply to GSA's personal property regulations?
110-35.20	Definitions that apply to USDA's personal property regulations.
102-35.25	What management reports must we provide?
110-35.25	Submission of GSA management reports.
102-35.30	What actions must I take or am I authorized to take regardless of the property disposition method?
110-35.30	Actions agencies must take, or are authorized to take, regardless of the property disposition method.

102-35.5 What is the scope of the General Services Administration's regulations on the disposal of personal property?

The General Services Administration's personal property disposal regulations are contained in this part and in Parts 102-36 through 102-42 of this subchapter B as well as in parts 101-42 and 101-45 of the Federal Property Management Regulations (FPMR)(41 CFR parts 101-42 and 101-45). With two exceptions, these regulations cover the disposal of personal property under the custody and control of executive agencies located in the United States, the U.S. Virgin Islands, American Samoa, Guam, Puerto Rico, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, and Palau. The exceptions to this coverage are Part 102-39 of this subchapter B, which applies to the replacement of all property owned by executive agencies worldwide using the exchange/sale authority, and §§102-36.380 through 102-36.400, which apply to the disposal of excess property located in countries and areas not listed in this subpart, *i.e.*, foreign excess personal property. The legislative and judicial branches are encouraged to follow these provisions for property in their custody and control.

110-35.5 USDA's scope of the regulations on the disposal of personal property.

USDA follows the General Service Administration's (GSA) personal property disposal regulations contained in the Federal Management Regulations (FMR) (see 102-35.5). USDA supplements the FMR's with the Agriculture Property Management Regulations (AGPMR). Personal property regulations are contained in AGPMR 110-2 through 110-53. Go to the Property Management Division's Directives and Regulations website at http://www.dm.usda.gov/pmd/directives.htm for a listing of property-related FMR and AGPMR. USDA agencies, because of their individual missions, are encouraged to supplement the AGPMRs wherever applicable, to better manage their personal property.

102-35.10 How are these regulations for the disposal of personal property organized?

The General Services Administration (GSA) has divided its regulations for the disposal of personal property into the following program areas:

(a) Disposition of excess personal property (Part 102-36 of this subchapter B).

(b) Donation of surplus personal property (Part 102-37 of this subchapter B).

(c) Sale of surplus personal property (Part 102-38 of this subchapter B).

(d) Replacement of personal property pursuant to the exchange/sale authority (Part 102-39 of this subchapter B).

(e) Disposition of seized and forfeited, voluntarily abandoned, and unclaimed personal property (Part 102-41 of this subchapter B).

(f) Utilization, donation, and disposal of foreign gifts and decorations (Part 102-42 of this subchapter B).

(g) Utilization and disposal of hazardous materials and certain categories of property (part 101-42 of the Federal Property Management Regulations (FPMR), 41 CFR part 101-42).

110-35.10 Organization of AGPMRs.

The AGPMRs are divided into the same program areas as GSA (see 102-35.10). Numbering in the AGPMR system conforms to that of the FMR system and follows the example illustration shown in 102-2.45, except the AGPMR Chapter is always 110.

102-35.15 What are the goals of GSA's personal property regulations?

The goals of GSA's personal property regulations are to:

(a) Improve the identification and reporting of excess personal property;

(b) Maximize the use of excess property as the first source of supply to minimize expenditures for the purchase of new property, when practicable;

Note to §102-35.15(b): If there are competing requests among Federal agencies for excess property, preference will be given to agencies where the transfer will avoid a new Federal procurement. A transfer to an agency where the agency will provide the property to a non-Federal entity for the non-Federal entity's use will be secondary to Federal use.

(c) Achieve maximum public benefit from the use of Government property through the donation of surplus personal property to State and local public agencies and other eligible non-Federal recipients;

(d) Obtain the optimum monetary return to the Government for surplus personal property sold and personal property sold under the exchange/sale authority; and

(e) Reduce management and inventory costs by appropriate use of the abandonment/destruction authority to dispose of unneeded personal property that has no commercial value or for which the estimated cost of continued care and handling would exceed the estimated sales proceeds (see FMR §§102-36.305 through 102-36.330).

110-35.15 USDA's goals for personal property regulations.

USDA promotes the same goals for its personal property regulations, at the Department level, as GSA does for the Executive Branch. Personal property is a government asset, bought with taxpayers' money, and as such must be managed responsibly.

102-35.20 What definitions apply to GSA's personal property regulations?

The following are definitions of, or cross-references to, some key terms that apply to GSA's personal property regulations in the FMR (CFR Parts 102-36 through 102-42). Other personal property terms are defined in the sections or parts to which they primarily apply.

"Accountable Personal Property" includes nonexpendable personal property whose expected useful life is two years or longer and whose acquisition value, as determined by the agency, warrants tracking in the agency's property records, including capitalized and sensitive personal property.

"Accountability" means the ability to account for personal property by providing a complete audit trail for property transactions from receipt to final disposition.

"Acquisition cost" means the original purchase price of an item.

"Capitalized Personal Property" includes property that is entered on the agency's general ledger records as a major investment or asset. An agency must determine its capitalization thresholds as discussed in Financial Accounting Standard Advisory Board (FASAB) Statement of Federal Financial Accounting Standards No. 6 *Accounting for Property, Plant and Equipment*, Chapter 1, paragraph 13.

"Control" means the ongoing function of maintaining physical oversight and surveillance of personal property throughout its complete life cycle using various property management tools and techniques taking into account the environment in which the property is located and its vulnerability to theft, waste, fraud, or abuse.

"Excess personal property" (see 102-36.40 of this subchapter B).

"Exchange/sale" (see 102-39.20 of this subchapter B).

"Executive agency" (see 102-36.40 of this subchapter B).

"Federal agency" (see 102-36.40 of this subchapter B).

"Foreign gifts and decorations" (for the definition of relevant terms, see 102-42.10 of this subchapter B).

"Forfeited property" (see 102-41.20 of this subchapter B).

"Inventory" includes a formal listing of all accountable property items assigned to an agency, along with a formal process to verify the condition, location, and quantity of such items. This term may also be used as a verb to indicate the actions leading to the development of a listing. In this sense, an inventory must be conducted using an actual physical count, electronic means, and/or statistical methods.

"National property management officer" means an official, designated in accordance with 102-36.45(b) of this subchapter B, who is responsible for ensuring effective acquisition, use, and disposal of excess property within your agency.

"Personal property" (see 102-36.40 of this subchapter B).

"Property management" means the system of acquiring, maintaining, using and disposing of the personal property of an organization or entity.

"Seized property" means personal property that has been confiscated by a Federal agency, and whose care and handling will be the responsibility of that agency until final ownership is determined by the judicial process.

"Sensitive Personal Property" includes all items, regardless of value, that require special control and accountability due to unusual rates of loss, theft or misuse, or due to national security or export control considerations. Such property includes weapons, ammunition, explosives, information technology equipment with memory capability, cameras, and communications equipment. These classifications do not preclude agencies from specifying additional personal property classifications to effectively manage their programs.

"Surplus personal property" (see 102-37.25 of this subchapter B).

"Utilization" means the identification, reporting, and transfer of excess personal property among Federal agencies.

110-35.20 Definitions that apply to USDA's personal property regulations.

USDA definitions are included in AGPMR Part 110-50.001.

102-35.25 What management reports must we provide?

(a) There are three reports that must be provided. The report summarizing the property provided to non-Federal recipients and the report summarizing exchange/sale transactions (see §§102-36.295 and 102-39.85 respectively of this subchapter B) must be provided every year (negative reports are required). In addition, if you conduct negotiated sales of surplus personal property valued over $5,000 in any year, you must report this transaction in accordance with 102-38.115 (negative reports are not required for this report).

(b) The General Services Administration (GSA) may request other reports as authorized by 40 U.S.C. 506(a)(1)(A).

110-35.25 Submission of GSA management reports.

(a) All reports, required by GSA, must be sent to the Office of Procurement and Property Management (OPPM), Departmental Management. OPPM will review all USDA agency reports, before consolidating them into one USDA report which will be submitted to GSA.

(b) OPPM may request additional reports (or conduct data calls), on an as-needed basis, as part of the USDA personal property management program.

102-35.30 What actions must I take or am I authorized to take regardless of the property disposition method?

Regardless of the disposition method used:

(a) You must maintain property in a safe, secure, and cost-effective manner until final disposition.

(b) You have authority to use the abandonment/destruction provisions at any stage of the disposal process (see §§102-36.305 through 102-36.330 and 102-38.70 of this subchapter B).

(c) You must implement policies and procedures to remove sensitive or classified information from property prior to disposal. Agency-affixed markings should be removed, if at all possible, prior to personal property permanently leaving your agency's control.

(d) Government-owned personal property may only be used as authorized by your agency. Title to Government-owned personal property cannot be transferred to a non-Federal entity unless through official procedures specifically authorized by law.

110-35.30 Actions agencies must take, or are authorized to take, regardless of the property disposition method.

(a) Same as 102-35-30(a).

(b) Same as 102-35-30(b), 110-36.305 and 110-36.310.

(c) USDA agencies must follow all (USDA and Agency) procedures and guidelines for the proper sanitization of electronic equipment prior to disposal.

(d) Same as 102-35-30(d).

Note to 110-35.30(d): USDA has the following three options for transferring title of Government-owned personal property to a non-Federal entity:

1) E.O. 12999 - Computers for Learning (CFL);

2) P.L. 102-245 - Stevenson-Wydler Technology Act; and

3) P. L. 104-127, Section 923 of the FAIR Act - Managed by OPPM. All requests for transfers must be approved by the OPPM, Federal Excess Personal Property program manager.

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SUPPLEMENTING

CHAPTER 102 - FEDERAL MANAGEMENT REGULATION
SUBCHAPTER B - PERSONAL PROPERTY
PART 102-36 - DISPOSITION OF EXCESS PERSONAL PROPERTY

Subpart A - General Provisions

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102-36.10 What does this part cover?
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102-36.40 What definitions apply to this part?

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

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Subpart A - General Provisions

102-36.5 What is the governing authority for this part?

Section 121(c) of title 40, United States Code, authorizes the Administrator of General Services to prescribe regulations as he deems necessary to carry out his functions under subtitle I of title 40. Section 521 of title 40 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, Puerto Rico, the Federated States of Micronesia, the Marshall Islands, Palau, andhe 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.

110-36.25 Agency requests for deviation from the FMR or AGPMR.

See 110-2.80 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.

110-36.30 Agency responsibilities when disposing of excess personal property.

Each agency is responsible for implementing an orderly system to determine if personal property is excess. This includes reporting or otherwise making excess personal property available for departmental screening and acquiring excess and/or rehabilitated personal property to fulfill property needs. To ensure the best use of excess, agencies shall transfer personal property between their organizational units and other agencies of the Department. Department-wide screening is accomplished by reporting excess in the Department's Agency Asset Management System (AAMS).

Transfers will be accomplished on a first-come, first-served basis, except in the following cases which may require written justification from the requesting agency:

(a) Emergency need - evidence of an urgent or critical requirement.

(b) Avoidance of a new procurement - statement of certification.

When competing requests occur for either an emergency need or avoidance of a new procurement, the following factors will be considered, with the final decision always made in favor of Departmental needs:

(a) Direct agency use as opposed to use by a cost reimbursable contractor or project grantee.

(b) Transportation costs.

(c) Fair and equitable distribution - based on prior allocations.

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. Title 40 of the United States Code 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 102-38 of this chapter. 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.

110-36.35 Excess reporting requirements.

Agency offices within the Washington, D.C., Metropolitan area are required to transfer all excess personal property to the Centralized Excess Property Operation (CEPO). CEPO is responsible for performing all disposal requirements in accordance with applicable rules and regulations. Personal property is reported to CEPO using an AD-107 form, "Report of Transfer or other Disposition or Construction of Property." or a CEPO-1 form, "Report of Transfer, Services, or Rehabilitation of Property". Agencies must contact CEPO to arrange for the physical transfer of property. In cases where an agency wants to donate personal property under one of USDA's authorities, e.g. Computers for Learning (see 110-36.475), the property must be listed for internal screening prior to any transfer.

Excess personal property outside of the Washington, D.C., Metropolitan area must be reported in the Agency Asset Management System (AAMS). Once departmental screening has been accomplished, property data in AAMS is automatically fed into the Federal screening system GSAXcess®, unless the property was designated to be dropped after internal screening (e.g., for donation to an eligible recipient under one of USDA's authorities).

Whenever possible, concurrent agency/departmental screening will be accomplished, with priority given to the owning agency. Agencies should periodically monitor property listed in AAMS and GSAXcess® and follow up with the appropriate office on delinquent cases.

The Office of Procurement and Property Management (OPPM) and CEPO have the authority to waive departmental screening for excess personal property determined to have marginal reutilization potential.

When an agency or reporting office has a significantly high volume of excess to report (due to office closings, consolidations, etc.) agencies may submit a request to OPPM to bypass internal screening through AAMS and instead use emails from OPPM and AAMS for USDA wide redistribution screening.

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" is property not excess to the needs of the holding agency but eligible for replacement, which is exchanged or sold under the provisions of part 102-39 of this chapter 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).

“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, Puerto Rico, the Federated States of Micronesia, the Marshall Islands, Palau, and 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.

“GSAXcess®” is GSA’s website for reporting, searching and selecting excess personal property. For information on using GSAXcess®, access http://www.gsaxcess.gov.

“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.

“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.

(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 title 40 of the United States Code 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, GSAXcess®, 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 GSAXcess® 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 section 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 GSAXcess®, GSA's website for searching and selecting excess personal property. For information on GSAXcess®, access http://www.gsaxcess.gov.

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

(c) Check any available holding agency websites.

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

110-36.90 Searching for available excess personal property within USDA.

You should use the following methods to find out what excess personal property is available internally to USDA:

(a) Check USDA's Agency Asset Management System (AAMS) for excess being screened internally to USDA. USDA employees can gain access to AAMS through their agency's AAMS sub-National Utilization Officer (NUO) (click on this link to see a list of USDA's NUOs - http://gsa.gov/portal/content/100731#D. Individuals who are cooperators, contractors or eligible participants in one of USDA's Federal excess property programs, need to contact their USDA representative for access.

(b) Agencies, staff offices, and divisions located in the Washington, D.C., Metropolitan area, should contact the Centralized Excess Property Operation (CEPO) in Beltsville, Maryland, on the availability of excess. Employees should contact CEPO personnel for onsite visits. For more information, visit http://www.bsc.usda.gov/ or call the Beltsville Service Center at (301) 394-0400.

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).

110-36.95 Length of USDA internal screening.

Excess personal property is screened within USDA for 15 calendar days before being electronically fed to GSAXcess® for Federal screening. Property listed under the Exchange/Sale authority is screened for 3 calendar days. If expedited screening is required see 110.36.35.

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).

110-36.100 Start of USDA's internal screening period.

Departmental screening starts the day excess personal property has been entered into the Agency Asset Management System (AAMS).

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 (GSAXcess®) 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
Standard Forms	7 FMP	Ft Worth, TX 76102
Vessels, civilian	4 FD	Atlanta, GA 30365
Vessels, DOD	3 FPD	Philadelphia, PA 19107

110-36.125 Transfer of excess personal property within USDA.

Transfers of excess personal property between USDA agencies shall be accomplished using a Form AD-107 “Report of Transfer or Other Disposition or Construction of Property”. Electronic transfer forms generated by the Agency Asset Management System (AAMS) can be substituted for the Form AD-107.

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?

Normally, you have 15 calendar days from the date of GSA allocation to pick up the excess personal property for transfer, and you are responsible for scheduling and coordinating the property removal with the holding agency. If additional removal time is required, you are responsible for requesting such additional removal time.

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.

110-36.145 Direct transfers to another Federal agency.

Before directly transferring excess personal property to another Federal agency, you must first comply with internal screening requirements as prescribed in 110-36.35.

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).

110-36.155 Reporting requirements for excess personal property furnished to non-Federal recipients.

Annual reports for excess personal property furnished to non-Federal recipients, per 102-36.155(g), must be submitted to the Office of Procurement and Property Management (OPPM) no later than November 30 (see 110-36.295).

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.

110-36.180 Personal property under cooperative agreements.

The acquisition, accountability and control of personal property furnished or acquired under cooperative agreements will be handled in accordance with provisions of: OMB Circulars A-102 and A-110 (2 CFR part 215); 7 CFR parts 3015, 3016, 3019; and 7 U.S.C. 3318(b).

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.

110-36.185 Personal property under grants.

The acquisition, accountability and control of personal property furnished or acquired under grants will be handled in accordance with provisions of: OMB Circulars A-102 and A-110 (2 CFR part 215); 7 CFR parts 3015, 3016, 3019; and 7 U.S.C. 3318(b).

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 102-37 of this chapter, 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.

110-36.215 Reporting excess personal property.

All excess personal property must first be reported in USDA's Agency Asset Management System (AAMS) for internal screening (see 110.36.35) or sent to the Centralized Excess Property Operation (CEPO).

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.

110-36.220 Must we report all excess personal property for USDA screening?

All excess personal property is required to be reported for USDA screening, except property meeting the criteria of 102-36.220(b).

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 102-75 of this chapter.

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

(a) You must direct electronic submissions of excess personal property to GSAXcess® 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.

110-36.230 Reporting excess personal property.

All excess personal property must first be reported in USDA's Agency Asset Management System (AAMS) for internal screening (see 110.36.35) or sent to the Centralized Excess Property Operation (CEPO).

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.

110-36.255 Expedited USDA screening of excess personal property.

When expedited screening of excess personal property is required, USDA agencies must contact the Office of Procurement and Property Management (OPPM) with the request to shorten internal screening, along with a justification. USDA offices must contact the appropriate GSA regional office to shorten federal screening. OPPM authorizes acceleration of internal Departmental screening only and GSA authorizes acceleration of Federal screening.

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.

110-36.265 Competing requests for excess personal property.

See 110-36.30 when competing requests for the same item of property occur.

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.

110-36.295 USDA reporting requirements on the disposition of excess personal property.

Annual non-Federal recipients reports, required under FMR 102-36.295, must be furnished to the Office of Procurement and Property Management (OPPM) no later than November 30. OPPM furnishes a consolidated USDA report to the General Services Administration.

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, Office of Travel, Transportation, and Asset Management (MT), 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, Puerto Rico, the Federated States of Micronesia, the Marshall Islands, Palau, and 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).

110-36.300 Reporting requirements for personal property furnished to non-Federal recipients.

Agencies are encouraged to use electronic reporting methods, e.g., Computers for Learning transaction module. All property not reported through an approved electronic system must be reported annually to the Office of Procurement and Property Management (OPPM) no later than November 30. OPPM will furnish a consolidated USDA report to the General Services Administration.

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).

110-36.305 Abandonment or destruction requirements.

Written findings shall be documented on Form AD-112, "Report of Unserviceable, Lost, Stolen, Damaged or Destroyed Property". Items meeting abandonment or destruction criteria, under $500 (original acquisition cost), may be abandoned or destroyed immediately without an AD-112 or public notice, but a signed statement of accomplished action should be retained in your agency's files.

Abandonment and Destruction (A&D) is of great interest to auditors, so audit trails for all A&D disposals are extremely important. A written statement signed by a witness and an authorized official should be retained as a permanent record to satisfy the audit trail once A&D has been completed. Any items of property delivered to a landfill must have all markings removed and be rendered completely unserviceable. No employee may obtain for personal use, any departmental personal property authorized for A&D.

If personal property is to be cannibalized, an AD-112 must be completed and approved by an authorized official before action is taken on the property.

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.

110-36.310 Reviewing official for abandonment or destruction actions.

The reviewing official for abandonment or destruction actions shall be the agency official who is at least one level above the authorized official requesting the abandonment or destruction action.

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.

110-36.315 Abandonment or destruction of electronic equipment

Electronic equipment should be disposed of in accordance with established General Services Administration (GSA) and Departmental regulations. In the event that excess electronic equipment cannot be transferred, donated or sold, and an agency has made a determination to dispose of the equipment in accordance with abandonment and destruction (A&D) procedures (see 102-36.305 and 110-36.305), all environmental and economic concerns should be considered.

Certain types of electronic equipment may be subject to hazardous waste regulations under the Resource Conservation and Recovery Act. In cases where it is known that hazardous waste exists, or the potential for hazardous waste exists, agencies should turn the property over to a certified recycler. The disposal of any item to a disposal facility or a materials recovery operation must be in compliance with all applicable Federal, state and local environmental laws.

Due diligence should be exercised in disposing of computers and electronic equipment as waste in landfills permitted to receive such waste. GSA's Multiple Award Schedule 899, Environmental Services, supports agencies in meeting their environmental requirements and streamlines the contracting process by providing a faster, more cost efficient means to meet environmental requirements. Agencies are strongly encouraged to follow the guidelines in GSA Bulletin, FMR B-34, Disposal of Federal Electronic Assets.

When sending electronic equipment to a certified recycler, a receipt copy from the recycler may be used in place of the witness's signature on the AD-112 form.

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 102-37 of this chapter) 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 102-37 of this chapter.

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

Except as provided in section 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 101-38 of this chapter.

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:

(a) 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;

(b) Abandonment or destruction is required because of health, safety, or security reasons; or

(c) 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 the Department of Defense (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 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 data plate to GSA Property Management Branch (9FBP), San Francisco, CA 94102-3434, 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 Office of Travel, Transportation, and Asset Management (MT), GSA, 1800 F Street, NW, Washington, DC 20405. For additional instructions on reporting to FAIRS see Part 102-33 of this chapter.

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 102-33, of this chapter. 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 102-33 of this chapter.

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 40 U.S.C 555, 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 Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121-5206) and Executive Order 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.

110-36.370 Requirements for the use of excess personal property for disaster relief.

If the requirements of 102-36.370 have been met, agencies are not required to screen their excess personal property internally before loaning to State or local governments. Agencies should have procedures established for the recovery of such property before it is loaned. If the loan involves property that has already been reported excess in the Agency Asset Management System (AAMS), agencies may withdraw the item from the internal screening process.

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.

110.36.375 Firearm disposal.

All excess firearms and/or weapons must first be reported in USDA's Agency Asset Management System (AAMS) for internal screening (see 110.36.35).

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 chapter 7 of title 40 of the United States Code.

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.

110-36.385 Agency responsibilities in the disposal of foreign excess personal property.

Excess personal property located in a foreign country, which appears to have sufficient value so that its return to the United States would be economically feasible, shall be reported per requirements in 110-36.35 of this part for screening.

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 40 U.S.C. 527. Abandonment, destruction or donation actions must also comply with the laws of the country in which the property is located.

110-36.390 Sale of foreign excess personal property.

The sale of U.S. Government property in foreign countries involves certain special requirements and restrictions not applicable to the sale of such property in the United States. Where a determination is made to dispose of foreign excess personal property by sale, the agency should request the appropriate United States diplomatic or consular mission to sell the property. If the mission elects not to sell the property, then the agency shall dispose of such property by sale (see 102-38) or abandonment/destruction in accordance with 102-36.305 and 110-36.305.

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 40 U.S.C. 521-529, 549, and 551, the Federal agency, State agency, or donee receiving the property 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 102-42 of this chapter.

110.36.405 USDA's gift acceptance policy

See Departmental Regulation DR5200-003, Gift Acceptance Policy.

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, Property Management Division (FBP), Washington, DC 20406, for possible transfer, donation or sale in accordance with the provisions of Part 102-42 of this chapter.

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, 732 North Capitol Street, 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 102-39 of this chapter. 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 40 U.S.C. 548 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, or 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.

110-36.475 Transfers under the Computers for Learning or Stevenson-Wydler Technology Innovation Act of 1980.

Agencies must comply with internal screening requirements, as prescribed in 110-36.35, before transferring excess personal property under either of these authorities. See 7 CFR part 2812 for USDA specific regulations relating to the disposal of personal property pursuant to the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3710(i)).

Software

110-36.600 General.

Restrictions in the licensing agreement for software take precedence over Departmental disposal procedures (e.g., licensing agreement may require the purchaser to return the software to the vendor or to destroy the software). Non-reusable software purchases, will be flagged by the Procurement offices at some agencies, to ensure destruction at the end of its useful life.

Before declaring software excess, agencies should contact their Information Technology specialist to determine if the licensing agreement indicates direct disposal instructions. If there are no restrictions on the disposal of the software, it should be declared excess and will be reported for possible reuse following regulations contained in this part.

When reporting excess software, include the following information: Name of software; Type of operating system the software runs on (including any compatible systems); and Release number of the software.

110-36.605 Obsolete.

Software may be declared excess because it is obsolete. Obsolete software is software that is not the latest or penultimate version permissible per DR3170-001, “End User Workstation Standards”, or if not listed therein, the two most recent versions.

110-36.610 Transferring.

When transferring any software, agencies must ensure all copies of the software are transferred.

110-36.615 Destruction.

If it is determined that software is to be destroyed, the agency will remove any soft copies (and backup copies) of the software by deleting/erasing from the equipment on which the software was installed. Hard copies of the software (e.g., disks, tapes) will be destroyed by shredding. Validation of this process may be by bona fide ‘Certificate of Destruction’ or by completing Form AD-112, "Report of Unserviceable, Lost, Stolen, Damaged or Destroyed Property".

CHAPTER 110 - AGRICULTURE PROPERTY MANAGEMENT REGULATIONS
SUBCHAPTER B – PERSONAL PROPERTY
PART 110-37 - DONATION OF SURPLUS PERSONAL PROPERTY

SUPPLEMENTING

CHAPTER 102 - FEDERAL MANAGEMENT REGULATION
SUBCHAPTER B - PERSONAL PROPERTY
PART 102-37 - DONATION OF SURPLUS PERSONAL PROPERTY

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Subpart A - General Provisions

102-37.5 What does this part cover?

This part covers the donation of surplus Federal personal property located within a State, including foreign excess personal property returned to a State for handling as surplus property. For purposes of this part, the term State includes any of the 50 States, as well as the District of Columbia, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands.

102-37.10 What is the primary governing authority for this part?

Section 549 of title 40, United States Code, gives the General Services Administration (GSA) discretionary authority to prescribe the necessary regulations for, and to execute the surplus personal property donation program.

102-37.15 Who must comply with the provisions of this part?

You must comply with this part if you are a holding agency or a recipient of Federal surplus personal property approved by GSA for donation (e.g., a State agency for surplus property (SASP) or a public airport).

102-37.20 How do we request a deviation from this part 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.

110-37.20 Agency requests for deviation from this part.

Agency requests for deviations from the requirements of this part must be submitted to the Office of Procurement and Property Management, Departmental Management.

Definitions

102-37.25 What definitions apply to this part?

The following definitions apply to this part:

"Allocation means the process by which GSA identifies the SASP to receive surplus property on a fair and equitable basis, taking into account the condition of the property as well as the original acquisition cost of the property.

"Cannibalization" means to remove serviceable parts from one item of equipment in order to install them on another item of equipment.

"Donee" means any of the following entities that receive Federal surplus personal property through a SASP:

(1) A service educational activity (SEA).

(2) A public agency (as defined in Appendix C of this part) which uses surplus personal property to carry out or promote one or more public purposes. (Public airports are an exception and are only considered donees when they elect to receive surplus property through a SASP, but not when they elect to receive surplus property through the Federal Aviation Administration as discussed in subpart F of this part.)

(3) An eligible nonprofit tax-exempt educational or public health institution (including a provider of assistance to homeless or impoverished families or individuals).

(4) A State or local government agency, or a nonprofit organization or institution, that receives funds appropriated for a program for older individuals.

"Holding agency" means the executive agency having accountability for, and generally possession of, the property involved.

"Period of restriction" means the period of time for keeping donated property in use for the purpose for which it was donated.

"Screening" means the process of physically inspecting property or reviewing lists or reports of property to determine whether property is usable or needed for donation purposes.

"Service educational activity (SEA)" means any educational activity designated by the Secretary of Defense as being of special interest to the armed forces; e.g., maritime academies or military, naval, Air Force, or Coast Guard preparatory schools.

"Standard Form (SF) 123, Transfer Order Surplus Personal Property" means the document used to request and document the transfer of Federal surplus personal property for donation purposes.

"State" means one of the 50 States, the District of Columbia, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands.

"State agency for surplus property (SASP)" means the agency designated under State law to receive Federal surplus personal property for distribution to eligible donees within the State as provided for in 40 U.S.C. 549.

"Surplus personal property (surplus property)" means excess personal property (as defined in section 102-36.40 of this chapter) not required for the needs of any Federal agency, as determined by GSA.

"Surplus release date" means the date on which Federal utilization screening of excess personal property has been completed, and the property is available for donation.

"Transferee" means a public airport receiving surplus property from a holding agency through the Federal Aviation Administration, or a SASP.

Donation Overview

102-37.30 When does property become available for donation?

Excess personal property becomes available for donation the day following the surplus release date. This is the point at which the screening period has been completed without transfer to a Federal agency or other eligible recipient, and the GSA has determined the property to be surplus.

102-37.35 Who handles the donation of surplus property?

(a) The SASPs handle the donation of most surplus property to eligible donees in their States in accordance with this part.

(b) The GSA handles the donation of surplus property to public airports under a program administered by the Federal Aviation Administration (FAA) (see subpart F of this part). The GSA may also donate to the American National Red Cross surplus property that was originally derived from or through the Red Cross (see subpart G of this part).

(c) Holding agencies may donate surplus property that they would otherwise abandon or destroy directly to public bodies in accordance with subpart H of this part.

102-37.40 What type of surplus property is available for donation?

All surplus property (including property held by working capital funds established under 10 U.S.C. 2208 or in similar funds) is available for donation to eligible recipients, except for property in the following categories:

(a) Agricultural commodities, food, and cotton or woolen goods determined from time to time by the Secretary of Agriculture to be commodities requiring special handling with respect to price support or stabilization.

(b) Property acquired with trust funds (e.g., Social Security Trust Funds).

(c) Non-appropriated fund property.

(d) Naval vessels of the following categories: Battleships, cruisers, aircraft carriers, destroyers, and submarines.

(e) Vessels of 1500 gross tons or more which the Maritime Administration determines to be merchant vessels or capable of conversion to merchant use.

(f) Records of the Federal Government.

(g) Property that requires reimbursement upon transfer (such as abandoned or other unclaimed property that is found on premises owned or leased by the Government).

(h) Controlled substances.

(i) Items as may be specified from time to time by the GSA Office of Governmentwide Policy.

102-37.45 How long is property available for donation screening?

Entities authorized to participate in the donation program may screen property, concurrently with Federal agencies, as soon as the property is reported as excess up until the surplus release date. The screening period is normally 21 calendar days, except as noted in section 102-36.95 of this chapter.

102-37.50 What is the general process for requesting surplus property for donation?

The process for requesting surplus property for donation varies, depending on who is making the request.

(a) Donees should submit their requests for property directly to the appropriate SASP.

(b) SASPs and public airports should submit their requests to the appropriate GSA regional office. Requests must be submitted on a Standard Form (SF) 123, Transfer Order Surplus Personal Property, or its electronic equivalent. Public airports must have FAA certify their transfer requests prior to submission to GSA for approval. GSA may ask SASPs or public airports to submit any additional information required to support and justify transfer of the property.

(c) The American National Red Cross should submit requests to GSA as described in subpart G of this part when obtaining property under the authority of 40 U.S.C. 551.

(d) Public bodies, when seeking to acquire property that is being abandoned or destroyed, should follow rules and procedures established by the donor agency (see subpart H of this part).

102-37.55 Who pays for transportation and other costs associated with a donation?

The receiving organization (the transferee) is responsible for any packing, shipping, or transportation charges associated with the transfer of surplus property for donation. Those costs, in the case of SASPs, may be passed on to donees that receive the property.

102-37.60 How much time does a transferee have to pick up or remove surplus property from holding agency premises?

The transferee (or the transferee's agent) must remove property from the holding agency premises within 15 calendar days after being notified that the property is available for pickup, unless otherwise coordinated with the holding agency. If the transferee decides prior to pickup or removal that it no longer needs the property, it must notify the GSA regional office that approved the transfer request.

102-37.65 What happens to surplus property that has been approved for transfer when the prospective transferee decides it cannot use the property and declines to pick it up?

When a prospective transferee decides it cannot use surplus property that has already been approved for transfer and declines to pick it up, the GSA regional office will advise any other SASP or public airport known to be interested in the property to submit a transfer request. If there is no transfer interest, GSA will release the property for other disposal.

102-37.70 How should a transferee account for the receipt of a larger or smaller number of items than approved by GSA on the SF 123?

When the quantity of property received doesn't agree with that approved by GSA on the SF 123, the transferee should handle the overage or shortage as follows:

If □□□	And □□□	Then □□□
(a) More property is received than was approved by GSA for transfer.	The known or estimated acquisition cost of the line item(s) involved is $500 or more.	Submit a SF 123 for the difference to GSA (Identify the property as an overage and include the original transfer order number.)[1]
(b) Less property is received than was approved by GSA for transfer.	The acquisition cost of the missing item(s) is $500 or more.	Submit a shortage report to GSA, with a copy to the holding agency[1]
(c) The known or estimated acquisition cost of the property is less than $500.		Annotate on your receiving and inventory records, a description of the property, its known or estimated acquisition cost, and the name of the holding agency.

[1]Submit the SF 123 or shortage report to the GSA approving office within 30 calendar days of the date of transfer.

102-37.75 What should be included in a shortage report?

The shortage report should include:

(a) The name and address of the holding agency;

(b) All pertinent GSA and holding agency control numbers, in addition to the original transfer order number; and

(c) A description of each line item of property, the condition code, the quantity and unit of issue, and the unit and total acquisition cost.

102-37.80 What happens to surplus property that isn't transferred for donation?

Surplus property not transferred for donation is generally offered for sale under the provisions of Part 102-38 of this chapter. Under the appropriate circumstances (see 102-36.305 of this chapter), such property might be abandoned or destroyed.

102-37.85 Can surplus property being offered for sale be withdrawn and approved for donation?

Yes, surplus property being offered for sale may be withdrawn for donation if approved by GSA. GSA will not approve requests for the withdrawal of property that has been advertised or listed on a sales offering if that withdrawal would be harmful to the overall outcome of the sale. GSA will only grant such requests prior to sales award, since an award is binding.

Subpart B - General Services Administration (GSA)

102-37.90 What are GSA's responsibilities in the donation of surplus property?

The General Services Administration (GSA) is responsible for supervising and directing the disposal of surplus personal property. In addition to issuing regulatory guidance for the donation of such property, GSA:

(a) Determines when property is surplus to the needs of the Government;

(b) Allocates and transfers surplus property on a fair and equitable basis to State agencies for surplus property (SASPs) for further distribution to eligible donees;

(c) Oversees the care and handling of surplus property while it is in the custody of a SASP;

(d) Approves all transfers of surplus property to public airports, pursuant to the appropriate determinations made by the Federal Aviation Administration (see subpart F of this part);

(e) Donates to the American National Red Cross property (generally blood plasma and related medical materials) originally provided by the Red Cross to a Federal agency, but that has subsequently been determined surplus to Federal needs (see subpart G of this part);

(f) Approves, after consultation with the holding agency, foreign excess personal property to be returned to the United States for donation purposes;

(g) Coordinates and controls the level of SASP and donee screening at Federal installations;

(h) Imposes appropriate conditions on the donation of surplus property having characteristics that require special handling or use limitations (see 102-37.455); and

(i) Keeps track of and reports on Federal donation programs (see §102.37.105).

102-37.95 How will GSA resolve competing transfer requests?

In case of requests from two or more SASPs, GSA will use the allocating criteria in 102-37.100. When competing requests are received from public airports and SASPs, GSA will transfer property fairly and equitably, based on such factors as need, proposed use, and interest of the holding agency in having the property donated to a specific public airport.

102-37.100 What factors will GSA consider in allocating surplus property among SASPs?

GSA allocates property among the SASPs on a fair and equitable basis using the following factors:

(a) Extraordinary needs caused by disasters or emergency situations.

(b) Requests from the Department of Defense (DOD) for DOD-generated property to be allocated through a SASP for donation to a specific service educational activity.

(c) Need and usability of property, as reflected by requests from SASPs. GSA will also give special consideration to requests transmitted through the SASPs by eligible donees for specific items of property. (Requests for property to be used as is will be given preference over cannibalization requests.)

(d) States in greatest need of the type of property to be allocated where the need is evidenced by a letter of justification from the intended donee.

(e) Whether a SASP has already received similar property in the past, and how much.

(f) Past performance of a SASP in effecting timely pickup or removal of property approved for transfer and making prompt distribution of property to eligible donees.

(g) The property's condition and its original acquisition cost.

(h) Relative neediness of each State based on the State's population and per capita income.

Subpart C - Holding Agency

102-37.110 What are a holding agency's responsibilities in the donation of surplus property?

Your donation responsibilities as a holding agency begin when you determine that property is to be declared excess. You must then:

(a) Let GSA know if you have a donee in mind for foreign gift items or airport property, as provided for in §§102-37.525 and 102-42.95(h) of this chapter;

(b) Cooperate with all entities authorized to participate in the donation program and their authorized representatives in locating, screening, and inspecting excess or surplus property for possible donation;

(c) Set aside or hold surplus property from further disposal upon notification of a pending transfer for donation; (If GSA does not notify you of a pending transfer within 5 calendar days following the surplus release date, you may proceed with the sale or other authorized disposal of the property.)

(d) Upon receipt of a GSA-approved transfer document, promptly ship or release property to the transferee (or the transferee's designated agent) in accordance with pickup or shipping instructions on the transfer document;

(e) Notify the approving GSA regional office if surplus property to be picked up is not removed within 15 calendar days after you notify the transferee (or its agent) of its availability. (GSA will advise you of further disposal instructions.); and

(f) Perform and bear the cost of care and handling of surplus property pending its disposal, except as provided in section 102-37.115.

102-37.115 May a holding agency be reimbursed for costs incurred incident to a donation?

Yes, you, as a holding agency, may charge the transferee for the direct costs you incurred incident to a donation transfer, such as your packing, handling, crating, and transportation expenses. However, you may not include overhead or administrative costs in these charges.

102-37.120 May a holding agency donate surplus property directly to eligible non-Federal recipients without going through GSA?

Generally, a holding agency may not donate surplus property directly to eligible non-Federal recipients without going through GSA, except for the situations listed in section 102-37.125.

102-37.125 What are some donations that do not require GSA's approval?

(a) Some donations of surplus property that do not require GSA's approval are:

(1) Donations of condemned, obsolete, or other specified material by a military department or the Coast Guard to recipients eligible under 10 U.S.C. 2572, 10 U.S.C. 7306, 10 U.S.C. 7541, 10 U.S.C. 7545, and 14 U.S.C. 641a (see Appendix A of this part for details). However, such property must first undergo excess Federal and surplus donation screening as required in this part and Part 102-36 of this chapter;

(2) Donations by holding agencies to public bodies under subpart H of this part;

(3) Donations by the Small Business Administration (SBA) to small disadvantaged businesses under 13 CFR part 124 (although collaboration and agreement between the SBA, SASPs, and GSA is encouraged); and

(4) Donations by holding agencies of law enforcement canines to their handlers under 40 U.S.C. 555.

(b) You may also donate property directly to eligible non-Federal recipients under other circumstances if you have statutory authority to do so. All such donations must be included on your annual report to GSA under section 102-36.300 of this chapter.

Subpart D - State Agency for Surplus Property (SASP)

102-37.130 What are a SASP's responsibilities in the donation of surplus property?

As a SASP, your responsibilities in the donation of surplus property are to:

(a) Determine whether or not an entity seeking to obtain surplus property is eligible for donation as a:

(1) Public agency;

(2) Nonprofit educational or public health institution; or

(3) Program for older individuals.

(b) Distribute surplus property fairly, equitably, and promptly to eligible donees in your State based on their relative needs and resources, and ability to use the property, and as provided in your State plan of operation.

(c) Enforce compliance with the terms and conditions imposed on donated property.

102-37.135 How does a SASP become eligible to distribute surplus property to donees?

In order to receive transfers of surplus property, a SASP must:

(a) Have a GSA-approved State plan of operation; and

(b) Provide the certifications and agreements as set forth in §§102-37.200 and 102-37.205.

State Plan of Operation

102-37.140 What is a State plan of operation?

A State plan of operation is a document developed under State law and approved by GSA in which the State sets forth a plan for the management and administration of the SASP in the donation of property.

102-37.145 Who is responsible for developing, certifying, and submitting the plan?

The State legislature must develop the plan. The chief executive officer of the State must submit the plan to the Administrator of General Services for acceptance and certify that the SASP is authorized to:

(a) Acquire and distribute property to eligible donees in the State;

(b) Enter into cooperative agreements; and

(c) Undertake other actions and provide other assurances as are required by 40 U.S.C. 549(e) and set forth in the plan.

102-37.150 What must a State legislature include in the plan?

The State legislature must ensure the plan conforms to the provisions of 40 U.S.C. 549(e) and includes the information and assurances set forth in Appendix B of this part. It may also include in the plan other provisions not inconsistent with the purposes of title 40 of the United States Code and the requirements of this part.

102-37.155 When does a plan take effect?

The plan takes effect on the date GSA notifies the chief executive officer of the State that the plan is approved.

102-37.160 Must GSA approve amendments or modifications to the plan?

Yes, GSA must approve amendments or modifications to the plan.

102-37.165 Do plans or major amendments require public notice?

Yes, proposed plans and major amendments to existing plans require general notice to the public for comment. A State must publish a general notice of the plan or amendment at least 60 calendar days in advance of filing the proposal with GSA and provide interested parties at least 30 calendar days to submit comments before filing the proposal.

102-37.170 What happens if a SASP does not operate in accordance with its plan?

If a SASP does not operate in accordance with its plan, GSA may withhold allocation and transfer of surplus property until the nonconformance is corrected.

Screening and Requesting Property

102-37.175 How does a SASP find out what property is potentially available for donation?

(a) A SASP may conduct onsite screening at various Federal facilities, contact or submit want lists to GSA, or use GSA's or other agencies' computerized inventory system to electronically search for property that is potentially available for donation (see section 102-36.90 for information on GSAXcess).

(b) For the SASP (or a SASP's representative) to perform onsite screening, the screener must coordinate the onsite visit and screening with the individual holding agency or organization. The screener should ascertain the identification required and any special procedures for access to the facility or location.

102-37.180 [Reserved]

102-37.185 [Reserved]

102-37.190 What records must a SASP maintain on authorized screeners?

You must maintain a current record of all individuals authorized to screen for your SASP, including their names, addresses, telephone numbers, qualifications to screen, and any additional identifying information such as driver's license or social security numbers. In the case of donee screeners, you should place such records in the donee's eligibility file and review for currency each time a periodic review of the donee's file is undertaken.

102-37.195 Does a SASP have to have a donee in mind to request surplus property?

Generally yes, you should have a firm requirement or an anticipated demand for any property that you request.

102-37.200 What certifications must a SASP make when requesting surplus property for donation?

When requesting or applying for property, you must certify that:

(a) You are the agency of the State designated under State law that has legal authority under 40 U.S.C. 549 and GSA regulations, to receive property for distribution within the State to eligible donees as defined in this part.

(b) No person with supervisory or managerial duties in your State's donation program is debarred, suspended, ineligible, or voluntarily excluded from participating in the donation program.

(c) The property is usable and needed within the State by:

(1) A public agency for one or more public purposes.

(2) An eligible nonprofit organization or institution which is exempt from taxation under section 501 of the Internal Revenue Code (26 U.S.C. 501), for the purpose of education or public health (including research for any such purpose).

(3) An eligible nonprofit activity for programs for older individuals.

(4) A service educational activity (SEA), for DOD-generated property only.

(d) When property is picked up by, or shipped to, your SASP, you have adequate and available funds, facilities, and personnel to provide accountability, warehousing, proper maintenance, and distribution of the property.

(e) When property is distributed by your SASP to a donee, or when delivery is made directly from a holding agency to a donee pursuant to a State distribution document, you have determined that the donee acquiring the property is eligible within the meaning of the Property Act and GSA regulations, and that the property is usable and needed by the donee.

102-37.205 What agreements must a SASP make?

With respect to surplus property picked up by or shipped to your SASP, you must agree to the following:

(a) You will make prompt statewide distribution of such property, on a fair and equitable basis, to donees eligible to acquire property under 40 U.S.C. 549 and GSA regulations. You will distribute property only after such eligible donees have properly executed the appropriate certifications and agreements established by your SASP and/or GSA.

(b) Title to the property remains in the United States Government although you have taken possession of it. Conditional title to the property will pass to the eligible donee when the donee executes the required certifications and agreements and takes possession of the property.

(c) You will:

(1) Promptly pay the cost of care, handling, and shipping incident to taking possession of the property.

(2) During the time that title remains in the United States Government, be responsible as a bailee for the property from the time it is released to you or to the transportation agent you have designated.

(3) In the event of any loss of or damage to any or all of the property during transportation or storage at a place other than a place under your control, take the necessary action to obtain restitution (fair market value) for the Government. In the event of loss or damage due to negligence or willful misconduct on your part, repair, replace, or pay to the GSA the fair market value of any such property, or take such other action as the GSA may direct.

(d) You may retain property to perform your donation program functions, but only when authorized by GSA in accordance with the provisions of a cooperative agreement entered into with GSA.

(e) When acting under an interstate cooperative distribution agreement (see 102-37.335) as an agent and authorized representative of an adjacent State, you will:

(1) Make the certifications and agreements required in 102-37.200 and this section on behalf of the adjacent SASP.

(2) Require the donee to execute the distribution documents of the State in which the donee is located.

(3) Forward copies of the distribution documents to the corresponding SASP.

(f) You will not discriminate on the basis of race, color, national origin, sex, age, or handicap in the distribution of property, and will comply with GSA regulations on nondiscrimination as set forth in part 101-4, subparts 101-6.2, and 101-8.3 of this title.

(g) You will not seek to hold the United States Government liable for consequential or incidental damages or the personal injuries, disabilities, or death to any person arising from the transfer, donation, use, processing, or final disposition of this property. The Government's liability in any event is limited in scope to that provided for by the Federal Tort Claims Act (28 U.S.C. 2671, et seq.).

102-37.210 Must a SASP make a drug-free workplace certification when requesting surplus property for donation?

No, you must certify that you will provide a drug-free workplace only as a condition for retaining surplus property for SASP use. Drug-free workplace certification requirements are found at part 105-68, subpart 105-68.6, of this title.

102-37.215 When must a SASP make a certification regarding lobbying?

You are subject to the anti-lobbying certification and disclosure requirements in part 105-69 of this title when all of the following conditions apply:

(a) You have entered into a cooperative agreement with GSA that provides for your SASP to retain surplus property for use in performing donation functions or any other cooperative agreement.

(b) The cooperative agreement was executed after December 23, 1989.

(c) The fair market value of the property requested under the cooperative agreement is more than $100,000.

Justifying Special Transfer Requests

102-37.220 Are there special types of surplus property that require written justification when submitting a transfer request?

Yes, a SASP must obtain written justification from the intended donee, and submit it to GSA along with the transfer request, prior to allocation of:

(a) Aircraft and vessels covered by section 102-37.455;

(b) Items requested specifically for cannibalization;

(c) Foreign gifts and decorations (see Part 102-42 of this chapter);

(d) Items containing 50 parts per million or greater of polychlorinated biphenyl (see part 101-42 of this title);

(e) Firearms as described in part 101-42 of this title; and

(f) Any item on which written justification will assist GSA in making allocation to States with the greatest need.

102-37.225 What information or documentation must a SASP provide when requesting a surplus aircraft or vessel?

(a) For each SF 123 that you submit to GSA for transfer of a surplus aircraft or vessel covered by 102-37.455 include:

(1) A letter of intent, signed and dated by the authorized representative of the proposed donee setting forth a detailed plan of utilization for the property (see 102-37.230 for information a donee has to include in the letter of intent); and

(2) A letter, signed and dated by you, confirming and certifying the applicant's eligibility and containing an evaluation of the applicant's ability to use the aircraft or vessel for the purpose stated in its letter of intent and any other supplemental information concerning the needs of the donee which supports making the allocation.

(b) For each SF 123 that GSA approves, you must include:

(1) Your distribution document, signed and dated by the authorized donee representative; and

(2) A conditional transfer document, signed by you and the intended donee, and containing the special terms and conditions prescribed by GSA.

102-37.230 What must a letter of intent for obtaining surplus aircraft or vessels include?

A letter of intent for obtaining surplus aircraft or vessels must provide:

(a) A description of the aircraft or vessel requested. If the item is an aircraft, the description must include the manufacturer, date of manufacture, model, and serial number. If the item is a vessel, it must include the type, name, class, size, displacement, length, beam, draft, lift capacity, and the hull or registry number, if known;

(b) A detailed description of the donee's program and the number and types of aircraft or vessels it currently owns;

(c) A detailed description of how the aircraft or vessel will be used, its purpose, how often and for how long. If an aircraft is requested for flight purposes, the donee must specify a source of pilot(s) and where the aircraft will be housed. If an aircraft is requested for cannibalization, the donee must provide details of the cannibalization process (time to complete the cannibalization process, how recovered parts are to be used, method of accounting for usable parts, disposition of unsalvageable parts, etc.) If a vessel is requested for waterway purposes, the donee must specify a source of pilot(s) and where the vessel will be docked. If a vessel is requested for permanent docking on water or land, the donee must provide details of the process, including the time to complete the process; and

(d) Any supplemental information (such as geographical area and population served, number of students enrolled in educational programs, etc.) supporting the donee's need for the aircraft or vessel.

102-37.235 What type of information must a SASP provide when requesting surplus property for cannibalization?

When a donee wants surplus property to cannibalize, include the following statement on the SF 123: "Line Item Number(s) _____ requested for cannibalization." In addition to including this statement, provide a detailed justification concerning the need for the components or accessories and an explanation of the effect removal will have on the item. GSA will approve requests for cannibalization only when it is clear from the justification that disassembly of the item for use of its component parts will provide greater potential benefit than use of the item in its existing form.

102-37.240 How must a transfer request for surplus firearms be justified?

To justify a transfer request for surplus firearms, the requesting SASP must obtain and submit to GSA a letter of intent from the intended donee that provides:

(a) Identification of the donee applicant, including its legal name and complete address and the name, title, and telephone number of its authorized representative;

(b) The number of compensated officers with the power to apprehend and to arrest;

(c) A description of the firearm(s) requested;
(d) Details on the planned use of the firearm(s); and
(e) The number and types of donated firearms received during the previous 12 months through any other Federal program.

Custody, Care, and Safekeeping

102-37.245 What must a SASP do to safeguard surplus property in its custody?

To safeguard surplus property in your custody, you must provide adequate protection of property in your custody, including protection against the hazards of fire, theft, vandalism, and weather.

102-37.250 What actions must a SASP take when it learns of damage to or loss of surplus property in its custody?

If you learn that surplus property in your custody has been damaged or lost, you must always notify GSA and notify the appropriate law enforcement officials if a crime has been committed.

102-37.255 Must a SASP insure surplus property against loss or damage?

No, you are not required to carry insurance on Federal surplus property in your custody. However, if you elect to carry insurance and the insured property is lost or damaged, you must submit a check made payable to GSA for any insurance proceeds received in excess of your actual costs of acquiring and rehabilitating the property prior to its loss, damage, or destruction.

Distribution of Property

102-37.260 How must a SASP document the distribution of surplus property?

All SASPs must document the distribution of Federal surplus property on forms that are prenumbered, provide for donees to indicate the primary purposes for which they are acquiring property, and include the:
(a) Certifications and agreements in §§102-37.200 and 102-37.205; and
(b) Period of restriction during which the donee must use the property for the purpose for which it was acquired.

102-37.265 May a SASP distribute surplus property to eligible donees of another State?

Yes, you may distribute surplus property to eligible donees of another State, if you and the other SASP determine that such an arrangement will be of mutual benefit to you and the donees concerned. Where such determinations are made, an interstate distribution cooperative agreement must be prepared as prescribed in 102-37.335 and submitted to the appropriate GSA regional office for approval. When acting under an interstate distribution cooperative agreement, you must:

(a) Require the donee recipient to execute the distribution documents of its home SASP; and

(b) Forward copies of executed distribution documents to the donee's home SASP.

102-37.270 May a SASP retain surplus property for its own use?

Yes, you can retain surplus property for use in operating the donation program, but only if you have a cooperative agreement with GSA that allows you to do so. You must obtain prior GSA approval before using any surplus property in the operation of the SASP. Make your needs known by submitting a listing of needed property to the appropriate GSA regional office for approval. GSA will review the list to ensure that it is of the type and quantity of property that is reasonably needed and useful in performing SASP operations. GSA will notify you within 30 calendar days whether you may retain the property for use in your operations. Title to any surplus property GSA approves for your retention will vest in your SASP. You must maintain separate records for such property.

Service and Handling Charges

102-37.275 May a SASP accept personal checks and non-official payment methods in payment of service charges?

No, service charge payments must readily identify the donee institution as the payer (or the name of the parent organization when that organization pays the operational expenses of the donee). Personal checks, personal cashier checks, personal money orders, and personal credit cards are not acceptable.

102-37.280 How may a SASP use service charge funds?

Funds accumulated from service charges may be deposited, invested, or used in accordance with State law to:

(a) Cover direct and reasonable indirect costs of operating the SASP;
(b) Purchase necessary equipment for the SASP;
(c) Maintain a reasonable working capital reserve;
(d) Rehabilitate surplus property, including the purchase of replacement parts;
(e) Acquire or improve office or distribution center facilities; or
(f) Pay for the costs of internal and external audits.

102-37.285 May a SASP use service charge funds to support non-SASP State activities and programs?

No, except as provided in 102-37.495, you must use funds collected from service charges, or from other sources such as proceeds from sale of undistributed property or funds collected from compliance cases, solely for the operation of the SASP and the benefit of participating donees.

Disposing of Undistributed Property

102-37.290 What must a SASP do with surplus property it cannot donate?

(a) As soon as it becomes clear that you cannot donate the surplus property, you should first determine whether or not the property is usable.

(1) If you determine that the undistributed surplus property is not usable, you should seek GSA approval to abandon or destroy the property in accordance with 102-37.320.

(2) If you determine that the undistributed surplus property is usable, you should immediately offer it to other SASPs. If other SASPs cannot use the property, you should promptly report it to GSA for redisposal (i.e., disposition through retransfer, sale, or other means).

(b) Normally, any property not donated within a 1-year period should be processed in this manner.

102-37.295 Must GSA approve a transfer between SASPs?

Yes, the requesting SASP must submit a SF 123, Transfer Order Surplus Personal Property, to the GSA regional office in which the releasing SASP is located. GSA will approve or disapprove the request within 30 calendar days of receipt of the transfer order.

102-37.300 What information must a SASP provide GSA when reporting unneeded usable property for disposal?

When reporting unneeded usable property that is not required for transfer to another SASP, provide GSA with the:

(a) Best possible description of each line item of property, its current condition code, quantity, unit and total acquisition cost, State serial number, demilitarization code, and any special handling conditions;

(b) Date you received each line item of property listed; and

(c) Certification of reimbursement requested under section 102-37.315.

102-37.305 May a SASP act as GSA's agent in selling undistributed surplus property (either as usable property or scrap)?

Yes, you may act as GSA's agent in selling undistributed surplus property (either as usable property or scrap) if an established cooperative agreement with GSA permits such an action. You must notify GSA each time you propose to conduct a sale under the cooperative agreement. You may request approval to conduct a sale when reporting the property to GSA for disposal instructions. If no formal agreement exists, you may submit such an agreement at that time for approval.

102-37.310 What must a proposal to sell undistributed surplus property include?

(a) Your request to sell undistributed surplus property must include:

(1) The proposed sale date;

(2) A listing of the property;

(3) Location of the sale;

(4) Method of sale; and

(5) Proposed advertising to be used.

(b) If the request is approved, the GSA regional sales office will provide the necessary forms and instructions for you to use in conducting the sale.

102-37.315 What costs may a SASP recover if undistributed surplus property is retransferred or sold?

(a) When undistributed surplus property is transferred to a Federal agency or another SASP, or disposed of by public sale, you are entitled to recoup:

(1) Direct costs you initially paid to the Federal holding agency, including but not limited to, packing, preparation for shipment, and loading. You will not be reimbursed for actions following receipt of the property, including unloading, moving, repairing, preserving, or storage.

(2) Transportation costs you incurred, but were not reimbursed by a donee, for initially moving the property from the Federal holding agency to your distribution facility or other point of receipt. You must document and certify the amount of reimbursement requested for these costs.

(b) Reimbursable arrangements should be made prior to transfer of the property. In the case of a Federal transfer, GSA will secure agreement of the Federal agency to reimburse your authorized costs, and annotate the amount of reimbursement on the transfer document. You must coordinate and make arrangements for reimbursement when property is transferred to another SASP. If you and the receiving SASP cannot agree on an appropriate reimbursement charge, GSA will determine appropriate reimbursement. The receiving SASP must annotate the reimbursement amount on the transfer document prior to its being forwarded to GSA for approval.

(c) When undistributed property is disposed of by public sale, GSA must approve the amount of sales proceeds you may receive to cover your costs. Generally, this will not exceed 50 percent of the total sales proceeds.

102-37.320 Under what conditions may a SASP abandon or destroy undistributed surplus property?

(a) You may abandon or destroy undistributed surplus property when you have made a written finding 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. The abandonment or destruction finding must be sent to the appropriate GSA regional office for approval. You must include in the finding:

(1) The basis for the abandonment or destruction;
(2) A detailed description of the property, its condition, and total acquisition cost;
(3) The proposed method of destruction (burning, burying, etc.) or the abandonment location;
(4) A statement confirming that the proposed abandonment or destruction will not be detrimental or dangerous to public health or safety and will not infringe on the rights of other persons; and
(5) The signature of the SASP director requesting approval for the abandonment or destruction.

(b) GSA will notify you within 30 calendar days whether you may abandon or destroy the property. GSA will provide alternate disposition instructions if it disapproves your request for abandonment or destruction. If GSA doesn't reply to you within 30 calendar days of notification, the property may be abandoned or destroyed.

Cooperative Agreements

102-37.325 With whom and for what purpose(s) may a SASP enter into a cooperative agreement?

Section 549(f) of title 40, United States Code allows GSA, or Federal agencies designated by GSA, to enter into cooperative agreements with SASPs to carry out the surplus property donation program. Such agreements allow GSA, or the designated Federal agencies, to

use the SASP's property, facilities, personnel, or services or to furnish such resources to the SASP. For example:

(a) Regional GSA personal property management offices, or designated Federal agencies, may enter into a cooperative agreement to assist a SASP in distributing surplus property for donation. Assistance may include:

(1) Furnishing the SASP with available GSA or agency office space and related support such as office furniture and information technology equipment needed to screen and process property for donation.

(2) Permitting the SASP to retain items of surplus property transferred to the SASP that are needed by the SASP in performing its donation functions (see 102-37.270).

(b) Regional GSA personal property management offices may help the SASP to enter into agreements with other GSA or Federal activities for the use of Federal telecommunications service or federally-owned real property and related personal property.

(c) A SASP may enter into a cooperative agreement with GSA to conduct sales of undistributed property on behalf of GSA (see 102-37.305).

102-37.330 Must the costs of providing support under a cooperative agreement be reimbursed by the parties receiving such support?

The parties to a cooperative agreement must decide among themselves the extent to which the costs of the services they provide must be reimbursed. Their decision should be reflected in the cooperative agreement itself. As a general rule, the Economy Act (31 U.S.C. 1535) would require a Federal agency receiving services from a SASP to reimburse the SASP for those services. Since SASPs are not Federal agencies, the Economy Act would not require them to reimburse Federal agencies for services provided by such agencies. In this situation, the Federal agencies would have to determine whether or not their own authorities would permit them to provide services to SASPs without reimbursement. If a Federal agency is reimbursed by a SASP for services provided under a cooperative agreement, it must credit that payment to the fund or appropriation that incurred the related costs.

102-37.335 May a SASP enter into a cooperative agreement with another SASP?

Yes, with GSA's concurrence and where authorized by State law, a SASP may enter into an agreement with an adjacent State to act as its agent and authorized representative in disposing of surplus Federal property. Interstate cooperative agreements may be considered when donees, because of their geographic proximity to the property distribution centers of the adjoining State, could be more efficiently and economically serviced by surplus property facilities in the adjacent State. You and the other SASP must agree to the payment or reimbursement of service charges by the donee and you also must agree to the requirements of 102-37.205(e).

102-37.340 When may a SASP terminate a cooperative agreement?

You may terminate a cooperative agreement with GSA 60-calendar days after providing GSA with written notice. For other cooperative agreements with other authorized parties, you or the other party may terminate the agreement as mutually agreed. You must promptly notify GSA when such other agreements are terminated.

Audits and Reviews

102-37.345 When must a SASP be audited?

For each year in which a SASP receives $500,000 or more a year in surplus property or other Federal assistance, it must be audited in accordance with the Single Audit Act (31 U.S.C. 7501-7507) as implemented by Office of Management and Budget (OMB) Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" (for availability see 5 CFR 1310.3). GSA's donation program should be identified by Catalog of Federal Domestic Assistance number 39.003 when completing the required schedule of Federal assistance.

102-37.350 Does coverage under the single audit process in OMB Circular A-133 exempt a SASP from other reviews of its program?

No, although SASPs are covered under the single audit process in OMB Circular A-133, from time to time the General Accountabilty Office (GAO), GSA, or other authorized Federal activities may audit or review the operations of a SASP. GSA will notify the chief executive officer of the State of the reasons for a GSA audit. When requested, you must make available financial records and all other records of the SASP for inspection by representatives of GSA, GAO, or other authorized Federal activities.

102-37.355 What obligations does a SASP have to ensure that donees meet Circular A-133 requirements?

SASPs, if they donate $500,000 or more in Federal property to a donee in a fiscal year, must ensure that the donee has an audit performed in accordance with Circular A-133. If a donee receives less than $500,000 in donated property, the SASP is not expected to assume responsibility for ensuring the donee meets audit requirements, beyond making sure the donee is aware that the requirements do exist. It is the donee's responsibility to identify and determine the amount of Federal assistance it has received and to arrange for audit coverage.

Reports

102-37.360 What reports must a SASP provide to GSA?

(a) *Quarterly report on donations.* Submit a GSA Form 3040, State Agency Monthly Donation Report of Surplus Personal Property, to the appropriate GSA regional office by the 25th day of the month following the quarter being reported. (OMB Control Number 3090-0112 has been assigned to this form.) Forms and instructions for completing the form are available from your servicing GSA office.

(b) *Additional reports.* Make other reports GSA may require to carry out its discretionary authority to transfer surplus personal property for donation and to report to the Congress on the status and progress of the donation program.

Liquidating a SASP

102-37.365 What steps must a SASP take if the State decides to liquidate the agency?

Before suspending operations, a SASP must submit to GSA a liquidation plan that includes:

(a) Reasons for the liquidation;

(b) A schedule for liquidating the agency and the estimated date of termination;

(c) Method of disposing of property on hand under the requirements of this part;

(d) Method of disposing of the agency's physical and financial assets;

(e) Retention of all available records of the SASP for a 2-year period following liquidation; and

(f) Designation of another governmental entity to serve as the agency's successor in function until continuing obligations on property donated prior to the closing of the agency are fulfilled.

102-37.370 Do liquidation plans require public notice?

Yes, a liquidation plan constitutes a major amendment of a SASP's plan of operation and, as such, requires public notice.

Subpart E - Donations to Public Agencies, Service Educational Activities (SEAs), and Eligible Nonprofit Organizations

102-37.375 How is the pronoun "you" used in this subpart?

The pronoun "you," when used in this subpart, refers to the State agency for surplus property (SASP).

102-37.380 What is the statutory authority for donations of surplus Federal property made under this subpart?

The following statutes provide the authority to donate surplus Federal property to different types of recipients:

(a) Section 549(d) of title 40, United States Code authorizes surplus property under the control of the Department of Defense (DOD) to be donated, through SASPs, to educational activities which are of special interest to the armed services (referred to in this Part 102-37 as service educational activities or SEAs).

(b) Section 549(c)(3) of title 40, United States Code authorizes SASPs to donate surplus property to public agencies and to nonprofit educational or public health institutions, such as:

(1) Medical institutions.
(2) Hospitals.
(3) Clinics.
(4) Health centers.
(5) Drug abuse or alcohol treatment centers.
(6) Providers of assistance to homeless individuals.
(7) Providers of assistance to impoverished families and individuals.
(8) Schools.
(9) Colleges.
(10) Universities.
(11) Schools for the mentally disabled.
(12) Schools for the physically disabled.
(13) Child care centers.
(14) Radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations.
(15) Museums attended by the public.
(16) Libraries, serving free all residents of a community, district, State or region.
(17) Historic light stations as defined under section 308(e)(2) of the National Historic Preservation Act (16 U.S.C. 470w-7(e)(2)), including a historic light station conveyed under subsection (b) of that section, notwithstanding the number of hours that the historic light station is open to the public.

(c) Section 213 of the Older Americans Act of 1965, as amended (42 U.S.C. 3020d), authorizes donations of surplus property to State or local government agencies, or nonprofit organizations or institutions, that receive Federal funding to conduct programs for older individuals.

(d) Section549(c)(3)(C) of title 40, United States Code authorizes SASPs to donate property to veterans organizations, for purposes of providing services to veterans (as defined in section 101 of title 38). Eligible veterans organizations are those whose:

(1) Membership comprises substantially veterans; and

(2) Representatives are recognized by the Secretary of Veterans Affairs under section 5902 of title 38

Donee Eligibility

102-37.385 Who determines if a prospective donee applicant is eligible to receive surplus property under this subpart?

(a) For most public and nonprofit activities, the SASP determines if an applicant is eligible to receive property as a public agency, a nonprofit educational or public health institution, or for a program for older individuals. A SASP may request GSA assistance or guidance in making such determinations.

(b) For applicants that offer courses of instruction devoted to the military arts and sciences, the Defense Department will determine eligibility to receive surplus property through the SASP as a service educational activity or SEA.

102-37.390 What basic criteria must an applicant meet before a SASP can qualify it for eligibility?

To qualify for donation program eligibility through a SASP, an applicant must:

(a) Conform to the definition of one of the categories of eligible entities listed in 102-37.380 (see Appendix C of this part for definitions);

(b) Demonstrate that it meets any approval, accreditation, or licensing requirements for operation of its program;

(c) Prove that it is a public agency or a nonprofit and tax-exempt organization under section 501 of the Internal Revenue Code;

(d) Certify that it is not debarred, suspended, or excluded from any Federal program, including procurement programs; and

(e) Operate in compliance with applicable Federal nondiscrimination statutes.

102-37.395 How can a SASP determine whether an applicant meets any required approval, accreditation, or licensing requirements?

A SASP may accept the following documentation as evidence that an applicant has met established standards for the operation of its educational or health program:

(a) A certificate or letter from a nationally recognized accrediting agency affirming the applicant meets the agency's standards and requirements.

(b) The applicant's appearance on a list with other similarly approved or accredited institutions or programs when that list is published by a State, regional, or national accrediting authority.

(c) Letters from State or local authorities (such as a board of health or a board of education) stating that the applicant meets the standards prescribed for approved or accredited institutions and organizations.

(d) In the case of educational activities, letters from three accredited or State-approved institutions that students from the applicant institution have been and are being accepted.

(e) In the case of public health institutions, licensing may be accepted as evidence of approval, provided the licensing authority prescribes the medical requirements and standards for the professional and technical services of the institution.

(f) The awarding of research grants to the institution by a recognized authority such as the National Institutes of Health, the National Institute of Education, or by similar national advisory council or organization.

102-37.400 What type of eligibility information must a SASP maintain on donees?

In general, you must maintain the records required by your State plan to document donee eligibility (see Appendix B of this part). For SEAs, you must maintain separate records that include:

(a) Documentation verifying that the activity has been designated as eligible by DOD to receive surplus DOD property.

(b) A statement designating one or more donee representative(s) to act for the SEA in acquiring property.

(c) A listing of the types of property that are needed or have been authorized by DOD for use in the SEA's program.

102-37.405 How often must a SASP update donee eligibility records?

You must update donee eligibility records as needed, but no less than every 3 years, to ensure that all documentation supporting the donee's eligibility is current and accurate. Annually, you must update files for nonprofit organizations whose eligibility depends on annual appropriations, annual licensing, or annual certification. Particular care must be taken to ensure that all records relating to the authority of donee representatives to receive and receipt for property, or to screen property at Federal facilities, are current.

102-37.410 What must a SASP do if a donee fails to maintain its eligibility status?

If you determine that a donee has failed to maintain its eligibility status, you must terminate distribution of property to that donee, recover any usable property still under Federal restriction (as outlined in section 102-37.465), and take any other required compliance actions.

102-37.415 What should a SASP do if an applicant appeals a negative eligibility determination?

If an applicant appeals a negative eligibility determination, forward complete documentation on the appeal request, including your comments and recommendations, to the applicable GSA regional office for review and coordination with GSA headquarters. GSA's decision will be final.

Conditional Eligibility

102-37.420 May a SASP grant conditional eligibility to applicants who would otherwise qualify as eligible donees, but have been unable to obtain approval, accreditation, or licensing because they are newly organized or their facilities are not yet constructed?

You may grant conditional eligibility to such an applicant provided it submits a statement from any required approving, accrediting, or licensing authority confirming it will be approved, accredited, or licensed. Conditional eligibility may be granted for a limited and reasonable time, not to exceed one year.

102-37.425 May a SASP grant conditional eligibility to a not-for-profit organization whose tax-exempt status is pending?

No, under no circumstances may you grant conditional eligibility prior to receiving from the applicant a copy of a letter of determination by the Internal Revenue Service stating that the applicant is exempt from Federal taxation under section 501 of the Internal Revenue Code.

102-37.430 What property can a SASP make available to a donee with conditional eligibility?

You may only make available surplus property that the donee can use immediately. You may not make available property that will only be used at a later date, for example, after the construction of the donee's facility has been completed. If property is provided to the donee with conditional eligibility, and the conditional eligibility lapses (see 102-37.420), the property must be returned to the SASP for redistribution or disposal.

Terms and Conditions of Donation

102-37.435 For what purposes may donees acquire and use surplus property?

A donee may acquire and use surplus property only for the following authorized purposes:

(a) *Public purposes.* A public agency that acquires surplus property through a SASP must use such property to carry out or to promote one or more public purposes for the people it serves.

(b) *Educational and public health purposes, including related research.* A nonprofit educational or public health institution must use surplus property for education or public health, including research for either purpose and assistance to the homeless or impoverished. While this does not preclude the use of donated surplus property for a related or subsidiary purpose incident to the institution's overall program, the property may not be used for a nonrelated or commercial purpose.

(c) *Programs for older individuals.* An entity that conducts a program for older individuals must use donated surplus property to provide services that are necessary for the general welfare of older individuals, such as social services, transportation services, nutrition services, legal services, and multipurpose senior centers.

102-37.440 May donees acquire property for exchange?

No, a donee may not acquire property with the intent to sell or trade it for other assets.

102-37.445 What certifications must a donee make before receiving property?

Prior to a SASP releasing property to a donee, the donee must certify that:

(a) It is a public agency or a nonprofit organization meeting the requirements of the Property Act and/or regulations of GSA;

(b) It is acquiring the property for its own use and will use the property for authorized purposes;

(c) Funds are available to pay all costs and charges incident to the donation;

(d) It will comply with the nondiscrimination regulations issued under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), section 122 of title 40, United States Code, section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, title IX of the Education Amendments of 1972 (20 U.S.C. 1681-1688), as amended, and section 303 of the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107); and

(e) It isn't currently debarred, suspended, declared ineligible, or otherwise excluded from receiving the property.

102-37.450 What agreements must a donee make?

Before a SASP may release property to a donee, the donee must agree to the following conditions:

(a) The property is acquired on an "as is, where is" basis, without warranty of any kind, and it will hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the donation of the property, its use, or final disposition.

(b) It will return to the SASP, at its own expense, any donated property:

(1) That is not placed in use for the purposes for which it was donated within 1 year of donation; or

(2) Which ceases to be used for such purposes within 1 year after being placed in use.

(c) It will comply with the terms and conditions imposed by the SASP on the use of any item of property having a unit acquisition cost of $5,000 or more and any passenger motor vehicle or other donated item. (Not applicable to SEAs.)

(d) It agrees that, upon execution of the SASP distribution document, it has conditional title only to the property during the applicable period of restriction. Full title to the property will vest in the donee only after the donee has met all of the requirements of this part.

(e) It will comply with conditions imposed by GSA, if any, requiring special handling or use limitations on donated property.

(f) It will use the property for an authorized purpose during the period of restriction.

(g) It will obtain permission from the SASP before selling, trading, leasing, loaning, bailing, cannibalizing, encumbering or otherwise disposing of property during the period of restriction, or removing it permanently for use outside the State.

(h) It will report to the SASP on the use, condition, and location of donated property, and on other pertinent matters as the SASP may require from time to time.

(i) If an insured loss of the property occurs during the period of restriction, GSA or the SASP (depending on which agency has imposed the restriction) will be entitled to reimbursement out of the insurance proceeds of an amount equal to the unamortized portion of the fair market value of the damaged or destroyed item.

Special Handling or Use Conditions

102-37.455 On what categories of surplus property has GSA imposed special handling conditions or use limitations?

GSA has imposed special handling or processing requirements on the property discussed in this section. GSA may, on a case-by-case basis, prescribe additional restrictions for handling or using these items or prescribe special processing requirements on items in addition to those listed in this section.

(a) *Aircraft and vessels.* The requirements of this section apply to the donation of any fixed- or rotary-wing aircraft and donable vessels that are 50 feet or more in length, having a unit acquisition cost of $5,000 or more, regardless of the purpose for which donated. Such aircraft or vessels may be donated to public agencies and eligible nonprofit activities provided the aircraft

or vessel is not classified for reasons of national security and any lethal characteristics are removed. The following table provides locations of other policies and procedures governing aircraft and vessels:

For □ □ □	***See*** □ □ □
(1) Policies and procedures governing the donation of aircraft parts.	Part 102-33, subpart D of this chapter.
(2) Documentation needed by GSA to process requests for aircraft or vessels.	102-37.225.
(3) Special terms, conditions, and restrictions imposed on aircraft and vessels.	102-37.460.
(4) Guidelines on preparing letters of intent for aircraft or vessels.	102-37.230.

(b) *Alcohol.*

(1) When tax-free or specially denatured alcohol is requested for donation, the donee must have a special permit issued by the Assistant Regional Commissioner of the appropriate regional office, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice, in order to acquire the property. Include the ATF use-permit number on the SF 123, Transfer Order Surplus Personal Property.

(2) You may not store tax-free or specially denatured alcohol in SASP facilities. You must make arrangements for this property to be shipped or transported directly from the holding agency to the designated donee.

(c) *Hazardous materials, firearms, and property with unsafe or dangerous characteristics.* For hazardous materials, firearms, and property with unsafe or dangerous characteristics, see part 101-42 of this title.

(d) *Franked and penalty mail envelopes and official letterhead.* Franked and penalty mail envelopes and official letterhead may not be donated without the SASP certifying that all Federal Government markings will be obliterated before use.

102-37.460 What special terms and conditions apply to the donation of aircraft and vessels?

The following special terms and conditions apply to the donation of aircraft and vessels:

(a) There must be a period of restriction which will expire after the aircraft or vessel has been used for the purpose stated in the letter of intent (see 102-37.230) for a period of 5 years, except that the period of restriction for a combat-configured aircraft is in perpetuity.

(b) The donee of an aircraft must apply to the FAA for registration of an aircraft intended for flight use within 30 calendar days of receipt of the aircraft. The donee of a vessel must, within 30 calendar days of receipt of the vessel, apply for documentation of the vessel under applicable Federal, State, and local laws and must record each document with the U.S. Coast Guard at the port of documentation. The donee's application for registration or documentation must include a fully executed copy of the conditional transfer document and a copy of its letter of intent. The donee must provide the SASP and GSA with a copy of the FAA registration (and a copy of its FAA Standard Airworthiness Certificate if the aircraft is to be flown as a civil aircraft) or Coast Guard documentation.

(c) The aircraft or vessel must be used solely in accordance with the executed conditional transfer document and the plan of utilization set forth in the donee's letter of intent, unless the donee has amended the letter, and it has been approved in writing by the SASP and GSA and a copy of the amendment recorded with FAA or the U.S. Coast Guard, as applicable.

(d) In the event any of the terms and conditions imposed by the conditional transfer document are breached, title may revert to the Government. GSA may require the donee to return the aircraft or vessel or pay for any unauthorized disposal, transaction, or use.

(e) If, during the period of restriction, the aircraft or vessel is no longer needed by the donee, the donee must promptly notify the SASP and request disposal instructions. A SASP may not issue disposal instructions without the prior written concurrence of GSA.

(f) Military aircraft previously used for ground instruction and/or static display (Category B aircraft, as designated by DOD) or that are combat-configured (Category C aircraft) may not be donated for flight purposes.

(g) For all aircraft donated for nonflight use, the donee must, within 30 calendar days of receipt of the aircraft, turn over to the SASP the remaining aircraft historical records (except the records of the major components/life limited parts; e.g., engines, transmissions, rotor blades, etc., necessary to substantiate their reuse). The SASP in turn must transmit the records to GSA for forwarding to the FAA.

Release of Restrictions

102-37.465 May a SASP modify or release any of the terms and conditions of donation?

You may alter or grant releases from State-imposed restrictions, provided your State plan of operation sets forth the standards by which such actions will be taken. You may not grant releases from, or amendments or corrections to:

(a) The terms and conditions you are required by the Property Act to impose on the use of passenger motor vehicles and any item of property having a unit acquisition cost of $5,000 or more.

(b) Any special handling condition or use limitation imposed by GSA, except with the prior written approval of GSA.

(c) The statutory requirement that usable property be returned by the donee to the SASP if the property has not been placed in use for the purposes for which it was donated within 1 year of donation or ceases to be used by the donee for those purposes within 1 year of being placed in use, except that:

(1) You may grant authority to the donee to cannibalize property items subject to this requirement when you determine that such action will result in increased use of the property and that the proposed action meets the standards prescribed in your plan of operation.

(2) You may, with the written concurrence of GSA, grant donees:

(i) A time extension to place property into use if the delay in putting the property into use was beyond the control and without the fault or negligence of the donee.

(ii) Authority to trade in one donated item for one like item having similar use potential.

102-37.470 At what point may restrictions be released on property that has been authorized for cannibalization?

Property authorized for cannibalization must remain under the period of restriction imposed by the transfer/distribution document until the proposed cannibalization is completed. Components resulting from the cannibalization, which have a unit acquisition cost of $5,000 or more, must remain under the restrictions imposed by the transfer/distribution document. Components with a unit acquisition cost of less than $5,000 may be released upon cannibalization from the additional restrictions imposed by the State. However, these components must continue to be used or be otherwise disposed of in accordance with this part.

102-37.475 What are the requirements for releasing restrictions on property being considered for exchange?

GSA must consent to the exchange of donated property under Federal restrictions or special handling conditions. The donee must have used the donated item for its acquired purpose for a minimum of 6 months prior to being considered for exchange, and it must be demonstrated that the exchange will result in increased utilization value to the donee. As a condition of approval of the exchange, the item being exchanged must have remained in compliance with the terms and conditions of the donation. Otherwise, 102-37.485 applies. The item acquired by the donee must be:

(a) Made subject to the period of restriction remaining on the item exchanged; and
(b) Of equal or greater value than the item exchanged.

Compliance and Utilization

102-37.480 What must a SASP do to ensure that property is used for the purpose(s) for which it was donated?

You must conduct utilization reviews, as provided in your plan of operation, to ensure that donees are using surplus property during the period of restriction for the purposes for which it was donated. You must fully document your efforts and report all instances of noncompliance (misuse or mishandling of property) to GSA.

102-37.485 What actions must a SASP take if a review or other information indicates noncompliance with donation terms and conditions?

If a review or other information indicates noncompliance with donation terms and conditions, you must:

(a) Promptly investigate any suspected failure to comply with the conditions of donated property;

(b) Notify GSA immediately where there is evidence or allegation of fraud, wrongdoing by a screener, or nonuse, misuse, or unauthorized disposal or destruction of donated property;

(c) Temporarily defer any further donations of property to any donee to be investigated for noncompliance allegations until such time as the investigation has been completed and:

(1) A determination made that the allegations are unfounded and the deferment is removed.

(2) The allegations are substantiated and the donee is proposed for suspension or debarment; and

(d) Take steps to correct the noncompliance or otherwise enforce the conditions imposed on use of the property if a donee is found to be in noncompliance. Enforcement of compliance may involve:

(1) Ensuring the property is used by the present donee for the purpose for which it was donated.

(2) Recovering the property from the donee for:

(i) Redistribution to another donee within the State;

(ii) Transfer through GSA to another SASP; or

(iii) Transfer through GSA to a Federal agency.

(3) Recovering fair market value or the proceeds of disposal in cases of unauthorized disposal or destruction.

(4) Recovering fair rental value for property in cases where the property has been loaned or leased to an ineligible user or used for an unauthorized purpose.

(5) Disposing of by public sale property no longer suitable, usable, or necessary for donation.

102-37.490 When must a SASP coordinate with GSA on compliance actions?

You must coordinate with GSA before selling or demanding payment of the fair market or fair rental value of donated property that is:

(a) Subject to any special handling condition or use limitation imposed by GSA (see 102-37.455); or

(b) Not properly used within 1 year of donation or which ceases to be properly used within 1 year of being placed in use.

102-37.495 How must a SASP handle funds derived from compliance actions?

You must handle funds derived from compliance actions as follows:

(a) *Enforcement of Federal restrictions*. You must promptly remit to GSA any funds derived from the enforcement of compliance involving a violation of any Federal restriction, for deposit in the Treasury of the United States. You must also submit any supporting documentation indicating the source of the funds and essential background information.

(b) *Enforcement of State restrictions*. You may retain any funds derived from a compliance action involving violation of any State-imposed restriction and use such funds as provided in your State plan of operation.

Returns and Reimbursement

102-37.500 May a donee receive reimbursement for its donation expenses when unneeded property is returned to the SASP?

When a donee returns unneeded property to a SASP, the donee may be reimbursed for all or part of the initial cost of any repairs required to make the property usable if:

(a) The property is transferred to a Federal agency or sold for the benefit of the U.S. Government;

(b) No breach of the terms and conditions of donation has occurred; and

(c) GSA authorizes the reimbursement.

102-37.505 How does a donee apply for and receive reimbursement for unneeded property returned to a SASP?

If the donee has incurred repair expenses for property it is returning to a SASP and wishes to be reimbursed for them, it will inform the SASP of this. The SASP will recommend for GSA approval a reimbursement amount, taking into consideration the benefit the donee has received from the use of the property and making appropriate deductions for that use.

(a) If this property is subsequently transferred to a Federal agency, the receiving agency will be required to reimburse the donee as a condition of the transfer.

(b) If the property is sold, the donee will be reimbursed from the sales proceeds.

Special Provisions Pertaining to SEAs

102-37.510 Are there special requirements for donating property to SEAs?

Yes, only DOD-generated property may be donated to SEAs. When donating DOD property to an eligible SEA, SASPs must observe any restrictions the sponsoring Military Service may have imposed on the types of property the SEA may receive.

102-37.515 Do SEAs have a priority over other SASP donees for DOD property?

Yes, SEAs have a priority over other SASP donees for DOD property, but only if DOD requests GSA to allocate surplus DOD property through a SASP for donation to a specific SEA. In such cases, DOD would be expected to clearly identify the items in question and briefly justify the request.

Subpart F - Donations to Public Airports

102-37.520 What is the authority for public airport donations?

The authority for public airport donations is 49 U.S.C. 47151. 49 U.S.C. 47151 authorizes executive agencies to give priority consideration to requests from a public airport (as defined in 49 U.S.C. 47102) for the donation of surplus property if the Department of Transportation (DOT) considers the property appropriate for airport purposes and GSA approves the donation.

102-37.525 What should a holding agency do if it wants a public airport to receive priority consideration for excess personal property it has reported to GSA?

A holding agency interested in giving priority consideration to a public airport should annotate its reporting document to make GSA aware of this interest. In an addendum to the document, include the name of the requesting airport, specific property requested, and a brief description of how the airport intends to use the property.

102-37.530 What are FAA's responsibilities in the donation of surplus property to public airports?

In the donation of surplus property to public airports, the Federal Aviation Administration (FAA), acting under delegation from the DOT, is responsible for:

(a) Determining the property requirements of any State, political subdivision of a State, or tax-supported organization for public airport use;

(b) Setting eligibility requirements for public airports and making determinations of eligibility;

(c) Certifying that property listed on a transfer request is desirable or necessary for public airport use;

(d) Advising GSA of FAA officials authorized to certify transfer requests and notifying GSA of any changes in signatory authority;

(e) Determining and enforcing compliance with the terms and conditions under which surplus personal property is transferred for public airport use; and

(f) Authorizing public airports to visit holding agencies for the purpose of screening and selecting property for transfer. This responsibility includes:

(1) Issuing a screening pass or letter of authorization to only those persons who are qualified to screen.
(2) Maintaining a current record (to include names, addresses, and telephone numbers, and additional identifying information such as driver's license or social security numbers) of screeners operating under FAA authority and making such records available to GSA upon request.
(3) Recovering any expired or invalid screener authorizations.

102-37.535 What information must FAA provide to GSA on its administration of the public airport donation program?

So that GSA has information on which to base its discretionary authority to approve the donation of surplus personal property, FAA must:

(a) Provide copies of internal instructions that outline the scope of FAA's oversight program for enforcing compliance with the terms and conditions of transfer; and

(b) Report any compliance actions involving donations to public airports.

Subpart G - Donations to the American National Red Cross

102-37.540 What is the authority for donations to the American National Red Cross?

Section 551of title 40, United States Code authorizes GSA to donate to the Red Cross, for charitable use, such property as was originally derived from or through the Red Cross.

102-37.545 What type of property may the American National Red Cross receive?

The Red Cross may receive surplus gamma globulin, dried plasma, albumin, antihemophilic globulin, fibrin foam, surgical dressings, or other products or materials it processed, produced, or donated to a Federal agency.

102-37.550 What steps must the American National Red Cross take to acquire surplus property?

Upon receipt of information from GSA regarding the availability of surplus property for donation, the Red Cross will:

(a) Have 21 calendar days to inspect the property or request it without inspection; and

(b) Be responsible for picking up property donated to it or arranging and paying for its shipment.

102-37.555 What happens to property the American National Red Cross does not request?

Property the Red Cross declines to request will be offered to SASPs for distribution to eligible donees. If such property is transferred, GSA will require the SASP to ensure that all Red Cross labels or other Red Cross identifications are obliterated or removed from the property before it is used.

Subpart H - Donations to Public Bodies in Lieu of Abandonment/Destruction

102-37.560 What is a public body?

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.

102-37.565 What is the authority for donations to public bodies?

Section 527of title 40, United States Code authorizes the abandonment, destruction, or donation to public bodies of property which has no commercial value or for which the estimated cost of continued care and handling would exceed the estimated proceeds from its sale.

102-37.570 What type of property may a holding agency donate under this subpart?

Only that property a holding agency has made a written determination to abandon or destroy (see process in Part 102-36 of this chapter) may be donated under this subpart. A holding agency may not donate property that requires destruction for health, safety, or security reasons. When disposing of hazardous materials and other dangerous property, a holding agency must comply with all applicable laws and regulations and any special disposal requirements in part 101-42 of this title.

102-37.575 Is there a special form for holding agencies to process donations?

There is no special form for holding agencies to process donations. A holding agency may use any document that meets its agency's needs for maintaining an audit trail of the transaction.

102-37.580 Who is responsible for costs associated with the donation?

The recipient public body is responsible for paying the disposal costs incident to the donation, such as packing, preparation for shipment, demilitarization (as defined in 102-36.40 of this chapter), loading, and transportation to its site.

Subpart I—Transfer of Vehicle Title to a Donee

102-37.585 In transferring donated surplus vehicles, what is the responsibility of the holding agency?

(a) The holding agency is responsible for preparing Standard Form 97, *The United States Government Certificate to Obtain Title to a Vehicle* (SF 97) upon notification by GSA that a donee has been identified. The SF 97 may be prepared by GSA if mutually agreed upon by the holding agency and GSA. The holding agency is designated as the “transferor”.

(b) If the holding agency authorizes or requires any other entity, including a contractor or grantee, to complete this SF 97, the holding agency must first ensure compliance with the Paperwork Reduction Act.

(c) The SF 97 is a serially numbered, controlled form, stock number 7540-00-634-4047, which can be obtained by executive agencies from GSA Global Supply or online at www.gsaglobalsupply.gsa.gov. Proper precautions shall be exercised by the agency to prevent blank copies of the SF 97 from being obtained by unauthorized persons.

102-37.590 In transferring donated surplus vehicles, what is the responsibility of the SASP?

The SASP is responsible for facilitating the transfer of the surplus vehicle to the donee in accordance with this part. The SASP should not sign the SF 97 as "transferee" unless the SASP is the donee.

102-37.595 When transferring donated surplus vehicles, what is the responsibility of the donee?

The donee is responsible for processing the SF 97 in accordance with state licensing and titling authorities. The donee signs the SF 97 as “transferee” upon receipt of the surplus motor vehicle. The donee is responsible for notifying the SASP if a SF 97 is not provided by the Government.

102-37.600 When does title to a surplus donated vehicle change hands?

Title to the vehicle rests with the holding agency until the SF 97 is signed by the donee upon receipt of the surplus motor vehicle. (If applicable under the terms of the donation, the title will be conditional until the end of the period of restriction).

Appendix A - Miscellaneous Donation Statutes

The following is a listing of statutes which authorize donations which do not require GSA's approval:

Statute: **10 U.S.C. 2572.**

Donor Agency: Any military department (Army, Navy, and Air Force) or the Coast Guard.

Type of Property: Books, manuscripts, works of art, historical artifacts, drawings, plans, models, and condemned or obsolete combat material.

Eligible Recipients: Municipal corporations; soldiers' monument associations; museums, historical societies, or historical institutions of a State or foreign nation; incorporated museums that are operated and maintained for educational purposes only and the charters of which denies them the right to operate for profit; posts of the Veterans of Foreign Wars of the United States or of the American Legion or a unit of any other recognized war veterans' association; local or national units of any war veterans' association of a foreign nation which is recognized by the national government of that nation or a principal subdivision of that nation; and posts of the Sons of Veterans Reserve.

Statute: **10 U.S.C. 7306.**

Donor Agency: Department of the Navy.

Type of Property: Any vessel stricken from the Naval Vessel Register or any captured vessel in the possession of the Navy.

Eligible Recipients: States, Commonwealths, or possessions of the United States; the District of Columbia; and not-for-profit or nonprofit entities.

Statute: **10 U.S.C. 7541.**

Donor Agency: Department of the Navy.

Type of Property: Obsolete material not needed for naval purposes.

Eligible Recipients: Sea scouts of the Boy Scouts of America; Naval Sea Cadet Corps; and the Young Marines of the Marine Corps League.

Statute: **10 U.S.C. 7545.**

Donor Agency: Department of the Navy.

Type of Property: Captured, condemned, or obsolete ordnance material, books, manuscripts, works of art, drawings, plans, and models; other condemned or obsolete material, trophies, and flags; and other material of historic interest not needed by the Navy.

Eligible Recipients: States, territories, commonwealths, or possessions of the United States, or political subdivisions or municipal corporations thereof; the District of Columbia; libraries; historical societies; educational institutions whose graduates or students fought in World War I or World War II; soldiers' monument associations; State museums; museums

operated and maintained for educational purposes only, whose charter denies it the right to operate for profit; posts of the Veterans of Foreign Wars of the United States; American Legion posts; recognized war veterans' associations; or posts of the Sons of Veterans Reserve.

Statute: **14 U.S.C. 641(a).**

Donor Agency: Coast Guard.
Type of Property: Obsolete or other material not needed for the Coast Guard.
Eligible Recipients: Coast Guard Auxiliary; sea scout service of the Boy Scouts of America; and public bodies or private organizations not organized for profit.

Appendix B – Elements of a State Plan of Operation

The following is the information and assurances that must be included in a SASP's plan of operation:

State Plan Requirements

Regarding□□□	The plan must□□□
(a) Designation of a SASP.	(1) Name the State agency that will be responsible for administering the plan. (2) Describe the responsibilities vested in the agency which must include the authorities to acquire, warehouse and distribute surplus property to eligible donees, carry out other requirements of the State plan, and provide details concerning the organization of the agency, including supervision, staffing, structure, and physical facilities. (3) Indicate the organizational status of the agency within the State governmental structure and the title of the State official who directly supervises the State agent.
(b) Operational authority.	Include copies of existing State statutes and/or executive orders relative to the operational authority of the SASP. Where express statutory authority does not exist or is ambiguous, or where authority exists by virtue of executive order, the plan must include also the opinion of the State's Attorney General regarding the existence of such authority.
(c) Inventory control and accounting systems.	(1) Require the SASP to use a management control and accounting system that effectively governs the utilization, inventory control, accountability, and disposal of property. (2) Provide a detailed explanation of the inventory control and accounting system that the SASP will use. (3) Provide that property retained by the SASP to perform its functions be maintained on separate records from those of donable property.
(d) Return of donated property.	(1) Require the SASP to provide for the return of donated property from the donee, at the donee's expense, if the property is still usable as determined by the SASP; and (i) The donee has not placed the property into use for the purpose for which it was donated within 1 year of donation; or (ii) The donee ceases to use the property within 1 year after placing it in use. (2) Specify that return of property can be accomplished by: (i) Physical return to the SASP facility, if required by the SASP. (ii) Retransfer directly to another donee, SASP, or Federal agency, as required by the SASP. (iii) Disposal (by sale or other means) as directed by the SASP. (3) Set forth procedures to accomplish property returns to the SASP, retransfers to other organizations, or disposition by sale, abandonment, or destruction.

(e) Financing and service charges.	(1) Set forth the means and methods for financing the SASP. When the State authorizes the SASP to assess and collect service charges from participating donees to cover direct and reasonable indirect costs of its activities, the method of establishing the charges must be set forth in the plan. (2) Affirm that service charges, if assessed, are fair and equitable and based on services performed (or paid for) by the SASP, such as screening, packing, crating, removal, and transportation. When the SASP provides minimal services in connection with the acquisition of property, except for document processing and other administrative actions, the State plan must provide for minimal charges to be assessed in such cases and include the bases of computation. (3) Provide that property made available to nonprofit providers of assistance to homeless individuals be distributed at a nominal cost for care and handling of the property. (4) Set forth how funds accumulated from service charges, or from other sources such as sales or compliance proceeds are to be used for the operation of the SASP and the benefit of participating donees. (5) Affirm, if service charge funds are to be deposited or invested, that such deposits or investments are permitted by State law and set forth the types of depositories and/or investments contemplated. (6) Cite State authority to use service charges to acquire or improve SASP facilities and set forth disposition to be made of any financial assets realized upon the sale or other disposal of the facilities. (7) Indicate if the SASP intends to maintain a working capital reserve. If one is to be maintained, the plan should provide the provisions and limitations for it. (8) State if refunds of service charges are to be made to donees when there is an excess in the SASP's working capital reserve and provide details of how such refunds are to be made, such as a reduction in service charges or a cash refund, prorated in an equitable manner.
(f) Terms and conditions on donated property.	(1) Require the SASP to identify terms and conditions that will be imposed on the donee for any item of donated property with a unit acquisition cost of $5,000 or more and any passenger motor vehicle. (2) Provide that the SASP may impose reasonable terms and conditions on the use of other donated property. If the SASP elects to impose additional terms and conditions, it should list them in the plan. If the SASP wishes to provide for amending, modifying, or releasing any terms or conditions it has elected to impose, it must state in the plan the standards it will use to grant such amendments, modifications or releases. (3) Provide that the SASP will impose on the donation of property, regardless of unit acquisition cost, such conditions involving special handling or use limitations as GSA may determine necessary because of the characteristics of the property.
(g) Nonutilized or undistributed property.	Provide that, subject to GSA approval, property in the possession of the SASP which donees in the State cannot use will be disposed of by: (1) Transfer to another SASP or Federal agency. (2) Sale. (3) Abandonment or destruction. (4) Other arrangements.

(h) Fair and equitable distribution.	(1) Provide that the SASP will make fair and equitable distribution of property to eligible donees in the State based on their relative needs and resources and ability to use the property. (2) Set forth the policies and detailed procedures for effecting a prompt, fair, and equitable distribution. (3) Require that the SASP, insofar as practicable, select property requested by eligible donees and, if requested by the donee, arrange for shipment of the property directly to the donee.
(i) Eligibility.	(1) Set forth procedures for the SASP to determine the eligibility of applicants for the donation of surplus personal property. (2) Provide for donee eligibility records to include at a minimum: (i) Legal name and address of the donee. (ii) Status of the donee as a public agency or as an eligible nonprofit activity. (iii) Details on the scope of the donee's program. (iv) Proof of tax exemption under section 501 of the Internal Revenue Code if the donee is nonprofit. (v) Proof that the donee is approved, accredited, licensed, or meets any other legal requirement for operation of its program(s). (vi) Financial information. (vii) Written authorization by the donee's governing body or chief administrative officer designating at least one person to act for the donee in acquiring property. (viii) Assurance that the donee will comply with GSA's regulations on nondiscrimination. (ix) Types of property needed.
(j) Compliance and utilization.	(1) Provide that the SASP conduct utilization reviews for donee compliance with the terms, conditions, reservations, and restrictions imposed by GSA and the SASP on property having a unit acquisition cost of $5,000 or more and any passenger motor vehicle. (2) Provide for the reviews to include a survey of donee compliance with any special handling conditions or use limitations imposed on items of property by GSA. (3) Set forth the proposed frequency of such reviews and provide adequate assurances that the SASP will take effective action to correct noncompliance or otherwise enforce such terms, conditions, reservations, and restrictions. (4) Require the SASP to prepare reports on utilization reviews and compliance actions and provide assurance that the SASP will initiate appropriate investigations of alleged fraud in the acquisition of donated property or misuse of such property.
(k) Consultation with advisory bodies and public and private groups.	(1) Provide for consultation with advisory bodies and public and private groups which can assist the SASP in determining the relative needs and resources of donees, the proposed utilization of surplus property by eligible donees, and how distribution of surplus property can be effected to fill existing needs of donees. (2) Provide details of how the SASP will accomplish such consultation.

(l) Audit.	(1) Provide for periodic internal audits of the operations and financial affairs of the SASP. (2) Provide for compliance with the external audit requirements of Office of Management and Budget Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations" (available at http://www.whitehouse.gov/OMB), and make provisions for the SASP to furnish GSA with: (i) Two copies of any audit report made pursuant to the Circular, or with two copies of those sections that pertain to the Federal donation program. (ii) An outline of all corrective actions and scheduled completion dates for the actions. (3) Provide for cooperation in GSA or Comptroller General conducted audits.
(m) Cooperative agreements.	If the SASP wishes to enter into, renew, or revise cooperative agreements with GSA or other Federal agencies: (1) Affirm the SASP's intentions to enter into cooperative agreements. (2) Cite the authority for entering into such agreements.
(n) Liquidation.	Provide for the SASP to submit a liquidation plan prior to termination of the SASP activities if the State decides to dissolve the SASP.
(o) Forms.	Include copies of distribution documents used by the SASP.
(p) Records.	Affirm that all official records of the SASP will be retained for a minimum of 3 years, except that: (1) Records involving property subject to restrictions for more than 2 years must be kept 1 year beyond the specified period of restriction. (2) Records involving property with perpetual restriction must be retained in perpetuity. (3) Records involving property in noncompliance status must be retained for at least 1 year after the noncompliance case is closed.

Appendix C – Glossary of Terms for Determining Eligibility of Public Agencies and Nonprofit Organizations

The following is a glossary of terms for determining eligibility of public agencies and nonprofit organizations:

"Accreditation" means the status of public recognition that an accrediting agency grants to an institution or program that meets the agency's standards and requirements.

"Accredited" means approval by a recognized accrediting board or association on a regional, State, or national level, such as a State board of education or health; the American Hospital Association; a regional or national accrediting association for universities, colleges, or secondary schools; or another recognized accrediting association.

"Approved" means recognition and approval by the State department of education, State department of health, or other appropriate authority where no recognized accrediting board, association, or other authority exists for the purpose of making an accreditation. For an educational institution or an educational program, approval must relate to academic or instructional standards established by the appropriate authority. For a public health institution or program, approval must relate to the medical requirements and standards for the professional and technical services of the institution established by the appropriate authority.

"Child care center" means a public or nonprofit facility where educational, social, health, and nutritional services are provided to children through age 14 (or as prescribed by State law) and that is approved or licensed by the State or other appropriate authority as a child day care center or child care center.

"Clinic" means an approved public or nonprofit facility organized and operated for the primary purpose of providing outpatient public health services and includes customary related services such as laboratories and treatment rooms.

"College" means an approved or accredited public or nonprofit institution of higher learning offering organized study courses and credits leading to a baccalaureate or higher degree.

"Conservation" means a program or programs carried out or promoted by a public agency for public purposes involving directly or indirectly the protection, maintenance, development, and restoration of the natural resources of a given political area. These resources include but are not limited to the air, land, forests, water, rivers, streams, lakes and ponds, minerals, and animals, fish and other wildlife.

"Drug abuse or alcohol treatment center" means a clinic or medical institution that provides for the diagnosis, treatment, or rehabilitation of alcoholics or drug addicts. These centers must have on their staffs, or available on a regular visiting basis, qualified professionals in the fields of medicine, psychology, psychiatry, or rehabilitation.

"Economic development" means a program(s) carried out or promoted by a public agency for public purposes to improve the opportunities of a given political area for the establishment or expansion of industrial, commercial, or agricultural plants or facilities and which otherwise assist in the creation of long-term employment opportunities in the area or primarily benefit the unemployed or those with low incomes.

"Education" means a program(s) to develop and promote the training, general knowledge, or academic, technical, and vocational skills and cultural attainments of individuals in a community or given political area. Public educational programs may include public school systems and supporting facilities such as centralized administrative or service facilities.

“Educational institution” means an approved, accredited, or licensed public or nonprofit institution, facility, entity, or organization conducting educational programs or research for educational purposes, such as a child care center, school, college, university, school for the mentally or physically disabled, or an educational radio or television station.

“Educational radio or television station” means a public or nonprofit radio or television station licensed by the Federal Communications Commission and operated exclusively for noncommercial educational purposes.

“Health center” means an approved public or nonprofit facility that provides public health services, including related facilities such as diagnostic and laboratory facilities and clinics.

“Historic light station” means a historic light station as defined under section 308(e)(2) of the National Historic Preservation Act 16 U.S.C. 470w-7(e)(2), including a historic light station conveyed under subsection (b) of that section, notwithstanding the number of hours that the historic light station is open to the public.

“Homeless individual” means:

(1) An individual who lacks a fixed, regular, and adequate nighttime residence, or who has a primary nighttime residence that is:

(i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(2) For purposes of this part, the term “homeless individual” does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.

“Hospital” means an approved or accredited public or nonprofit institution providing public health services primarily for inpatient medical or surgical care of the sick and injured and includes related facilities such as laboratories, outpatient departments, training facilities, and staff offices.

“Library” means a public or nonprofit facility providing library services free to all residents of a community, district, State, or region.

“Licensed” means recognition and approval by the appropriate State or local authority approving institutions or programs in specialized areas. Licensing generally relates to established minimum public standards of safety, sanitation, staffing, and equipment as they relate to the construction, maintenance, and operation of a health or educational facility, rather than to the academic, instructional, or medical standards for these institutions.

“Medical institution” means an approved, accredited, or licensed public or nonprofit institution, facility, or organization whose primary function is the furnishing of public health and medical services to the public or promoting public health through the conduct of research, experiments, training, or demonstrations related to cause, prevention, and methods of diagnosis and treatment of diseases and injuries. The term includes, but is not limited to, hospitals, clinics, alcohol and drug abuse treatment centers, public health or treatment centers, research and health centers, geriatric centers, laboratories, medical schools, dental schools, nursing schools, and similar institutions. The term does not include institutions primarily engaged in domiciliary care, although a separate medical facility within such a domiciliary institution may qualify as a “medical institution.”

“Museum” means a public or nonprofit institution that is organized on a permanent basis for essentially educational or aesthetic purposes and which, using a professional staff, owns or uses tangible objects, either animate or inanimate; cares for these objects; and exhibits them to the public on a regular basis (at least 1000 hours a year). As used in this part, the term “museum” includes, but is not limited to, the following institutions if they satisfy all other provisions of this definition: Aquariums and zoological parks; botanical gardens and arboretums; nature centers; museums relating to art, history (including historic buildings), natural history, science, and technology; and planetariums. For the purposes of this definition, an institution uses a professional staff if it employs at least one fulltime staff member or the equivalent, whether paid or unpaid, primarily engaged in the acquisition, care, or public exhibition of objects owned or used by the institution. This definition of “museum” does not include any institution that exhibits objects to the public if the display or use of the objects is only incidental to the primary function of the institution.

“Nationally recognized accrediting agency” means an accrediting agency that the Department of Education recognizes under 34 CFR part 600. (For a list of accrediting agencies, see the Department’s web site at http://www.ed.gov/admins/finaid/accred.)

“Nonprofit” means not organized for profit and exempt from Federal income tax under section 501 of the Internal Revenue Code (26 U.S.C. 501).

“Parks and recreation” means a program(s) carried out or promoted by a public agency for public purposes that involve directly or indirectly the acquisition, development, improvement, maintenance, and protection of park and recreational facilities for the residents of a given political area.

“Program for older individuals” means a program conducted by a State or local government agency or nonprofit activity that receives funds appropriated for services or programs for older individuals under the Older Americans Act of 1965, as amended, under title IV or title XX of the Social Security Act (42 U.S.C. 601 et seq.), or under titles VIII and X of the Economic Opportunity Act of 1964 (42 U.S.C. 2991 et seq.) and the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

“Provider of assistance to homeless individuals” means a public agency or a nonprofit institution or organization that operates a program which provides assistance such as food, shelter, or other services to homeless individuals.

“Provider of assistance to impoverished families and individuals” means a public or nonprofit organization whose primary function is to provide money, goods, or services to families or individuals whose annual incomes are below the poverty line (as defined in section 673 of the Community Services Block Grant Act) (42 U.S.C. 9902). Providers include food banks, self-help housing groups, and organizations providing services such as the following: Health care; medical transportation; scholarships and tuition assistance; tutoring and literacy instruction; job training and placement; employment counseling; child care assistance; meals or other nutritional support; clothing distribution; home construction or repairs; utility or rental assistance; and legal counsel.

“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.

“Public health” means a program(s) to promote, maintain, and conserve the public’s health by providing health services to individuals and/or by conducting research, investigations, examinations, training, and demonstrations. Public health services may include but are not limited to the control of communicable diseases, immunization, maternal and child health programs, sanitary engineering, sewage treatment and disposal, sanitation inspection and supervision, water purification and distribution, air pollution control, garbage and trash disposal, and the control and elimination of disease-carrying animals and insects.

“Public health institution” means an approved, accredited, or licensed public or nonprofit institution, facility, or organization conducting a public health program(s) such as a hospital, clinic, health center, or medical institution, including research for such programs, the services of which are available to the public.

“Public purpose” means a program(s) carried out by a public agency that is legally authorized in accordance with the laws of the State or political subdivision thereof and for which public funds may be expended. Public purposes include but are not limited to programs such as conservation, economic development, education, parks and recreation, public health, public safety, programs of assistance to the homeless or impoverished, and programs for older individuals.

“Public safety” means a program(s) carried out or promoted by a public agency for public purposes involving, directly or indirectly, the protection, safety, law enforcement activities, and criminal justice system of a given political area. Public safety programs may include, but are not limited to those carried out by:

(1) Public police departments.

(2) Sheriffs’ offices.

(3) The courts.

(4) Penal and correctional institutions (including juvenile facilities).

(5) State and local civil defense organizations.

(6) Fire departments and rescue squads (including volunteer fire departments and rescue squads supported in whole or in part with public funds).

“School (except schools for the mentally or physically disabled)” means a public or nonprofit approved or accredited organizational entity devoted primarily to approved academic, vocational, or professional study and instruction, that operates primarily for educational purposes on a full-time basis for a minimum school year and employs a full-time staff of qualified instructors.

“School for the mentally or physically disabled” means a facility or institution operated primarily to provide specialized instruction to students of limited mental or physical capacity. It must be public or nonprofit and must operate on a full-time basis for the equivalent of a minimum school year prescribed for public school instruction for the mentally or physically disabled, have a staff of qualified instructors, and demonstrate that the facility meets the health and safety standards of the State or local government.

"University" means a public or nonprofit approved or accredited institution for instruction and study in the higher branches of learning and empowered to confer degrees in special departments or colleges.

"Veterans Organizations" means organizations eligible to receive Federal surplus property for purposes of providing services to veterans under 40 U.S.C. 549(c)(3)(C). Eligible veterans organizations are those whose (1) membership comprises substantially veterans (as defined under 38 U.S.C. 101); and (2) representatives are recognized by the Secretary of Veterans Affairs under 38 U.S.C. 5902. The Department of Veterans Affairs maintains a searchable website of recognized organizations. The address is http://www.va.gov/ogc/apps/accreditation/index.asp.

CHAPTER 110 - AGRICULTURE PROPERTY MANAGEMENT REGULATIONS
SUBCHAPTER B - PERSONAL PROPERTY
PART 110-38 - SALE OF PERSONAL PROPERTY

SUPPLEMENTING

CHAPTER 102 - FEDERAL MANAGEMENT REGULATION
SUBCHAPTER B - PERSONAL PROPERTY
PART 102-38 - SALE OF PERSONAL PROPERTY

Subpart A - General Provisions

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Subpart B - Sales Process

Methods of Sale

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Subpart A - General Provisions

102-38.5 What does this part cover?

This part prescribes the policies governing the sale of Federal personal property, including--

(a) Surplus personal property that has completed all required Federal and/or donation screening; and

(b) Personal property to be sold under the exchange/sale authority.

Note to 102-38.5**:** You must follow additional guidelines in 41 CFR parts 101-42 and 101-45 of the Federal Property Management Regulations (FPMR) for the sale of personal property that has special handling requirements or property containing hazardous materials. Additional requirements for the sale of aircraft and aircraft parts are provided in Part 102-33 of this chapter.

102-38.10 What is the governing authority for this part?

The authority for the regulations in this part governing the sale of Federal personal property is 40 U.S.C. 541 through 548, 571, 573 and 574.

102-38.15 Who must comply with these sales provisions?

All executive agencies must comply with the provisions of this part. The legislative and judicial branches are encouraged to follow these provisions.

102-38.20 Must an executive agency follow the regulations of this part when selling all personal property?

Generally, yes, an executive agency must follow the regulations of this part when selling all personal property; however--

(a) Materials acquired for the national stockpile or supplemental stockpile, or materials or equipment acquired under section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093) are excepted from this part;

(b) The Maritime Administration, Department of Transportation, has jurisdiction over the disposal of vessels of 1,500 gross tons or more and determined by the Secretary to be merchant vessels or capable of conversion to merchant use;

(c) Sales made by the Secretary of Defense pursuant to 10 U.S.C. 2576 (Sale of Surplus Military Equipment to State and Local Law Enforcement and Firefighting Agencies) are exempt from these provisions;

(d) Foreign excess personal property is exempt from these provisions; and

(e) Agency sales procedures which are mandated or authorized under laws other than Title 40 United States Code are exempt from this part.

102-38.25 To whom do "we", "you", and their variants refer?

Unless otherwise indicated, use of pronouns "we", "you", and their variants throughout this part refer to the Sales Center responsible for the sale of the property.

102-38.30 How does an executive agency request a deviation from the provisions of this part?

Refer to §§102-2.60 through 102-2.110 of this chapter for information on how to obtain a deviation from this part. However, waivers which are distinct from the standard deviation process and specific to the requirements of the Federal Asset Sales (eFAS) initiative milestones (see Subpart H of this part) are addressed in 102-38.360.

110-38.30 Agency requests for deviation from this part.

See 110-2.80 of Subchapter A in order to request a deviation from the requirements of this part.

Definitions

102-38.35 What definitions apply to this part?

The following definitions apply to this part:

"Bid" means a response to an offer to sell that, if accepted, would bind the bidder to the terms and conditions of the contract (including the bid price).

"Bidder" means any entity that is responding to or has responded to an offer to sell.

"Estimated fair market value" means the selling agency's best estimate of what the property would be sold for if offered for public sale.

"Federal Asset Sales (eFAS)" refers to the e-Government initiative to improve the way the Federal Government manages and sells its real and personal property assets. Under this initiative, only an agency designated as a Sales Center (SC) may sell Federal property, unless a waiver has been granted by the eFAS Planning Office in accordance with 102-38.360. The eFAS initiative is governed and given direction by the eFAS Executive Steering Committee (ESC), with GSA as the managing partner agency.

"Federal Asset Sales Planning Office (eFAS Planning Office)" refers to the office within GSA assigned responsibility for managing the eFAS initiative.

"Holding Agency" refers to the agency in possession of personal property eligible for sale under this part.

"Identical bids" means bids for the same item of property having the same total price.

"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:

(1) Battleships;
(2) Cruisers;
(3) Aircraft carriers;
(4) Destroyers; and
(5) Submarines.

"Sales Center (SC)" means an agency that has been nominated, designated, and approved by the eFAS ESC and the Office of Management and Budget (OMB) as an official sales solution for Federal property. The criteria for becoming an SC, the selection process, and the ongoing SC requirements for posting property for sale to the eFAS portal and reporting sales activity and performance data are established by the eFAS ESC and can be obtained from the eFAS Planning Office at GSA. The eFAS Planning Office may be contacted via e-mail at FASPlanningOffice@gsa.gov. SCs may utilize (and should consider) private sector entities as well as Government activities and are expected to provide exemplary asset management solutions in one or more of the following areas: on-line sales; off-line sales; and sales-related value added services. SCs will enter into agreements with holding agencies to sell property belonging to these holding agencies. A holding agency may employ the services of multiple SCs to maximize efficiencies.

"State Agency for Surplus Property (SASP)" means the agency designated under State law to receive Federal surplus personal property for distribution to eligible donees within the State as provided for in 40 U.S.C. 549.

"State or local government" means a State, territory, possession, political subdivision thereof, or tax-supported agency therein.

Responsibilities

102-38.40 Who may sell personal property?

An executive agency may sell personal property (including or on behalf of another agency when so requested) only if it is a designated Sales Center (SC), or if the agency has received a waiver from the eFAS Planning Office. An SC may engage contractor support to sell personal property. Only a duly authorized agency official may execute the sale award documents and bind the United States.

110-38.40 USDA agency sales.

USDA agencies that have been granted a waiver under this part, hold scrap sales, or conduct sales of personal property returned from a Sales Center, must establish internal procedures for the sales. These procedures must be uniform and consistent with the requirements for conducting sales of Federal personal property contained in this part and 102-39/110-39.

102-38.45 What are an executive agency's responsibilities in selling personal property?

An executive agency's responsibilities in selling personal property are to--

(a) Ensure the sale complies with the provisions of Title 40 of the U.S. Code, the regulations of this part, and any other applicable laws;

(b) Issue internal guidance to promote uniformity of sales procedures;

(c) Assure that officials designated to conduct and finalize sales are adequately trained;

(d) Be accountable for the care and handling of the personal property prior to its removal by the buyer; and

(e) Adjust your property and financial records to reflect the final disposition.

102-38.50 What must we do when an executive agency suspects violations of 40 U.S.C. 559, fraud, bribery, or criminal collusion in connection with the disposal of personal property?

If an executive agency suspects violations of 40 U.S.C. 559, fraud, bribery, or criminal collusion in connection with the disposal of personal property, the agency must--

(a) Refer the violations to the Inspector General of your agency and/or the Attorney General, Department of Justice, Washington, DC 20530, for further investigation. You must cooperate with and provide evidence concerning the suspected violation or crime to the investigating agency assuming jurisdiction of the matter; and

(b) Submit to the General Services Administration (GSA), Property Management Division (FBP), 1800 F Street, NW., Washington, DC, 20406, a report of any compliance investigations concerning such violations. The report must contain information concerning the noncompliance, including the corrective action taken or contemplated, and, for cases referred to the Department of Justice, a copy of the transmittal letter. A copy of each report must be submitted also to GSA, Personal Property Management Policy Division (MTP), 1800 F Street, NW., Washington, DC 20405.

102-38.55 What must we do when selling personal property?

When selling personal property, you must ensure that--

(a) All sales are made after publicly advertising for bids, except as provided for negotiated sales in §§102-38.100 through 102-38.125; and

(b) Advertising for bids must permit full and free competition consistent with the value and nature of the property involved.

102-38.60 Who is responsible for the costs of care and handling of the personal property before it is sold?

The holding agency is responsible for the care and handling costs of the personal property until it is removed by the buyer, the buyer's designee, or an SC. The holding agency may request the SC to perform care and handling services in accordance with their agreement. When specified in the terms and conditions of sale, the SC may charge the buyer costs for storage when

the buyer is delinquent in removing the property. The amount so charged may only be retained by the holding agency performing the care and handling in accordance with 102-38.295.

102-38.65 What if we are or the holding agency is notified of a Federal requirement for surplus personal property before the sale is complete?

Federal agencies have first claim to excess or surplus personal property reported to the General Services Administration. When a bona fide need for the property exists and is expressed by a Federal agency, and when no like item(s) are located elsewhere, you or the holding agency must make the property available for transfer to the maximum extent practicable and prior to transfer of title to the property.

102-38.70 May the holding agency abandon or destroy personal property either prior to or after trying to sell it?

(a) Yes, the holding agency may abandon or destroy personal property either prior to or after trying to sell it, but only when an authorized agency official has made a written determination that--

(1) The personal property has no commercial value; or

(2) The estimated cost of continued care and handling would exceed the estimated sales proceeds.

(b) In addition to the provisions in paragraph (a) of this section, see the regulations at §§102-36.305 through 102-36.330 of this subchapter B that are applicable to the abandonment or destruction of personal property in general, and excess personal property in particular.

110-38.70 Authority to abandon or destroy

See 110-36.305 and 110-36.310, of this chapter, which are applicable to the abandonment or destruction of personal property.

Subpart B--Sales Process

Methods of Sale

102-38.75 How may we sell personal property?

(a) You will sell personal property upon such terms and conditions as the head of your agency or designee deems proper to promote the fairness, openness, and timeliness necessary for the sale to be conducted in a manner most advantageous to the Government. When you are selling property on behalf of another agency, you must consult with the holding agency to determine any special or unique sales terms and conditions. You must also document the

required terms and conditions of each sale, including, but not limited to, the following terms and conditions, as applicable:

(1) Inspection.

(2) Condition and location of property.

(3) Eligibility of bidders.

(4) Consideration of bids.

(5) Bid deposits and payments.

(6) Submission of bids.

(7) Bid price determination.

(8) Title.

(9) Delivery, loading, and removal of property.

(10) Default, returns, or refunds.

(11) Modifications, withdrawals, or late bids.

(12) Requirements to comply with applicable laws and regulations. 41 CFR Part 101-42 contains useful guidance addressing many of these requirements. You should also contact your agency's Office of General Counsel or environmental office to identify applicable Federal, State, or local environmental laws and regulations.

(13) Certificate of independent price determinations.

(14) Covenant against contingent fees.

(15) Limitation on Government's liability.

(16) Award of contract.

(b) Standard government forms (e.g., Standard Form 114 series) may be used to document terms and conditions of the sale.

(c) When conducting and completing a sale through electronic media, the required terms and conditions must be included in your electronic sales documentation.

102-38.80 Which method of sale should we use?

(a) You may use any method of sale provided the sale is publicly advertised and the personal property is sold with full and open competition. Exceptions to the requirement for competitive bids for negotiated sales (including fixed price sales) are contained in §§102-38.100 through 102-38.125. You must select the method of sale that will bring maximum return at minimum cost, considering factors such as--

(1) Type and quantity of property;

(2) Location of property;

(3) Potential market;

(4) Cost to prepare and conduct the sale;

(5) Available facilities; and

(6) Sales experience of the selling activity.

(b) Methods of sale may include sealed bid sales, spot bid sales, auctions, or negotiated sales and may be conducted at a physical location or through any electronic media that is publicly accessible.

Competitive Sales

102-38.85 What is a sealed bid sale?

A sealed bid sale is a sale in which bid prices are kept confidential until bid opening. Bids are submitted either electronically or in writing according to formats specified by the selling agency, and all bids are held for public disclosure at a designated time and place.

102-38.90 What is a spot bid sale?

A spot bid sale is a sale where immediately following the offering of the item or lot of property, bids are examined, and awards are made or bids rejected on the spot. Bids are either submitted electronically or in writing according to formats specified by the selling agency, and must not be disclosed prior to announcement of award.

102-38.95 What is an auction?

An auction is a sale where the bid amounts of different bidders are disclosed as they are submitted, providing bidders the option to increase their bids if they choose. Bids are submitted electronically and/or by those physically present at the sale. Normally, the bidder with the highest bid at the close of each bidding process is awarded the property.

Negotiated Sales

102-38.100 What is a negotiated sale?

A negotiated sale is a sale where the selling price is arrived at between the seller and the buyer, subject to obtaining such competition as is feasible under the circumstances.

102-38.105 Under what conditions may we negotiate sales of personal property?

You may negotiate sales of personal property when--

(a) The personal property has an estimated fair market value that does not exceed $15,000;

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

(c) Bid prices after advertising are not reasonable and re-advertising would serve no useful purpose;

(d) Public exigency does not permit any delay such as that caused by the time required to advertise a sale;

(e) The sale promotes public health, safety, or national security;

(f) The sale is in the public interest under a national emergency declared by the President or the Congress. This authority may be used only with specific lot(s) of property or for categories determined by the Administrator of General Services for a designated period but not in excess of three months;

(g) Selling the property competitively would have an adverse impact on the national economy, provided that the estimated fair market value of the property and other satisfactory terms of disposal can be obtained by negotiation, e.g., sale of large quantities of an agricultural product that impact domestic markets; or

(h) Otherwise authorized by Title 40 of the U.S. Code or other law.

102-38.110 Who approves our determinations to conduct negotiated sales?

The head of your agency (or his/her designee) must approve all negotiated sales of personal property.

102-38.115 What are the specific reporting requirements for negotiated sales?

For negotiated sales of personal property, you must--

(a) In accordance with 40 U.S.C. 545(e), and in advance of the sale, submit to the oversight committees for the General Services Administration (GSA) in the Senate and House, explanatory statements for each sale by negotiation of any personal property with an estimated fair market value in excess of $15,000. You must maintain copies of the explanatory statements in your disposal files. No statement is needed for negotiated sales at fixed 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).

110-38.115 Agency reporting requirements for negotiated sales.

A copy of the annual report on negotiated sales of personal property, required under 102-38.115, must be sent to the Office of Procurement and Property Management no later than November 15.

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 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.

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 subdivisions 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 Nonprocurement 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).

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.

110-38.180 Selling Federal personal property to USDA employees.

Personal property authorized for sale by the Department may be sold to USDA employees only when the sale of such property is based on competitive bids. No purchase may be made by an employee who was accountable for the property, used the property, or who was in any way connected with its condemnation, declaration as excess, or sale. The exceptions are:

(a) Special clothing and other articles of personal equipment purchased exclusively for the use of an individual employee may be sold to the individual at a fair and equitable price in the event of separation from service or permanent assignment to duties not requiring such clothing or equipment. This provision only applies when the property cannot be used by the Department and is surplus to the needs of the Government.

(b) Surplus perishable products may be sold to employees of the Department when they are sold in accordance with the provisions of 102-38 under the Competitive Sales option, in quantities not exceeding the needs of their immediate households.

Responsible administrative officials must guard against preference being accorded any employee or group of employees over other prospective purchasers. Adequate records of products disposed of by sale shall be maintained. When products owned by a cooperating agency are disposed of by, or under, the supervision of a Departmental employee, this provision shall apply, in addition to any procedure that may be required by the cooperative agreement of the cooperating agency.

102-38.185 May we sell Federal personal property to State or local governments?

Yes, you may sell Federal personal property to State or local governments. Additional guidelines on sales to State or local governments are contained in subpart G of this part.

Acceptance of Bids

102-38.190 What is considered a responsive bid?

A responsive bid is a bid that complies with the terms and conditions of the sales offering, and satisfies the requirements as to the method and timeliness of the submission. Only responsive bids may be considered for award.

102-38.195 Must bidders use authorized bid forms?

No, bidders do not have to use authorized bid forms; however if a bidder uses his/her own bid form to submit a bid, the bid may be considered only if--

(a) The bidder accepts all the terms and conditions of the offer to sell; and

(b) Award of the bid would result in a binding contract.

102-38.200 Who may accept bids?

Authorized agency representatives may accept bids for your agency. These individuals should meet your agency's requirements for approval of Government contracts.

102-38.205 Must we accept all bids?

No, the Government reserves the right to accept or reject any or all bids. You may reject any or all bids when such action is advantageous to the Government, or when it is in the public interest to do so.

102-38.210 What happens when bids have been rejected?

You may re-offer items for which all bids have been rejected at the same sale, if possible, or another sale.

102-38.215 When may we disclose the bid results to the public?

You may disclose bid results to the public after the sales award of any item or lot of property. On occasions when there is open bidding, usually at a spot bid sale or auction, all bids are disclosed as they are submitted. No information other than names may be disclosed regarding the bidder(s).

102-38.220 What must we do when the highest bids received have the same bid amount?

When the highest bids received have the same bid amount, you must consider other factors of the sale (e.g., timely removal of the property, terms of payment, etc.) that would make one offer more advantageous to the Government. However, if you are unable to make a determination based on available information, and the Government has an acceptable offer, you may re-offer the property for sale, or you may utilize random tiebreakers to avoid the expense of reselling the property.

102-38.225 What are the additional requirements in the bid process?

All sales except fixed price sales must contain a certification of independent price determination. If there is suspicion of false certification or an indication of collusion, you must refer the matter to the Department of Justice or your agency's Office of the Inspector General.

Bid Deposits

102-38.230 Is a bid deposit required to buy personal property?

No, a bid deposit is not required to buy personal property. However, should you require a bid deposit to protect the Government's interest, a deposit of 20 percent of the total amount of the bid is generally considered reasonable.

102-38.235 What types of payment may we accept as bid deposits?

In addition to the acceptable types of payments in 102-38.290, you may also accept a deposit bond. A deposit bond may be used in lieu of cash or other acceptable form of deposit when permitted by the offer to sell, such as the Standard Form (SF) 150, Deposit Bond--Individual Invitation, Sale of Government Personal Property, SF 151, Deposit Bond--Annual, Sale of Government Personal Property, and SF 28, Affidavit of Individual Surety. For information on how to obtain these forms, see 102-2.135 of subchapter A.

102-38.240 What happens to the deposit bond if the bidder defaults or wants to withdraw his/her bid?

(a) When a bid deposit is secured by a deposit bond and the bidder defaults, you must issue a notice of default to the bidder and the surety company.

(b) When a bid deposit is secured by a deposit bond and the bidder wants to withdraw his/her bid, you should return the deposit bond to the bidder.

Late Bids

102-38.245 Do we consider late bids for award?

Consider late bids for award only when the bids were delivered timely to the address specified and your agency caused the delay in delivering the bids to the official designated to accept the bids.

102-38.250 How do we handle late bids that are not considered?

Late bids that are not considered must be returned to the bidder promptly. You must not disclose information contained in returned bids.

Modification or Withdrawal of Bids

102-38.255 May we allow a bidder to modify or withdraw a bid?

(a) Yes, a bidder may modify or withdraw a bid prior to the start of the sale or the time set for the opening of the bids. After the start of the sale, or the time set for opening the bids, the bidder will not be allowed to withdraw his/her bid.

(b) You may consider late modifications to an otherwise successful bid at any time, but only when it makes the terms of the bid more favorable to the Government.

Mistakes in Bids

102-38.260 Who makes the administrative determinations regarding mistakes in bids?

The administrative procedures for handling mistakes in bids are contained in FAR 14.407, Mistakes in Bids (48 CFR 14.407). Your agency head, or his/her designee, may delegate the authority to make administrative decisions regarding mistakes in bids to a central authority, or a limited number of authorities in your agency, who must not re-delegate this authority.

102-38.265 Must we keep records on administrative determinations?

Yes, you must--

(a) Maintain records of all administrative determinations made, to include the pertinent facts and the action taken in each case. A copy of the determination must be attached to its corresponding contract; and

(b) Provide a signed copy of any related determination with the copy of the contract you file with the Comptroller General when requested.

102-38.270 May a bidder protest the determinations made on sales of personal property?

Yes, protests regarding the validity or the determinations made on the sale of personal property may be submitted to the Comptroller General.

Subpart D--Completion of Sale

Awards

102-38.275 To whom do we award the sales contract??

You must award the sales contract to the bidder with the highest responsive bid, unless a determination is made to reject the bid under 102-38.205.

102-38.280 What happens when there is no award?

When there is no award made, you may sell the personal property at another sale, or you may abandon or destroy it pursuant to section 102-36.305 of this subchapter B.

Transfer of Title

102-38.285 How do we transfer title from the Government to the buyer for personal property sold?

(a) Generally, no specific form or format is designated for transferring title from the Government to the buyer for personal property sold. For internal control and accountability, you must execute a bill of sale or another document as evidence of transfer of title or any other interest in Government personal property. You must also ensure that the buyer submits any additional certifications to comply with specific conditions and restrictions of the sale.

(b) For sales of vehicles, you must issue to the purchaser a Standard Form (SF) 97, the United States Government Certificate to Obtain Title to a Vehicle, or a SF 97A, the United States Government Certificate to Obtain a Non-Repairable or Salvage Certificate, as appropriate, as evidence of transfer of title. For information on how to obtain these forms, see 102-2.135 of this chapter.

Payments

102-38.290 What types of payment may we accept?

You must adopt a payment policy that protects the Government against fraud. Acceptable payments include, but are not limited to, the following:

(a) U.S. currency or any form of credit instrument made payable on demand in U.S. currency, e.g., cashier's check, money order. Promissory notes and postdated credit instruments are not acceptable.

(b) Irrevocable commercial letters of credit issued by a United States bank payable to the Treasurer of the United States or to the Government agency conducting the sale.

(c) Credit or debit cards.

Disposition of Proceeds

102-38.295 May we retain sales proceeds?

(a) You may retain that portion of the sales proceeds, in accordance with your agreement with the holding agency, equal to the direct costs and reasonably related indirect costs (including your share of the Governmentwide costs to support the eFAS Internet portal and Governmentwide reporting requirements) incurred in selling personal property.

(b) A holding agency may retain that portion of the sales proceeds equal to its costs of care and handling directly related to the sale of personal property by the SC (*e.g.*, shipment to the SC, storage pending sale, and inspection by prospective buyers).

(c) After accounting for amounts retained under paragraphs (a) and (b) of this section, as applicable, a holding agency may retain the balance of proceeds from the sale of its agency' personal property when—

(1) It has statutory authority to retain all proceeds from sales of personal property;

(2) The property sold was acquired with non-appropriated funds as defined in 102-36.40 of this subchapter B;

(3) The property sold was surplus Government property that was in the custody of a contractor or subcontractor, and the contract or subcontract provisions authorize the proceeds of sale to be credited to the price or cost of the contract or subcontract;

(4) The property was sold to obtain replacement property under the exchange/sale authority pursuant to Part 102-39 of this subchapter B; or

(5) The property sold was related to waste prevention and recycling programs, under the authority of Section 607 of Public Law 107-67 (Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Public Law 107-67, 115 Stat. 514). Consult your General Counsel or Chief Financial Officer for guidance on use of this authority.

102-38.300 What happens to sales proceeds that neither we nor the holding agency are authorized to retain, or that are unused?

Any sales proceeds that are not retained pursuant to the authorities in section 102-38.295 must be deposited as miscellaneous receipts in the U. S. Treasury.

Disputes

102-38.305 How do we handle disputes involved in the sale of Federal personal property?

First contact your Office of General Counsel. Further guidance can be found in the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613), and the Federal Acquisition Regulation (FAR) at 48 CFR part 33.

102-38.310 Are we required to use the Disputes clause in the sale of personal property?

Yes, you must ensure the Disputes clause contained in Federal Acquisition Regulation (FAR) 52.233-1 (48 CFR part 52) is included in all offers to sell and contracts for the sale of personal property.

102-38.315 Are we required to use Alternative Disputes Resolution for sales contracts?

No, you are not required to use Alternative Disputes Resolution (ADR) for sales contracts. However, you are encouraged to use ADR procedures in accordance with the authority and the requirements of the Alternative Disputes Resolution Act of 1998 (28 U.S.C. 651--658).

Subpart E - Other Governing Statutes

102-38.320 Are there other statutory requirements governing the sale of Federal personal property?

Yes, in addition to Title 40 of the U.S. Code the sale of Federal personal property is governed by other statutory requirements, such as the Debt Collection Improvement Act of 1996 (Public Law 104-134, sec. 31001, 110 Stat. 1321-358) and antitrust requirements that are discussed in section 102-38.325.

Antitrust Requirements

102-38.325 What are the requirements pertaining to antitrust laws?

When the sale of personal property has an estimated fair market value of $3 million or more or if the sale involves a patent, process, technique, or invention, you must notify the Attorney General of the Department of Justice (DOJ) and get DOJ's opinion as to whether the sale would give the buyer an unfair advantage in the marketplace and violate any antitrust laws. Include in the notification the description and location of the property, method of sale and proposed selling price, and information on the proposed purchaser and intended use of the

property. You must not complete the sale until you have received confirmation from the Attorney General that the proposed transaction would not violate any antitrust laws.

Subpart F - Reporting Requirements

102-38.330 Are there any reports that we must submit to the General Services Administration?

Yes, there are two sales reports you must submit to the General Services Administration (GSA), Personal Property Management Policy Division (MTP), 1800 F Street, NW., Washington, DC 20405--

(a) *Negotiated sales report*. Within 60 calendar days after the close of each fiscal year, you must provide GSA with a listing and description of all negotiated sales with an estimated fair market value in excess of $5,000 (see 102-38.115). For each negotiated sale that meets this criterion, provide the following:

(1) Description of the property (including quantity and condition).
(2) Acquisition cost and date (if not known, estimate and so indicate).
(3) Estimated fair market value (including date of estimate and name of estimator).
(4) Name and address of purchaser.
(5) Date of sale.
(6) Gross and net sales proceeds.
(7) Justification for conducting a negotiated sale.

(b) *Exchange/sale report*. Within 90 calendar days after the close of each fiscal year, you must provide a summary report to GSA of transactions conducted under the exchange/sale authority under Part 102-39 of this subchapter B (see 102-39.85).

110-38.330 Agency reporting requirements.

(a) Negotiated sales report – Agencies, that have negotiated sales data to report, will submit the report to GSA (see 102-38.330(a) for requirements) and send a copy of the report to the Office of Procurement and Property Management (OPPM) by November 15 of each year.
(b) Exchange/sale report - See 110-39.85 for agency reporting requirements.

102-38.335 Is there any additional personal property sales information that we must submit to the General Services Administration?

Yes, you must report to the General Services Administration's (GSA's) Asset Disposition Management System (ADMS), once that capability is established, any sales information that GSA deems necessary.

Subpart G - Provisions for State and Local Governments

102-38.340 How may we sell personal property to State and local governments?

You may sell Government personal property to State and local governments through--

(a) Competitive sale to the public;

(b) Negotiated sale, through the appropriate State Agency for Surplus Property (SASP); or

(c) Negotiated sale at fixed price (fixed price sale), through the appropriate SASP. (This method of sale can be used prior to a competitive sale to the public, if desired.)

102-38.345 Do we have to withdraw personal property advertised for public sale if a State Agency for Surplus Property wants to buy it?

No, you are not required to withdraw the item from public sale if the property has been advertised.

102-38.350 Are there special provisions for State and local governments regarding negotiated sales?

Yes, you must waive the requirement for bid deposits and payment prior to removal of the property. However, payment must be made within 30 calendar days after purchase. If payment is not made within 30 days, you may charge simple interest at the rate established by the Secretary of the Treasury as provided in section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), from the date of written demand for payment.

102-38.355 Do the regulations of this part apply to State Agencies for Surplus Property (SASPs) when conducting sales?

Yes, State Agencies for Surplus Property (SASPs) must follow the regulations in this part when conducting sales on behalf of the General Services Administration of Government personal property in their custody.

Subpart H - Implementation of the Federal Asset Sales Program

102-38.360 What must an executive agency do to implement the eFAS program?

(a) An executive agency must review the effectiveness of all sales solutions, and compare them to the effectiveness (*e.g.*, cost, level of service, and value added services) of the eFAS SCs. Agencies should give full consideration to sales solutions utilizing private sector entities,

including small businesses, that are more effective than the solutions provided by any eFAS-approved SC. If the agency decides that there are more effective sales solutions than those solutions offered by the eFAS SCs, the agency must request a waiver from the milestones using the procedures and forms provided by the eFAS Planning Office. Waivers will be approved by the eFAS Planning Office upon presentation of a business case showing that complying with an eFAS milestone is either impracticable or inefficient. Waiver approval will be coordinated with GSA's Office of Travel, Transportation, and Asset Management. Contact the eFAS Planning Office at FASPlanningOffice@gsa.gov to obtain these procedures and forms.

(b) An approved waiver for meeting one of the eFAS milestones does not automatically waive all milestone requirements. For example, if an agency receives a waiver to the migration milestone, the agency must still (1) post asset information on the eFAS website and (2) provide post-sales data to the eFAS Planning Office in accordance with the content and format requirements developed by the eFAS ESC, unless waivers to these milestones are also requested and approved. Waivers to the eFAS milestones will not be permanent. Upon expiration of the waiver to the migration milestone, an agency must either migrate to an approved SC, or serve as a fully functioning SC, as soon as practicable. See the definition of a "Sales Center" at 102-38.35 for an overview of how agency sales solutions become SCs.

(c) An agency which receives a waiver from the eFAS milestones must comply with subparts A through G of this part as if it were an SC.

(d) An executive agency must comply with all eFAS milestones approved by OMB including those regarding the completion of an agency-wide sales migration plan, the reporting of pre- and post-sales data, and the migration to approved SCs unless a waiver has been submitted by the agency and approved by the eFAS Planning Office. The eFAS milestones are available for viewing at www.gsa.gov/govsalesmilestones.

102-38.365 Is a holding agency required to report property in "scrap" condition to its selected SC?

No. Property which has no value except for its basic material content (scrap material) may be disposed of by the holding agency by sale or as otherwise provided in 102-38.70. However, the holding agency should consult the SC(s) selected by the holding agency as to the feasibility of selling the scrap material. Agencies selling scrap property under authority of this subpart are still required to report sales metrics in accordance with eFAS ESC-approved format and content.

110-38.365 Agency reporting requirements for scrap sales.

Agencies must report scrap sale data to the Office of Procurement and Property Management (OPPM) by the end of the second week of each quarter.

102-38.370 What does a holding agency do with property which cannot be sold by its SC?

All reasonable efforts must be afforded the SC to sell the property. If the property remains unsold after the time frame agreed to between the SC and the holding agency, the holding agency may dispose of the property by sale or as otherwise provided in 102-38.70. The lack of public interest in buying the property is evidence that the sales proceeds would be minimal. Agencies selling property under authority of this subpart are still required to report sales metrics in accordance with eFAS ESC-approved format and content.

110-38.370 Agency reporting requirements for sales under authority of 102-38.370.

Agencies must report sales under authority of 102-38.370 to the Office of Procurement and Property Management (OPPM) by the end of the second week of each quarter.

CHAPTER 110 - AGRICULTURE PROPERTY MANAGEMENT REGULATIONS
SUBCHAPTER B - PERSONAL PROPERTY
PART 110-39 - REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

SUPPLEMENTING

CHAPTER 102 - FEDERAL MANAGEMENT REGULATION
SUBCHAPTER B - PERSONAL PROPERTY
PART 102-39 - REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

Subpart A - General

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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?
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102-39.40 Why should I consider using the exchange/sale authority?
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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)?
110-39.55 Agency screening responsibilities for property being sold under the Exch/Sale authority.
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?

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102-39.85 What information am I required to report?
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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."

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 102-33 and 101-42 of this title.

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.

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

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.

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.

110-39.30 Agency requests for deviation from this part.

See part 110-2.80 of this chapter in order to request a deviation from the requirements of this part.

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.

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 would not be available to you. You may use the exchange/sale authority in the acquisition of personal property even if the acquisition is under a services contract, as long as the property acquired under the services contract is similar to the property exchanged or sold (*e.g.*, for a SLEP, exchange allowances or sales proceeds would be available for replacement of similar items, but not for services).

102-39.45 When should I not use the exchange/sale authority?

You should not use the exchange/sale authority if the exchange allowance or estimated sales proceeds for the property will be unreasonably low. You must either abandon or destroy such property, or declare the property excess, in accordance with part 102-36 of this chapter. Further, you must not use the exchange/sale authority if the transaction(s) would violate any other applicable statute or regulation.

102-39.50 How do I determine whether to do an exchange or a sale?

You must determine whether an exchange or sale will provide the greater return for the Government. When estimating the return under each method, consider all related administrative and overhead costs.

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)?

If you have property to replace which is eligible for exchange/sale, you should first, to the maximum extent practicable, solicit:

(a) Federal agencies known to use or distribute such property. If a Federal agency is interested in acquiring and paying for the property, you should arrange for a reimbursable transfer. Reimbursable transfers may also be conducted with the Senate, the House of Representatives, the Architect of the Capitol and any activities under the Architect's direction, the District of Columbia, and mixed-ownership Government corporations. When conducting a reimbursable transfer, you must:

(1) Do so under terms mutually agreeable to you and the recipient.

(2) Not require reimbursement of an amount greater than the estimated fair market value of the transferred property.

(3) Apply the transfer proceeds in whole or part payment for property acquired to replace the transferred property; and

(b) State Agencies for Surplus Property (SASPs) known to have an interest in acquiring such property. If a SASP is interested in acquiring the property, you should consider selling it to the SASP by negotiated sale at fixed price under the conditions specified at 102-38.125 of this title. The sales proceeds must be applied in whole or part payment for property acquired to replace the transferred property.

110-39.55 Agency screening responsibilities for property being sold under the Exch/Sale authority.

Agencies that plan to sell property under the Exch/Sale authority, must first screen the property internally to USDA, then federally (to include the State Agencies for Surplus Property), before offering the property for sale to the public. Agencies that are not required to go through a Sales Center for Exch/Sale property (Agency has an approved waiver from GSA) are encouraged, but not required to screen this property.

102-39.60 What restrictions and prohibitions apply to the exchange/sale of personal property?

Unless a deviation is requested of and approved by GSA as addressed in part 102-2 of this chapter and the provisions of §§102-39.25 and 102-39.30, you must not use the exchange/sale authority for:

(a) The following FSC groups of personal property:

10 Weapons.
11 Nuclear ordnance.
42 Firefighting, rescue, and safety equipment.
44 Nuclear reactors (FSC Class 4470 only).
51 Hand tools.

54 Prefabricated structure and scaffolding (FSC Class 5410 Prefabricated and Portable Buildings, FSC Class 5411 Rigid Wall Shelters, and FSC Class 5419 Collective Modular Support System only).

68 Chemicals and chemical products, except medicinal chemicals.

84 Clothing, individual equipment, and insignia.

Note to 102-39.60(a)**:** Under no circumstances will deviations be granted for FSC Class 1005, Guns through 30mm. Deviations are not required for Department of Defense (DoD) property in FSC Groups 10 (for classes other than FSC Class 1005), 12 and 14 for which the applicable DoD demilitarization requirements, and any other applicable regulations and statutes are met.

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

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

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

(e) Property with a condition code of scrap, as defined at FMR 102-36.40, except:

(1) Property that had utility and value at the point in time when a determination was made to use the exchange/sale authority;

(2) Property that was otherwise eligible for exchange/sale, but was coded as scrap due to damage (e.g., accident or natural disaster); or

(3) Scrap gold for fine gold.

(f) Property that was originally acquired as excess or forfeited property or from another source other than new procurement, unless such property has been in official use by the acquiring agency for at least 1 year. You may exchange or sell forfeited property in official use for less than 1 year if the head of your agency determines that a continuing valid requirement exists, but the specific item in use no longer meets that requirement, and that exchange or sale meets all other requirements of this part.

(g) Property that is dangerous to public health or safety without first rendering such property innocuous or providing for adequate safeguards as part of the exchange/sale.

(h) Combat material without demilitarizing it or obtaining a demilitarization waiver or other necessary clearances from the Department of Defense Demilitarization Office.

(i) Flight Safety Critical Aircraft Parts (FSCAP) and Critical Safety Items (CSI) unless you meet the provisions of 102-33.370 of this title.

(j) Acquisition of unauthorized replacement property.

(k) Acquisition of replacement property that violates any:

(1) Restriction on procurement of a commodity or commodities;

(2) Replacement policy or standard prescribed by the President, the Congress, or the Administrator of General Services; or

(3) Contractual obligation.

(l) Vessels subject to 40 U.S.C. 548.

(m) Aircraft and aircraft parts, unless there is full compliance with all exchange/sale provisions in Part 102-33 of this chapter (41 CFR Part 102-33).

102-39.65 What conditions apply to the exchange/sale of personal property?

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

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

(b) The property exchanged or sold is not excess or surplus, and you have a continuing need for similar property;

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

(d) When replacing personal property, the exchange allowance or sales proceeds from the disposition of that property may only be used to offset the cost of the replacement property, not services; and

(e) Except for transactions involving books and periodicals in your libraries, you document the basic facts associated with each exchange/sale transaction. At a minimum, the documentation must include:

(1) The FSC Group of the items exchanged or sold, and the items acquired;

(2) The number of items exchanged or sold, and the number of items acquired;

(3) The acquisition cost and exchange allowance or net sales proceeds of the items exchanged or sold, and the acquisition cost of the items acquired;

(4) The date of the transaction(s);

(5) The parties involved; and

(6) A statement that the transactions comply with the requirements of this part 102-39.

Note to 102-39.65**:** In acquiring items for historical preservation or display at Federal museums, you may exchange historic items in the museum property account without regard to the FSC group, provided the exchange transaction is documented and certified by the head of your agency to be in the best interests of the Government and all other provisions of this part are met. The documentation must contain a determination that the item exchanged and the item acquired are historic items.

Subpart C - Exchange/Sale Methods and Reports

102-39.70 What are the exchange methods?

Exchange of property may be accomplished by either of the following methods:

(a) The supplier (*e.g.*, a Government agency, commercial or private organization, or an individual) delivers the replacement property to one of your organizational units and removes the property being replaced from that same organizational unit.

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

102-39.75 What are the sales methods?

(a) You must use the methods, terms, and conditions of sale, and the forms prescribed in part 102-38 of this title, in the sale of property being replaced, except for the provisions of §§102-38.100 through 102-38.115 of this title regarding negotiated sales. Section 3709, Revised Statutes (41 U.S.C. 5), specifies the following conditions under which property being replaced can be sold by negotiation, subject to obtaining such competition as is feasible:

(1) The reasonable value involved in the contract does not exceed $500; or

(2) Otherwise authorized by law.

(b) You may sell property being replaced by negotiation at fixed prices in accordance with the provisions of §§102-38.120 and 102-38.125 of this title.

102-39.80 What are the accounting requirements for exchange allowances or proceeds of sale?

You must account for exchange allowances or proceeds of sale in accordance with the general finance and accounting rules applicable to you. Except as otherwise authorized by law, all exchange allowances or proceeds of sale under this part will be available during the fiscal year in which the property was exchanged or sold and for one fiscal year thereafter for the purchase of replacement property. Any proceeds of sale not applied to replacement purchases during this time must be deposited in the United States Treasury as miscellaneous receipts.

102-39.85 What information am I required to report?

(a) You must submit, within 90 calendar days after the close of each fiscal year, a summary report in a format of your choice on the exchange/sale transactions made under this part during the fiscal year (except for transactions involving books and periodicals in your libraries). The report must include:

(1) A list by Federal Supply Classification Group of property sold under this part showing the:

(i) Number of items sold;

(ii) Acquisition cost; and

(iii) Net proceeds.

(2) A list by Federal Supply Classification Group of property exchanged under this part showing the:

(i) Number of items exchanged;

(ii) Acquisition cost; and

(iii) Exchange allowance.

(b) Submit your report electronically or by mail to the General Services Administration, Office of Travel, Transportation and Asset Management (MT), 1800 F Street, NW., Washington, DC 20405.

(c) Report control number: 1528-GSA-AN.

(d) If you make no transactions under this part during a fiscal year, you must submit a report stating that no transactions occurred.

110-39.85 USDA reporting requirements.

The Office of Procurement and Property Management (OPPM) will retrieve the data, contained in the USDA corporate personal property inventory system, for the required reporting to GSA. Agencies that used the Exchange/Sale authority for accountable property that was not in the corporate system must submit the required data to OPPM by November 30 of each year. Agency data will be included in the report to GSA for a combined USDA response.

CHAPTER 110 - AGRICULTURE PROPERTY MANAGEMENT REGULATIONS
SUBCHAPTER B – PERSONAL PROPERTY
PART 110-40 - UTILIZATION AND DISPOSITION OF PERSONAL PROPERTY WITH SPECIAL HANDLING REQUIREMENTS

SUPPLEMENTING

CHAPTER 102 - FEDERAL MANAGEMENT REGULATION
SUBCHAPTER B – PERSONAL PROPERTY
PART 102-40 - UTILIZATION AND DISPOSITION OF PERSONAL PROPERTY WITH SPECIAL HANDLING REQUIREMENTS

Subpart A - General Provisions

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Subpart A - General Provisions

102-40.5 What does this part cover?

(1) This part provides guidance regarding the utilization, transfer, donation, sale, and other disposal of Government personal property with special handling requirements (*i.e.*, hazardous materials, dangerous property, etc.) located in the United States, the District of Columbia, the U.S. Virgin Islands, American Samoa, Guam, Puerto Rico, the Northern Mariana Islands, Federated States of Micronesia, the Marshall Islands, and Palau. For guidance regarding the disposal of personal property located outside of these areas, see to §§102-36.380 through 102-36.400 of this subchapter; however, the disposal of personal property located outside of these areas should conform to the provisions in this part, whenever feasible, in the interest of promoting safety, security, and environmental stewardship.

102-40.10 What is the governing authority for this part?

40 U.S.C. 121(c) authorizes the Administrator of General Services to prescribe regulations necessary to perform functions under this part.

102-40.15 Who must comply with the provisions in this part?

All executive agencies must comply with the provisions of this part unless authorized by specific, separate statutory authority to do otherwise. Also, pursuant to 40 U.S.C. 549(b)(1), state agencies for surplus property (SASPs) must comply with the provisions of this part related to the donation of surplus property with special handling requirements. Legislative and judicial agencies are encouraged to follow these provisions.

102-40.20 To whom do ‘‘we,’’ ‘‘you,’’ and their variants refer?

The pronouns ‘‘we,’’ ‘‘you,’’ and their variants throughout this part refer to the executive agency, or other entity using these regulations, unless otherwise indicated.

102-40.25 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.

110-40.25 Agency requests for deviation from the FMR or AGPMR.

See 110-2.80 of Subchapter A to request a deviation from the requirements of this part.

Definitions

102-40.30 What definitions apply to this part?

The following definitions apply to this part:

Acid-contaminated property means property that may cause burns or toxicosis when improperly handled due to acid residues adhering to or trapped within the material.

Ammunition as defined in 18 U.S.C. 921(a)(17), means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

Ammunition components means the individual parts of ammunition, including cartridge cases, primers, bullets/projectiles, and propellant powder.

Biologicals means hazardous materials associated with the products and operations of applied biology and/ or biochemistry, especially serums, vaccines, etc., produced from microorganisms.

Certified electronic product means any electronic product which bears the manufacturer's certification label or tag (21 CFR 1010.2) indicating that the product meets applicable radiation safety performance standards prescribed by the Food and Drug Administration (FDA) under 21 CFR part 1020.

Commerce Control List Item (CCLI) means property identified on the Commerce Control List (15 CFR part 774, supp. 1) subject to export controls under the Export Administration Act of 1979, as amended (50 App. U.S.C. 2401–2420) and implemented by the Export Administration Regulations (15 CFR part 730). Items may be placed on the list for reasons including, but not limited to, technology transfer, scarcity of materials, crime control, and national security.

Controlled substances means-

(1) Any narcotic, depressant, stimulant, or hallucinogenic drug, or any other drug or substance included in Schedules I, II, III, IV, or V of section 202 of the Controlled Substances Act (21 U.S.C. 812), except exempt chemical preparations and mixtures and excluded substances contained in 21 CFR part 1308; or

(2) Any other drug or substance that the Attorney General determines to be subject to control under Subchapter I of the Controlled Substances Act (21 U.S.C. 801, *et seq.*); or

(3) Any other drug or substance that by international treaty, convention, or protocol is to be controlled by the United States.

Demilitarization means, as defined by the Department of Defense (DOD) in the Defense Material Disposition Manual, DOD 4160.21–M, to be the act of destroying the military offensive or defensive advantages inherent in certain types of equipment or material. The term includes mutilation, dumping at sea, scrapping, melting, burning, or alteration designed to prevent the further use of this equipment and material for its originally intended military or lethal purpose and applies equally to material in unserviceable or serviceable condition that has been screened through an Inventory Control Point and declared excess or foreign excess.

Electronic Product means any item powered by electricity that has logic circuitry enabling the item to perform its intended function.

Explosive-contaminated property means property that may ignite or explode when exposed to shock, flame, sparks, or other high temperature sources due to residual explosive material in joints, angles, cracks, or around bolts.

Extremely hazardous material means property hazardous to the extent that it generally requires special handling such as licensing and training of handlers, protective clothing, and special containers and storage. Because of its extreme flammability, toxicity, corrosivity or other perilous qualities, it could constitute an immediate danger or threat to life and property and which usually have specialized uses under controlled conditions. It is also material which have been determined by the holding agency to endanger public health and safety or the environment if released to the general public.

Firearm, as defined in 18 U.S.C. 921(a)(3), means:

(1) Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive;

(2) The frame or receiver of any such weapon;

(3) Any firearm muffler or firearm silencer; or

(4) Any destructive device. Such term does not include an antique firearm.

Hazardous material means property that is deemed a *hazardous material*, chemical substance or mixture, or hazardous waste under the Federal *hazardous materials* transportation law (49 U.S.C. 5101, *et seq.*), the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901, *et seq.*), or the Toxic Substances Control Act (TSCA) (15 U.S.C. 2601, *et seq.*). Generally, *hazardous materials* have one or more of the following characteristics:

(1) Are carcinogens (according to Occupational Safety and Health Administration (OSHA) regulations at 29 CFR part 1910), toxic or highly toxic agents, reproductive toxins, irritants, corrosives, hepatotoxins, nephrotoxins, neurotoxins, agents that act on the hematopoietic system, and agents that damage the lungs, skin, eyes, or mucous membranes;

(2) Are combustible liquids, compressed gases, explosives, flammable liquids, flammable solids, organic peroxides, oxidizers, pyrophorics, unstable (reactive) or water-reactive;

(3) Are radioactive to the extent it requires special handling;

(4) Identify hazards on associated SDS, MSDS, or HMIS documentation;

(5) Possess special characteristics which, in the opinion of the holding agency, could be hazardous to health, safety, or the environment if improperly handled, stored, transported, disposed of, or otherwise improperly used.

(6) Materials that, in the course of normal handling, use or storage, may produce or release dusts, gases, fumes, vapors, mists or smoke having any of the above characteristics.

Hazardous waste means those materials or substances, the handling and disposal of which are governed by 40 CFR part 261. Hazardous materials generally become *hazardous wastes* when they are no longer suitable for their intended or valid alternate purpose, or for resource recovery. Some solid (non-hazardous) wastes are predetermined *hazardous wastes* upon generation (40 CFR part 261, subpart D); some are determined *hazardous wastes* when they exhibit ignitability, corrosivity, reactivity, or extraction procedure toxicity. Hazardous materials having an expired shelf life should be reclassified as *hazardous waste* if required by Federal and/or state environmental laws or regulations. Before reclassification, the shelf life may be extended if supported by results of tests and recertification performed by authorized personnel in accordance with applicable regulations.

Lead-containing paint means paint or other similar surface coating material containing lead or lead compounds in excess of 0.06 percent of the weight of the total nonvolatile content of the paint or the weight of the dried paint film.

Medical device means any health-care product that does not achieve its principal intended purposes by chemical action in or on the body or by being metabolized. Medical devices are categorized in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301, *et seq.*). Potential hazards of these devices include chemical and heavy metal hazards, and biohazards.

Munitions List Item (MLI) means property and related technical data designated as defense articles and defense services pursuant to sections 2778 and 2794(7) of the Arms Export Control Act (22 U.S.C. 2778 and 2794(7)).

Noncertified Electronic Product means any electronic product for which there is an applicable radiation safety performance standard prescribed or hereafter prescribed by the FDA under 21 CFR part 1020, and which the manufacturer has not certified as meeting such standard. The non-certification may be due to either:

(1) Manufacture of the product before the effective date of the standard; or

(2) The product was exempted from the applicable standard and is so labeled.

Nuclear Regulatory Commission-Controlled Material means material subject to the controls of the Nuclear Regulatory Commission (NRC) pursuant to the Energy Reorganization Act of 1974. The materials are defined as follows:

(1) *Byproduct material.* Any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation, incident to the process of producing or utilizing special nuclear material. (See 10 CFR part 30).

(2) *Source material.* Uranium or thorium, or any combination thereof, in any physical or chemical form or ores which contain by weight, one-twentieth of one percent (0.05%) or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material. (See 10 CFR part 40).

(3) *Special nuclear material.* Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, any other materials which the NRC, pursuant to the Atomic Energy Act of 1954 (42 U.S.C. 2011, *et seq.*), including any amendments thereto, determined to be special nuclear material, or any material artificially enriched by any of the foregoing, but does not include source material. (See 10 CFR part 70).

Perishable means an item subject to rapid deterioration, spoilage or death, when removed from special storage conditions or care, such as fresh food, animals, and plants.

Precious metal means gold, silver, and platinum group metals (platinum, palladium, iridium, rhodium, osmium, and ruthenium).

Radiation Safety Performance Standards. Certain electronic items or components emitting hazardous electronic radiation are subject to performance standards (21 CFR part 1020). You must follow FDA policies related to acquisition, use, and disposal of items identified by the FDA or other authority for which performance standards are established. See 21 CFR 1000.15 for examples of electronic items that are required to follow *radiation safety performance standards.* Several types of electronic radiation (and examples of items that may emit that type of radiation) include: ionizing electromagnetic radiation (television receivers); ultraviolet electromagnetic radiation (tanning and therapeutic lamps); infrared and microwave electromagnetic radiation (certain alarm systems); and, laser emissions (certain cauterizing, burning, and welding devices).

USDA agencies that have any questions regarding Radiation Safety should contact the Radiation Safety Division at (301) 504-2440 or by fax at (301) 504-2450.

Reagent means any hazardous material used to detect or measure another substance or to convert one substance into another by means of the reactions it causes.

Safety Data Sheet (SDS) means the documentation, as required by 29 CFR 1910.1200, identifying the potential hazards associated with the specific category of product or property. Sources of SDS information may be the manufacturer, distributor, or the procuring agency. Related documentation, such as a Material Safety Data Sheet (MSDS) may also provide information on hazards associated with assets handled under this part.

Universal Waste(s) mean(s) any of the following hazardous waste that is/are managed under the universal waste requirements of 40 CFR part 273:

(1) Batteries as described in 40 CFR 273.2;

(2) Pesticides as described in 40 CFR 273.3;

(3) Mercury-containing equipment (including thermostats) as described in 40 CFR 273.4 and as defined at 40 CFR 273.9; and

(4) Light bulbs containing mercury (such as fluorescent bulbs) as described in 40 CFR 273.5.

Subpart B - Responsibilities

102-40.35 What types of personal property require special handling?

Personal property requiring special handling includes property containing hazardous materials or property which exhibits dangerous characteristics such that improper use, storage, transportation or disposal may lead to potential safety, health, environmental, economic, or national security risks. In many situations, the use, storage, transportation or disposal of these items is governed by Federal, state, and local laws. Personal property requiring special handling may also include animals and plants which may perish if not handled appropriately, as well as perishable products that may lose their utility if not handled appropriately.

102-40.40 What are our responsibilities concerning personal property requiring special handling?

You are responsible for-

(a) Identifying and accounting for property with special handling requirements;

(b) Complying with applicable Federal, state, and local laws and regulations concerning the handling, storage, labeling, use, and final disposition of such property;

(c) Ensuring adequate storage and safeguarding of such property, *e.g.*, secured or limited access storage areas, warning signs, and protective clothing and equipment; and

(d) Transporting materials requiring special handling in accordance with Department of Transportation (DOT), EPA, state and local regulations.

102-40.45 What must we do when we have identified personal property with special handling requirements?

You must properly mark, tag, or label personal property with special handling requirements in accordance with applicable Federal law, including the Occupational Safety and Health Administration requirements (29 CFR 1910.1200), regarding the actual or potential hazard associated with the property, and ensure that such information is maintained and perpetuated in the official agency property records. Labeling requirements for substances that are excluded from the requirements of 29 CFR 1910.1200 are found in the references listed in 29 CFR 1910.1200(b)(5) and (6).

102-40.50 What must we do when we no longer need personal property with special handling requirements?

Except for the items listed in §102-40.55, you must report excess personal property with special handling requirements that you no longer need to GSA for Federal and donation screening (see §102–36.215 of this subchapter for how to report excess personal property to GSA). The report to GSA must clearly identify property requiring special handling, and all related hazards, precautions, and handling requirements related to this property. You must dispose of property not required to be reported to GSA in accordance with applicable Federal, state, and local laws and regulations, and your agency procedures. See §102–40.125 for policy regarding disposal of property requiring special handling by abandonment or destruction. Disposal must be accomplished so as to preserve as much as possible, any civilian utility or commercial value of the property.

110-40.50 Must excess personal property with special handling requirements go through internal screening?

Except for items listed in 102-40.55, excess personal property with special handling requirements must be reported in the Agency Asset Management System (AAMS) for internal USDA screening, following the requirements contained in 102-40.50. Agency offices within the Washington, D.C., Metropolitan area are also required to report this type of property in AAMS, as the Centralized Excess Property Operation is not equipped to handle this property.

102-40.55 Do we report all excess personal property with special handling requirements to GSA?

No. Because of their characteristics, certain items are not subject to the usual disposal procedures. You are not required to report to GSA excess personal property with special handling requirements in any of the following categories listed below.

(a) *Extremely hazardous personal property.* You must dispose of extremely hazardous personal property not reported to GSA in accordance with applicable demilitarization requirements, EPA regulations, state and local laws or regulations, and other Federal laws, regulations or guidelines. However, if time and circumstances permit, this material may be reported to GSA to optimize use of this already-acquired material. When an item that is determined to be extremely hazardous property becomes excess, the holding agency should notify the appropriate GSA regional personal property office, which will determine if the property should be reported using Report of Excess Personal Property, Standard Form (SF) 120 or another method. At a minimum, you must identify the item, and describe the actual or potential hazard(s) associated with the handling, storage, or use of the item(s). This GSA regional office will determine the utilization, donation, sales or other disposal requirements, and provide appropriate guidance to the holding agency.

(b) *Hazardous wastes.* You must dispose of hazardous wastes not reported to GSA in accordance with applicable demilitarization requirements, EPA regulations, state and local laws or regulations, and other Federal laws, regulations or guidelines.

(c) *Perishables.* You may dispose of perishables with no further utility by abandonment or destruction when it is not detrimental to public health or safety (see the abandonment/destruction provisions in §102–40.125 and in part 102–36 of this subchapter). Although there is no requirement to report perishables to GSA if their spoilage is imminent (see §102–40.220), perishables that have a longer time before spoilage and are clearly able to be used may be reported to GSA in accordance with part 102–36. When reporting perishables to GSA, you should annotate the Report for Excess Personal Property, SF 120 or electronic reporting form to show whether there is a specific expiration date for the perishable item and whether such date is an original or extended date.

(d) *EPA research and cleanup materials.* The EPA, under its independent authority, may transfer accountability for hazardous materials deemed by EPA to be research materials to Federal, state, and local agencies, research institutions, or commercial businesses to conduct research or to clean-up a contaminated site.

110-40.55 Do we report all excess personal property with special handling requirements for internal screening?

Items not required to be reported to GSA, per 102-40.55, are not required to be reported in the Agency Asset Management System (AAMS) for internal screening. Items that are reported in AAMS will follow the same guidelines as reporting for Federal screening.

102-40.60 May we reassign hazardous materials?

Yes, when hazardous materials are reassigned within an executive agency, information on the actual or potential hazard must be included in the documentation effecting the reassignment, and the recipient organization must perpetuate in the inventory or control records visibility of the nature of the actual or potential hazard.

102-40.65 Who is responsible for the custody of hazardous materials and property requiring special handling?

The holding agency is responsible for the custody of hazardous materials and property requiring special handling. Custody of these items may be transferred in whole or in part to another Federal agency with that receiving agency's consent.

102-40.70 Who is responsible for the care and handling of hazardous materials and property requiring special handling?

(a) The holding agency is responsible for the care and handling of hazardous materials and property requiring special handling until the time the property has:

(1) Completed the disposal process; and

(2) Been transferred, donated, sold or destroyed, as authorized by this part. The nature of this material may require extra precautions, processes or equipment, thereby increasing the cost of care and handling. The costs associated with performing care and handling may be charged to the Federal agency or donation recipient in accordance with §102–40.95.

(b) When transferring personal property to another federal agency, failure to disclose hazards or special handling requirements may result in the transferring agency being liable for additional costs incurred by the recipient agency, when authorized by applicable law and policy.

Subpart C - Transfer and Donation of Personal Property With Special Handling Requirements

102-40.75 What must we do when reporting excess personal property with special handling requirements?

You must include with your report of excess personal property a complete description of the characteristics of the property, use or disposal restrictions, and the actual or potential hazard(s) associated with the use, handling, or storage of the item. You should include a Safety Data Sheet (SDS), Material Safety Data Sheet (MSDS), or Hazardous Material Information System (HMIS) record (or equivalent) if available. The physical item which requires special handling must also be marked so as to identify its special characteristic(s).

102-40.80 Is personal property requiring special handling available for transfer or donation?

Generally, yes, with the exceptions contained in this part, personal property requiring special handling is available for transfer or donation in accordance with parts 102-36 and 102-37 of this subchapter, respectively. Surplus personal property identified as hazardous material not required for transfer as excess personal property to Federal agencies should normally be made available for donation. However, state agencies should not acquire hazardous materials without first ensuring that there are known eligible donees for such property. Moreover, all transfer and donation documents must include a complete description of the actual or potential hazard(s) associated with the handling, storage, use, or disposal of the item. Also, any continuing restrictions or instructions must be clearly identified on these documents.

102-40.85 Is donee certification required for the donation of personal property requiring special handling?

Yes, the transfer document must contain a full description of the actual or potential hazard(s) and restriction(s) associated with the handling, storage, use, transportation or disposal of the item. GSA will not approve a donation to a State Agency for Surplus Property (SASP) unless an eligible donee has been identified. This subpart does not prohibit a SASP from bringing an item requiring special handling into its warehouse or other place of storage, provided that this storage is of a temporary nature, that the storage arrangement is agreeable to all parties involved in the donation, and that the storage location has the necessary facilities, gear, and trained personnel to handle, store, protect, and transport the property. In addition, the following certification (or an equivalent) must be signed by the donee:
(We), the undersigned, hereby certify that the donee has knowledge and understanding of the nature of the property hereby donated which requires special handling, and will comply with all applicable Federal, state, and local laws, ordinances, and regulations with respect to the care, handling, storage, shipment, and disposal of the property. The donee agrees and certifies that the United States shall not be liable for personal injuries to, disabilities of, or death of the donee or

the donee's employees, or any other person arising from or incident to the donation of the property, its use, or its final disposition. Additionally, the donee agrees and certifies to hold the United States harmless from and shall indemnify the United States against any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the donation of the property, its use, or final disposition.

_____

Name and title of Donee (print or type)

_____

Signature of Donee

102-40.90 Must we establish additional requirements for the inspection of personal property with special handling requirements?

Yes, you are responsible for establishing appropriate safeguards and providing instructions for personal protection to screeners who are inspecting property with special handling requirements. Also, it is the responsibility of the state agency and/or donee to comply with DOT regulations (49 CFR parts 171 through 177) when transporting hazardous material. Any costs incident to repacking or recontainment will be borne by the state agency and/or donee. Also, state agencies and/or donees will comply with EPA's Resource Conservation and Recovery Act (40 CFR parts 261 through 265) including its application to transporters, storers, users, and permitting of hazardous wastes.

102-40.95 Who pays for the costs incident to the transfer of personal property with special handling requirements?

You may charge the Federal agency or the SASP any costs you incur in packing, preparing for shipment, and transporting property with special handling requirements (see parts 102-36 and 102-37 of this subchapter).

Subpart D - Sale of Personal Property With Special Handling Requirements

102-40.100 May we sell personal property with special handling requirements?

Generally, yes, you may sell personal property with special handling requirements through an authorized Sales Center, provided that the property has been reported in accordance with subpart B and C of this part, when you:

(a) Comply with applicable Federal, state, and local laws and regulations, including part 102-38 of this subchapter; and

(b) Follow applicable precautions including but not limited to proper packaging of the property, labeling with appropriate warning signs, and allowing for inspection of the property with proper safeguards.

102-40.105 May we use any sales method to sell personal property that requires special handling?

Yes, unless specifically restricted as to sales methods by provisions in subpart E of this part, you may use any of the sales methods provided in part 102-38 of this subchapter, but you must:

(a) Advertise and conduct sales of such property separately from other sales;

(b) Store and display such property in a safe and controlled manner as required by applicable statutes and/or regulations;

(c) Indicate if the property is being sold only for scrap, and/or if there are any use requirements or restrictions;

(d) Comply with the requirements of other Federal, state, and local laws and regulations; and

(e) Conduct the sale through an agency authorized to sell Federal property in accordance with part 102-38 of this subchapter.

102-40.110 What must we include in the sales terms and conditions when selling personal property with special handling requirements?

In addition to the recommended sales terms and conditions contained in part 102-38 of this subchapter, when selling personal property with special handling requirements you must include the following in the sales terms and conditions:

(a) A full description of the actual or potential hazard(s) associated with handling, storage, or use of the item, as well as any use requirements, restrictions, or limitations;

(b) An SDS, MSDS, or HMIS when available;

(c) A certification, executed by a duly authorized agency official, that the item is appropriately labeled and packaged in accordance with applicable regulatory and statutory requirements;

(d) Any additional requirements the purchaser must comply with prior to removal, *e.g.*, demilitarization on-site;

(e) The necessary steps the purchaser must take in the handling and transportation of the property when the property is sold; and

(f) A statement that it is the purchaser's responsibility to comply with all applicable Federal, state, local, and export laws and regulations to ensure the proper registration, licensing, possession, transportation, and subsequent use, resale or disposal of the property. You must use the following certification (or an equivalent certification) when offering for sale an item requiring special handling. Failure to sign the certification may result in the bid being rejected as nonresponsive:

The undersigned bidder hereby certifies that if awarded a contract under this invitation for bids, the bidder will comply with all applicable Federal, state, and local laws, ordinances, and regulations with respect to the care, handling, storage, shipment, resale, export, or other use of

the material hereby purchased. The bidder will hold the United States harmless from and indemnify the United States against any or all debts, liabilities, judgments, costs, demands, suits, actions, or other claims of any nature arising from or incident to the handling, use, storage, shipment, resale, export, or other disposition of the items purchased.

_____

Name of bidder (print or type)

_____

Signature of bidder

102-40.115 Are certifications required from the purchaser when selling personal property with special handling requirements?

Yes, in addition to receiving a certification that the purchaser will comply with all Federal, state, and local laws and regulations with respect to the care, handling, storage, shipment, and disposal of personal property with special handling requirements (see certification at §102-40.110), you must obtain from the purchaser a certification that the purchaser will comply with any additional requirements associated with the property, such as demilitarization, export controls on CCLI, or mutilation requirements for flight safety critical aircraft parts. These additional requirements may be imposed by any law, regulation, or policy.

102-40.120 What precautions must we take during the sales process for personal property requiring special handling?

(a) It is your responsibility to prepare items with special handling requirements for sale, provide all necessary information to ensure that prospective bidders are informed of hazards and special processing requirements, and identify precautions that bidders should take to protect themselves while inspecting, packing or moving items with special handling requirements. You must make any safety gear or equipment needed during the sales process available to prospective bidders and others involved in the inspection, packing or moving of these items.

(b) Unless authorized by the appropriate GSA regional office, you must not sell extremely hazardous property unless the property is rendered innocuous or adequate safeguards are provided. Such property must be rendered innocuous in a manner so as to preserve the utility or commercial value of the property.

102-40.125 May we dispose of personal property requiring special handling by abandonment or destruction?

Yes, you may dispose of personal property requiring special handling by abandonment or destruction. However, in addition to the requirements for the abandonment or destruction of property in §§102-36.305 through 102-36.330 of this subchapter, you must also satisfy applicable Federal, state, and local waste disposal and air and water pollution control standards, laws, and regulations. You must ensure that such property, including empty hazardous material containers, not be abandoned until made safe, demilitarized, reduced to scrap, or otherwise made innocuous. You should also preserve, as much as possible, any civilian utility or commercial value of the property (see §102-40.50.) National security classified items must be declassified or destroyed in accordance with holding agency regulations.

110-40.125 USDA abandonment or destruction requirements for personal property requiring special handling.

Agencies must follow the requirements of 102-40.125, as well as 110-36.305, when using the abandonment or destruction authority for personal property requiring special handling.

Subpart E - Categories of Personal Property With Special Handling Requirements

102-40.130 What categories of personal property require special handling?

Many categories of personal property have special handling requirements in compliance with applicable Federal, state, and local regulations and ordinances for their handling, transportation, storage, disposal and use. See appendix A to this part for a listing of Federal Supply Classifications (FSCs) containing predominately hazardous items and appendix B to this part for a listing of FSCs containing a significant number of hazardous items. See §§ 102-40.130 through 102-40.235 for special handling instructions for some categories of property for which Federal property managers are likely to have responsibility.

102-40.135 How do we manage acid-contaminated and explosive-contaminated property?

(a) Acid-contaminated or explosive-contaminated property is considered extremely hazardous property and is not reported to GSA for subsequent transfer or donation. However, you should notify GSA of this property in accordance with §102-40.55. If the property is not transferred or donated, you may dispose of such property by sale, in accordance with subpart D of this part and with the condition that the purchaser sufficiently decontaminates the property to the degree that it is no longer extremely hazardous. Also, such property must be properly labeled in accordance with §102-40.45 and should not be abandoned. When destroyed, such destruction should be accomplished under §102-40.125.

(b) When selling acid or explosive contaminated property, the sales terms and sales documentation must both include the following certification, or an equivalent certification, which must be signed by the successful bidder.

It is hereby certified that the undersigned purchaser will comply with all the applicable Federal, state, and local laws, ordinances and regulations with respect to the care, handling, storage, and shipment, resale, export, and other use of the materials, hereby purchased, and that he/she is a user of, or dealer in, said materials. This certification is made in accordance with and subject to the penalties of Title 18, Section 1001, the United States Code, Crime and Criminal Procedures.

_____

Name of purchaser (print or type)

_____

Signature of purchaser

110-40.135 How should USDA agencies manage acid-contaminated and explosive-contaminated property?

Acid-contaminated or explosive-contaminated property does not have to be reported in the Agency Asset Management System (AAMS) for internal screening.

102-40.140 How do we handle all-terrain vehicles (ATVs)?

(a) Three-wheeled and four-wheeled all-terrain vehicles (ATVs) can be exchanged with a dealer under the provisions of part 102-39 of this subchapter. Three-wheeled ATVs not exchanged must be mutilated in a manner to prevent operational use and may be sold only as salvage or scrap. Four-wheeled ATVs not exchanged may be offered for transfer and donation only when documented in accordance with §§102-40.75 and 102-40.80. In addition, any transfer or donation documentation for four-wheeled ATVs must require the recipient to acknowledge that the recipient will follow regulations and guidelines published by the Consumer Product Safety Commission related to these items, including age recommendations, restrictions on usage, and operator training. Four-wheeled ATVs not exchanged, transferred, or donated may be offered for sale as either salvage or scrap only after they have been mutilated in a manner to prevent operational use. Four-wheeled ATVs must not be released to the public after donee use, nor may they be released to the public after Federal use if the ATVs are not donated.

(b) A donation transfer document must contain a full description of the actual or potential hazard(s) and restriction(s) associated with the handling, storage, use, transportation or disposal of the item. In addition, the following certification (or an equivalent) must be signed by the donee:

I (We), the undersigned, hereby certify that the donee has knowledge and understanding of the nature of the property hereby donated which requires special handling, and will comply with all applicable Federal, state, and local laws, ordinances, and regulations with respect to the care, handling, storage, shipment, and disposal of the property. The donee agrees and certifies that the United States shall not be liable for personal injuries to, disabilities of, or death of the donee or the donee's employees, or any other person arising from or incident to the donation of the property, its use, or its final disposition. Additionally, the donee agrees and certifies to hold the

United States harmless from and shall indemnify the United States against any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the donation of the property, its use, or final disposition.

_____

Name and title of Donee (print or type)

_____

Signature of Donee

102-40.145 How do we handle ammunition and ammunition components?

(a) Report usable ammunition to GSA for possible transfer to a Federal agency. You must not donate surplus ammunition, but you may donate surplus ammunition components to eligible donation recipients. You may sell non-expended ammunition and ammunition components (expended and non-expended) only to companies licensed to perform manufacturing/remanufacturing processes under the provisions of 18 U.S.C. 923 or other Federal law or regulation or to companies allowed to purchase ammunition components under local and state laws. If the ammunition is regulated pursuant to the National Firearms Act (NFA) or any other Federal regulation, then the ammunition can only be disposed of in accordance with applicable regulation. Ammunition greater than .50 caliber can, in some instances, be regulated under the NFA. You must follow any demilitarization requirements. When selling ammunition and ammunition components, the sales terms and sales documentation must both include the following certification, or an equivalent certification, which must be signed by the successful bidder:

Item No. _____ contains ammunition or ammunition components offered for sale in this invitation. The undersigned certifies that he/she will comply with all applicable local, state, and Federal laws and regulations concerning ammunition or ammunition components.

If the item being sold is scrap ammunition, the undersigned certifies that he/she is licensed to perform manufacturing/remanufacturing under the provisions of 18 U.S.C. 923 or other Federal law or regulation.

If the item being sold is a scrap ammunition component, the undersigned certifies that these scrap ammunition components will not be used for the original manufactured purpose.

_____

License issuing authority and license number

_____

Name of bidder (print or type)

_____

Signature of bidder

(b) In addition to sales as described in paragraph (a) of this section, expended ammunition cartridge cases may also be transferred or donated when the recipient certifies that the spent brass will be reloaded and used only for law enforcement purposes. If there is no Federal or state donation interest in the cases, and a sale of the scrap is not feasible, cartridge cases may be disposed of using abandonment or destruction procedures under §102-40.125. The recipient must certify that the expended cartridge cases will not be used for the original manufactured purpose.

(c) The transportation of primers or propellant powder is governed by 49 CFR parts 171 through 180.

110-40.145 How should USDA agencies handle ammunition and ammunition components?

USDA agencies must report usable ammunition and excess ammunition components in the Agency Asset Management System (AAMS) for internal screening.

102-40.150 How do we handle animals and plants?

(a) Whenever possible, you should report live animals and plants to GSA for transfer, donation or sale. They are, however, considered perishables and may be disposed of by abandonment or destruction procedures in accordance with the authority contained in §102-40.125. Abandonment or destruction procedures may be used for animals other than those specifically addressed below, where warranted for humane purposes.

(b) Unfit horses and mules may be humanely euthanized or put out to pasture in accordance with 40 U.S.C. 1308 and agency policies. Transfers of unfit horses or mules to Federal agencies must be conducted in accordance with part 102-36 of this subchapter. In the event that a transfer of these animals can be made to a humane organization, the transfer may be conducted under procedures contained in part 102-37 of this subchapter.

(c) Under 40 U.S.C. 555, you may transfer canines formerly used in the performance of law enforcement duties to an individual experienced in handling canines in the performance of those duties, in accordance with agency policy and procedures. For example, the “individual” may be the current handler of that canine or a previous handler.

110-40.150 USDA handling of animals and plants.

(a) Live animals and plants should be reported in the Agency Asset Management System (AAMS) for transfer, donation or sale, following the procedures in 102-40.150.

(b) Unfit horses and mules that are not transferred, donated or sold, should be put out to pasture in accordance with 40 U.S.C. 1308 or transferred to a humane organization under procedures contained in part 102-37 of this subchapter.

(c) Canines formerly used in the performance of law enforcement duties that are not transferred, donated or sold, should be transferred to the current handler of that canine or a previous handler.

102-40.155 How do we handle asbestos?

(a) Items with asbestos content must be handled in accordance with the EPA regulations found at 40 CFR part 61, subpart M. Further information on laws and regulations related to asbestos may be found at www.epa.gov/asbestos.

(b) Report to GSA excess personal property containing nonfriable asbestos, as defined in 40 CFR 61.141, for subsequent transfer, donation or sale in accordance with parts 102-36 through 102-38 of this subchapter. Nonfriable asbestos materials cannot:

(1) When dry, be crumbled, pulverized, or reduced to powder by hand pressure; or

(2) Contain asbestos which is bonded or otherwise rendered unavailable for release into the atmosphere through normal usage. All disposal documentation related to personal property containing nonfriable asbestos, such as exchange/sale, reporting, transfer, donation, and sales documents, must include a warning statement that the item may contain asbestos and must not be cut, crushed, sanded, disassembled or otherwise altered. The property must also be labeled or marked with such warning statements.

(c) You must use a warning such as the following on the documentation reporting or requesting the exchange/sale, transfer, donation or sale of an item containing asbestos:

WARNING

This property contains asbestos. Inhaling asbestos fibers may cause cancer. Do not release fibers by cutting, crushing, sanding, disassembling, or otherwise altering this property. End users and new owners, if transferred, should be warned. OSHA standards for personnel protection are codified at 29 CFR 1910.1001. EPA disposal standards are codified at 40 CFR part 61. State and local authorities may have additional restrictions on the disposal of items containing asbestos.

(d) Property containing asbestos should be labeled with a warning such as the following:

WARNING

This property contains asbestos. Inhaling asbestos fibers may cause cancer. Do not release fibers by cutting, crushing, sanding, disassembling, or otherwise altering this property.

(e) Nonfriable asbestos that is not transferred, donated, or sold may be abandoned as provided in §102-40.125 and part 102-36 of this subchapter. If destroyed by burial, items containing friable or nonfriable asbestos must be disposed of by burial at a site that meets the requirements of 40 CFR 61.154.

(f) Friable asbestos materials that contain more than one percent asbestos by weight and can, by hand pressure, be crumbled, pulverized, or reduced to powder, thus allowing for potential release of asbestos fibers into the air. Property containing friable asbestos normally is not to be transferred, donated or sold. Notwithstanding these provisions, holding agencies, on a case-by-case basis, may request approval from GSA Central Office, with consultation from the EPA, to transfer, donate or sell such property if in the judgment of the holding agency, special circumstances warrant such action.

(g) Excess personal property known to contain friable asbestos shall neither be reported to GSA nor transferred among Federal agencies excepted as noted in paragraph (f) of this section.

(h) Surplus property containing friable asbestos is to be neither donated nor sold. Such property is disposed of under paragraph (i) of this section.

(i) Excess and surplus property containing friable asbestos is to be disposed of by burial in a site that meets the EPA requirements of 40 CFR 61.156. Holding agencies should contact the nearest office of the EPA for assistance with regard to the disposal of materials containing asbestos, with the exception of DOD, who should contact the Defense Logistics Agency (DLA).

102-40.160 How do we handle controlled substances?

(a) You are not required to report excess controlled substances to GSA, but you should make reasonable efforts to transfer them to Federal agencies in accordance with Drug Enforcement Administration (DEA) regulations (21 CFR part 1307). The recipient agency must certify that it is authorized to procure the particular controlled substance and provide the registration number on the Certificate of Registration, issued by the DEA. See the transfer procedures in FMR part 102-36 (41 CFR part 102-36).

(b) You must not donate controlled substances.

(c) In accordance with sales procedures specified in part 102-38 of this subchapter, and under the conditions specified in this paragraph, you may sell controlled substances by sealed bid only, to bidders who have registered with the DEA to manufacture, distribute, or dispense of the particular controlled substance. As a condition of sale, the bidder must submit verification of DEA registration. Prior to finalizing the sale, you must obtain confirmation from the DEA of the bidder's status as a registered manufacturer, distributor or dispenser of controlled substances.

(1) The invitation for bids for controlled substances must list only controlled substances and must only be distributed to bidders who are registered with the DEA, Department of Justice, to manufacture, distribute or dispense of the controlled substances being sold. In addition, the following statement, or an equivalent statement, must be included in the sales terms and conditions when selling controlled substances:

The bidder shall complete, sign, and return with his/her bid, the certificate as contained in this invitation. No award will be made or sale consummated until after this agency has obtained from the Drug Enforcement Administration, Department of Justice, verification that the bidder is registered to manufacture, distribute, or dispense those controlled substances which are the subject of the award.

(2) The following certification, or an equivalent certification, must be made a part of the invitation for bids and contract to be completed and signed by the bidder and returned with the bid. Failure to sign the certification may result in the bid being rejected as nonresponsive:

The undersigned bidder certifies that he/she is Registered with the Drug Enforcement

Administration, Department of Justice, as a manufacturer, distributor, or dispenser of the controlled substances for which a bid is submitted and the registration number is:

_____

This certification is made in accordance with and subject to the penalties of Title 18, Section 1001, United States Code, Crime and Criminal procedures.

_____

Name of bidder (print or type)

_____

Signature of bidder

_____

Address of bidder (print or type)

_____

City, State, Zip code

(d) As a condition precedent to making an award for the sale of surplus controlled substances, holding agencies should follow procedures provided by the DEA in 21 CFR part 1310.

(e) You must not abandon controlled substances. You must destroy controlled substances in such a manner as to ensure total destruction to preclude any further use, and ensure such destruction is in compliance with DEA regulations, 21 CFR part 1307, or other procedures approved by DEA, and coordinate with local air and water pollution control authorities when required. Destruction must be witnessed and certified by two employees of your agency, unless DEA directs otherwise. The following certification, or an equivalent certification, must be used to document the destruction of controlled substances:

We, the undersigned, have witnessed the destruction of the (controlled substance(s)) described herein and in the manner of destruction and on the date stated herein:

Certification of destruction of: _____

_____ _____

Manner in which destruction was performed Date

_____ _____

Witness Date

_____ _____

Witness Date

110-40.160 How should USDA agencies handle controlled substances?

Agencies do not have to report controlled substances for internal screening, but must follow the regulations in 102-40.160.

102-40.165 How do we handle drugs, biologicals, and reagents other than controlled substances?

(a) Drugs, biologicals, and reagents other than controlled substances may be transferred to another Federal agency for official purposes under procedures specified in part 102-36 of this subchapter. For donation of drugs, biologicals, or reagents other than controlled substances, follow the procedures in part 102-37 of this subchapter, and paragraph (c) of this section.

(b) Drugs, biologicals, and reagents other than controlled substances must be clearly identified when they are unfit for human use. As a general rule, you must destroy drugs, biologicals, and reagents unfit for human use, with destruction performed by an agency employee and witnessed and certified by two additional representatives of your agency. Similarly, destruction of this property held by a SASP or donee must be destroyed by a SASP employee and witnessed by two additional SASP employees. Destruction shall be coordinated with local air and water pollution control authorities, when required. However, you may report such property to GSA for subsequent transfer or donation for the purpose of animal experimental use when the property is unfit due to expired shelf life. The following certification, or an equivalent certification, must be used and retained by the Federal agency or SASP to document the destruction of drugs, biologicals, and reagents:

We, the undersigned, have witnessed the destruction of the (drugs, biologicals, and reagents) described in the foregoing certification in the manner of destruction and on the date stated herein:

Certification of destruction of: _____

_____ _____

Manner in which destruction was performed Date

_____ _____

Witness Date

_____ _____

Witness Date

(c) When donating drugs, biologicals, or reagents other than controlled substances, the SASP shall obtain a certification from the donee indicating that the items donated will be safeguarded, dispensed, and administered under competent supervision and in accordance with Federal, state, and local laws and regulations. Surplus drugs, biologicals, and reagents requested for donation by state agencies will not be transported by the state agency or stored in its warehouse prior to distribution to donees. Arrangements will be made by the state agency for the donee to make direct pickup at the holding agency after approval by GSA and after notification by the holding agency that the property is ready for pickup. Additionally, Transfer Order Surplus Personal Property, SF 123 from a state agency requesting surplus drugs, biologicals, and reagents for donation will not be processed or approved by GSA until it has been determined by the GSA donation representative that the specific donee is legally licensed to administer, dispense, store, or distribute such property. A copy of the donee's license, registration, or other legal authorization to administer, dispense, store, or distribute such property should be attached and made a part of the SF 123. The administration or use of drugs, biologicals, and reagents must be in compliance with the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 301, *et seq.*).

(d) The sale of any unexpired drugs, biologicals, or reagents must be in accordance with rules published by the Food and Drug Administration (FDA). You may sell drugs, biologicals, and reagents other than controlled substances, only to those entities legally qualified to engage in the sale, manufacture or distribution of such items and a certification or evidence of licensing must accompany the bids. An entity is legally qualified when a Federal agency (*e.g.*, the Department of Health and Human Services, the DEA, or the Department of Agriculture) or state agency having legal or regulatory oversight over that commodity has approved the entity to engage in the designated activity.

(1) When selling drugs, biologicals, and reagents other than controlled substances, the following condition of sale (or an equivalent condition of sale) must be used:

The bidder shall complete, sign, and return with his/her bid the certification as contained in this invitation. No award will be made or sale consummated until after this agency has determined that the bidder is legally licensed to engage in the manufacture, sale, or distribution of drugs.

(2) The following certification, or an equivalent certification, must be made a part of the invitation for bids (and contract), to be completed and signed by the bidder, and returned with the bid with a copy of his/her license. Failure to sign the certification may result in the bid being rejected as nonresponsive.

The undersigned bidder certifies that he/she is legally licensed to engage in the manufacture, sale, or distribution of drugs, and proof of his/her license to deal in such materials is furnished with this bid. This certification is made in accordance with and subject to the penalties of Title 18, Section 1001, United States Code, Crime and Criminal procedures.

_____

Name of bidder (print or type)

_____

Signature of bidder

_____

Address of bidder (print or type)

_____

City, State, Zip code

102-40.170 How do we handle electronic products?

(a) Additional guidance regarding the disposal and reporting of Federal electronic products is found under FMR part 102-36 (41 CFR part 102-36).

(b) Excess electronic products, certified and noncertified, meeting radiation safety performance standards or electronic products which are not required to meet such performance standards must be reported to GSA for transfer to Federal agencies in accordance with part 102-36 of this subchapter and may be donated or sold in accordance with parts 102-37 and 102-38 of this subchapter, respectively.

(c) Excess electronic products NOT meeting radiation safety performance standards must be reported to GSA for transfer to Federal agencies in accordance with FMR part 102-36 (41 CFR part 102-36) and may be donated or sold in accordance with parts 102-37 and 102-38 of this subchapter, respectively. The report to GSA, and any subsequent transfer, donation, or sales documents, must include a statement that the items are not in compliance with applicable radiation safety performance standards and specify the standard which is not being met. Additionally, the recipient must acknowledge that they are aware of the potential danger in handling or using such items.

(d) Donation documentation for items not meeting radiation safety performance standards must contain the following certification, or an equivalent certification, signed by the donee before release:

I (We), the undersigned, hereby certify that the donee has knowledge and understanding of the potential danger in using the product without a radiation test to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standards prescribed for the item under 21 CFR parts 1010 through 1050, and agrees to accept the item from the holding agency for donation under those conditions. The undersigned further agrees that the Government shall not be liable for personal injuries to, disabilities of, or death of the donee or the donee's employees, or any other person arising from or incident to the donation of the item, its use, or its final disposition. The undersigned also agrees to hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the donation of the item, its use, or its final disposition.

_____

Name of Donee (print or type)

_____

Signature of Donee

(e) Sales documents listing electronic products not meeting safety performance standards must also clearly warn purchasers that the items may not be in compliance with FDA radiation safety performance standards prescribed pursuant to 21 CFR parts 1010 through 1050 and that the purchaser assumes all risks associated with the use or resale of the items. The following type of warning will be placed on the sales documentation:

WARNING

Purchasers are warned that the item purchased herewith may not be in compliance with Food and Drug Administration radiation safety performance standards prescribed pursuant to 21 CFR parts 1010 through 1050, and use may result in personal injury unless modified. The purchaser agrees that the United States shall not be liable for personal injuries to, disabilities of, or death of the purchaser, the purchaser's employees, or to any other persons arising from or incident to the purchase of this item, its use, or disposition. The purchaser shall hold the United States harmless from and shall indemnify the United States against any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the purchase, use or resale of this item. The purchaser agrees to notify any subsequent purchaser of this property of the potential for personal injury in using this item without a radiation survey to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standards prescribed for the item under 21 CFR parts 1010 through 1050, unless authorized by 21 CFR 1002.4 to have the dealer or distributor hold and preserve.

(f) You must dispose of all electronic products in accordance with all Federal and state laws, including the Solid Waste Disposal Act (42 U.S.C. 6901, *et seq.*) and Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management. You should also be aware of the prohibitions and liabilities contained in 42 U.S.C. 9607.

(g) When donating or selling electronic products, the sales terms and sales documentation, or donation document, must include the following certification, or an equivalent certification, which must be signed by the donee or successful bidder:

It is hereby certified that the undersigned purchaser or donee will comply with all the applicable Federal, state, and local laws, ordinances and regulations with respect to the care, handling, storage, disposal, and shipment, resale, export, or other use of the electronic products, hereby purchased or donated, and that he/she is a user of, or dealer in, said products. This certification is made in accordance with and subject to the penalties of Title 18, Section 1001, the United States Code, Crime and Criminal Procedures.

When recycling electronic products, purchaser or donee should use any national standards, best management practices, or existing certification programs for recyclers in addition to Federal, state, and local laws, ordinances and regulations. In the absence of national standards, best management practices, or a national certification program for recyclers, the purchaser/donee should use "EPA's Guidelines for Materials Management" found at http://www.epa.gov/epawaste/index.htm

_____

Name of purchaser or donee (print or type)

_____

Signature of purchaser or donee

(h) Additionally, noncertified and certified electronic products must be abandoned under the provisions of §102-40.125.

102-40.175 How do we handle firearms?

(a) You must submit reports and transfer documents on excess firearms to GSA (8QSC), Denver, CO 80225-0506. GSA will approve transfers of firearms only to those Federal agencies authorized to acquire firearms for official use, and may require additional written justification from the requesting agency.

(b) GSA may donate only surplus hand guns, rifles, shotguns, and individual light automatic weapons previously used by the Federal Government, with less than.50 caliber in Federal Supply Classification (FSC) 1005, and rifle and shoulder fired grenade launchers in FSC 1010, with a disposal condition code of 4 or better (see condition codes in § 102-36.240 of this subchapter). Only eligible law enforcement entities whose primary function is the enforcement of applicable Federal, state, and/or local laws, and whose compensated law enforcement officers have powers to apprehend and arrest, may obtain these donated firearms for law enforcement purposes.

(c)

(1) For purposes of donation under paragraph (b) of this section, each Transfer Order Surplus Personal Property SF 123 must be accompanied by a conditional transfer document, signed by both the intended donee agency and the SASP, which includes the special terms, conditions, restrictions, and other forms or information required for the transfer of the donated firearms. Restrictions on donated firearms are perpetual and may not be amended by the SASP without prior written approval from GSA. Donated firearms must be released or shipped directly from the Federal donor agency to the designated donee.

(2) If the firearms to be donated are subject to the National Firearms Act, 26 U.S.C. Chapter 53, (*e.g.*, machine-guns, silencers, short-barrel rifles, short-barrel shotguns, firearms over.50 caliber or with a bore diameter of more than 1/2 inch, and destructive devices) the SF 123 must be accompanied by an ATF Form 10, Application for Registration of Firearms Acquired by Certain Governmental Entities, completed by the donee agency as specified in 27 CFR 479.104. Upon approval of the donation by the SASP, the Form 10 shall be forwarded in accordance with the form's instructions. The Chief, National Firearms Act Branch, shall notify the donee agency of ATF registration of the donated firearms by returning the approved Form 10 to the donee agency. The donee agency shall provide a copy of the approved Form 10 to the SASP who shall retain a copy of the approved Form 10 and attach it to the SF 123. Firearms shall not be released for shipment until the ATF Form 10 has been approved by the ATF and a copy provided to the SASP. The registration of any firearms on ATF Form 10 is for official use only and subsequent transfers will be approved only to other Governmental entities for official use and in accordance with paragraph (e)(2) of this section. If you have questions concerning whether particular firearms are subject to the National Firearms Act, contact the Firearms Technology Industry Services Branch, ATF, at (304) 616-4300 or FIRE_TECH@atf.gov.

(d) When authorized by circumstances described in paragraphs (e), (f), (g), or (i) of this section, the destruction of firearms must be performed by an entity authorized by your agency head or designee. The destruction must be witnessed by two additional agency employees authorized by the agency head or designee.

(e)

(1) When the approved donee agency no longer needs the donated firearms, the donee agency must notify the SASP. The SASP may, with GSA approval and in accordance with paragraph (e)(2) of this section, reassign firearms to another donee agency within the state or to a donee agency in another state through the appropriate SASP. In such a case, transfer of the firearms must be between eligible donee agencies only. No SASP is eligible to take custody of the firearms. If the firearms are not sought for reassignment, the donee agency and a representative from the SASP, or designee, must witness destruction of the firearms and complete and sign a certificate of destruction, which will be maintained by the SASP. If firearms subject to the National Firearms Act are destroyed, the SASP shall notify the Chief, National Firearms Act Branch, ATF, so the destruction can be noted in the National Firearms Registration and Transfer Record.

(2) If the firearms sought for reassignment are subject to the National Firearms Act, the firearms must be transferred in accordance with 27 CFR 479.90. This regulation requires that the donor agency submit an ATF Form 5, Application for Tax Exempt Transfer and Registration of Firearm, which must be approved prior to transfer of the firearms. Donor agencies wishing to reassign firearms subject to the National Firearms Act shall submit a completed ATF Form 5 to the SASP along with the request to reassign the firearms to another donee agency. The SASP shall forward the ATF Form 5 to the Chief, National Firearms Act Branch. If transfer is approved by the ATF, the donor agency will receive a copy of the Form 5, with approval noted thereon, from the Chief, National Firearms Act Branch, ATF. The donor agency shall provide a copy of the approved Form 5 to the SASP at which time the reassignment shall be approved.

(f) You must not abandon firearms. You must destroy unneeded firearms by crushing, cutting, breaking, or deforming each firearm in a manner to ensure that each firearm is rendered completely inoperative and incapable of being made operable for any purpose except the recovery of basic material content. Destruction of firearms must be performed as stated in paragraphs (d) and (e) of this section.

(g) You must not dispose of functional or repairable firearms under an exchange/sale transaction or by sale. Surplus firearms may be sold only for scrap after total destruction as described in paragraph (f) of this section to ensure that the firearms are rendered completely inoperative and to preclude their being made operative. Such sale shall be conducted under part 102-38 of this subchapter.

(h)

(1) Except as provided in paragraph (h)(2) of this section, firearms received as foreign gifts may be offered for transfer to Federal agencies or sold to the gift recipient in accordance with part 102-42 of this subchapter. If sold to the gift recipient, a certification signed by the gift recipient certifying compliance with all Federal, state, and local laws regarding purchase and possession of firearms must be received by the gift recipient's agency and the agency conducting the sale prior to the sale and release of such firearm to the gift recipient.

(2) Firearms subject to the National Firearms Act, 26 U.S.C. Chapter 53 that are received as foreign gifts cannot be lawfully transferred to an individual gift recipient. These firearms must remain the property of the United States or may be transferred to a donee agency in accordance with paragraphs (b) and (c) of this section. In addition, all firearms must also be transferred, shipped, received, and possessed in accordance with the Gun Control Act of 1968. Persons having questions concerning compliance with the Gun Control Act should contact the nearest ATF field office.

(i) Firearms that are forfeited, voluntarily abandoned, or unclaimed as described in 40 U.S.C. 1306 and 40 U.S.C. 552, must be reported to GSA for disposal in accordance with §102-41.195 of this subchapter. GSA will direct the disposition of these firearms under this section.

102-40.180 How do we handle hazardous materials?

(a) You may use any of the following methods for the identification of hazardous materials:

(1) As part of the process under current acquisition standards, manufacturers must provide SDSs or similar documentation to identify potential hazards. SDSs are also prescribed by OSHA under 29 CFR part 1910.

(2) An automated database maintained by GSA Federal Acquisition Service contains MSDSs for all GSA-procured hazardous materials. To request an MSDS, you may send an e-mail to MSDS@gsa.gov, or call, Toll Free: 866-588-7659, DSN: 465-5097, or Commercial: 816-926-5097.

(3) A collection of hazard-related information in DOD's HMIS provides transportation and disposal information.

(4) Appendix A to this part contains a list of the Federal Supply Classes (FSC) of property that are composed predominantly of hazardous items.

(5) When information is not available under paragraphs (a)(1), (2), (3), or (4) of this section, contact the manufacturer, the procuring agency, or your technical staff for assistance in obtaining the SDS, MSDS, or HMIS information.

(b) You must verify items with an expired shelf life or reclassify them as hazardous wastes when required by Federal, state, or local environmental laws or regulations. If the item has been determined hazardous, the owning Federal agency must document the accountable inventory record accordingly. If the item has not been appropriately labeled by the manufacturer or distributor, the owning agency must appropriately label, mark, or tag the item in accordance with OSHA requirements (29 CFR 1919.1200) regarding the actual potential hazard associated with the handling, storage, or use of the item.

(c) For transportation of hazardous materials, see 49 CFR parts 171 through 180.

(d) or disposal of hazardous materials, see §§102-40.35 through 102-40.125.

(e) Unless authorized by GSA, extremely hazardous property may not be sold unless it is rendered innocuous, mutilated or otherwise made safe. You should, however, render such property innocuous in a manner so as to preserve the maximum utility or commercial value of the property when possible.

102-40.185 How do we handle lead-containing paints and items bearing lead-containing paint?

(a) You may transfer, donate or sell such items in compliance with restrictions and requirements found in the Consumer Product Safety Commission regulations set forth in 16 CFR part 1303. The transfer, donation or sales documents must clearly describe these leaded items and why they require special handling, and identify the danger inherent in the use or disposal of such paint and items bearing lead-containing paint. You must not abandon such items or their containers. You must destroy them in a way that will prohibit future acquisition and use, and in a manner authorized by law and regulation. Any removal (stripping) of lead paint incident to disposal must be accomplished in conformance with Federal regulations and industry guidelines such as those promulgated by the EPA (http://www.epa.gov) or OSHA (http://www.osha.gov).

(b) If disposal of the items described in paragraph (a) of this section is allowable, the following must be placed on the items:

(1) The following warning:

WARNING

Contains Lead. Dried Film of This Paint May be Harmful if Eaten or Chewed.

(2) The following additional statement or its practical equivalent on their labels:

Do not apply on toys and other children's articles, furniture or interior surfaces of any dwelling or facility which may be occupied or used by children. Do not apply on exterior surfaces of dwelling units, such as window sills, porches, stairs or railings, to which children may be commonly exposed.

Keep Out of Reach of Children

(c) Donation documentation (including the SF 123) must contain the following certification, or an equivalent certification:

The property requested herein shall be used only as specified in 16 CFR part 1303 and in no case shall be in contact with children. I, the undersigned, agree the United States shall not be liable for personal injuries to, disabilities of or death of the donee's employees, or any other person arising from or incident to the donation of this property, its use or its final disposition; and to hold the United States harmless from, and shall indemnify the United States against, any or all debts, liabilities, judgments, costs, demands, suits, actions or claims of any nature arising from or incident to the donation of this property, its use or its final disposition.

_____

Name of donee (print or type)

_____

Signature of donee

(d) When selling lead-containing paint or items bearing lead-containing paint, the sales terms and sales documentation must include this certification, or an equivalent certification. Failure to sign the certification where it appears as a sales term may result in the bid being rejected as nonresponsive:

I, the undersigned, certify that I have read and fully comprehend the aforementioned terms and conditions of this sale. I shall comply with the applicable Consumer Product Safety Commission regulations set forth in 16 CFR part 1303 if I am the successful bidder. I further agree the United States shall not be liable for personal injuries to, disabilities of, or death of any persons arising from or incident to the sale of this property, its uses or its final disposition; and to hold the United States harmless from, and shall indemnify the United States against, any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the sale of this property, its use, or its final disposition.

_____

Name of bidder (print or type)

_____

Signature of bidder

102-40.190 How do we handle medical devices?

(a) Medical devices are subject to the laws and regulations administered by FDA. Provisions of the governing statute, the Federal Food, Drug, and Cosmetic Act, appear in 21 U.S.C. 301, et seq. FDA regulations covering medical devices are found in 21 CFR chapter I, subpart H. The Act prohibits the movement in interstate commerce of medical devices that are adulterated or misbranded (21 U.S.C. 331). The Act authorizes FDA to initiate civil proceedings to seize or enjoin the distribution of such items (21 U.S.C. 334), and to report any violations to a U.S. Attorney for prosecution, after such individual is given notice and a hearing (21 U.S.C. 335).

(b) Prescription devices are subject to additional Federal, state, local, and other applicable laws. Federal law requires that prescription devices be in the possession of either: persons lawfully engaged in the manufacture, transportation, storage, or wholesale or retail distribution of such device; or, practitioners licensed by their states. Federal law also requires that prescription devices be sold only to, or on the prescription or order of, a licensed practitioner for use in the course of his or her professional practice, and that the devices are labeled in a specific manner.

(c) Non-Federal recipients must certify in writing that such property will be used, resold or transported in conformance with FDA regulations. Any proposed destruction of medical equipment must be coordinated with local health and sanitation officials.

102-40.195 How do we handle Munitions List Items (MLIs)?

(a) Munitions List Items (MLIs) are listed in 22 CFR part 121. A system of demilitarization codes identifies the extent of alteration or destruction necessary when transferring or selling MLIs. The appropriate code is normally assigned to items when they enter the supply system of the Department of Defense (DOD) or a civilian agency. Refer to DOD 4160.21-M-1 (Change No. 1) for a complete description of the DOD program and the requirements to be followed for property owned, procured by or under the control of DOD. The DOD manual is available from the Defense Logistics Agency, 8725 John J. Kingman Road, Fort Belvoir, VA 22060. If your agency uses another system of identifying items requiring demilitarization, you must provide a detailed description of that system to the General Services Administration, Mail Code MA, 1800 F Street, NW., Washington, DC 20405, Attn: Director, Personal Property Policy.

(b) When disposing of MLIs, you must perpetuate these demilitarization codes; alert those to whom you are transferring or selling property that the item may require demilitarization; and perform any required demilitarization, or provide any documentation or certifications in accordance with the DOD demilitarization manual, DOD 4160.21-M-1 (Change No. 1), or other agency policy manual if the MLIs are not governed by the DOD demilitarization manual.

(c) Disposal of MLIs will follow the provisions of parts 102-36, 102-37, and 102-38 of this subchapter unless different disposal procedures are required by law or your agency regulation issued in support of 22 U.S.C. 2778.

102-40.200 How do we handle Commerce Control List Items (CCLIs)?

(a) CCLIs are subject to the controls of 15 CFR parts 738 and 774. Export licenses are required for transfer of items to the countries listed in 15 CFR part 738, supp. 1. CCLIs may also be identified by the demilitarization code assigned to the item in the DOD supply system.

(b) When disposing of CCLIs, you must notify the recipient that the item may be subject to Department of Commerce export licensing requirements when transported out of the U.S., for reasons of national security, crime control, technology transfer, and scarcity of materials. Furthermore:

(1) The recipient must be informed that this notification must pass to all subsequent recipients of the item.

(2) When being sold, completed end-use certificates are required of all bidders. An end-use certificate is a statement signed by a prospective recipient indicating the intended designation and disposition of CCLIs to be acquired, and acknowledging U.S. export licensing requirements.

(3) All disposal activity must conform to the requirements of 15 CFR, chapter VII, subchapter C.

102-40.205 How do we handle national stockpile material?

In accordance with 40 U.S.C. 113(e)(6), materials acquired for the national stockpile, the supplemental stockpile, or materials or equipment acquired under section 303 of the Defense Production Act of 1950, as amended (50 App. U.S.C. 2093), are not covered by the Federal Management Regulation. The disposal of these assets is governed by 50 U.S.C. 98d, 98e, and 98f.

102-40.210 How do we handle Nuclear Regulatory Commission-controlled materials?

The Nuclear Regulatory Commission (NRC) has exclusive control over licensing, use, transfer, and disposition of NRC-controlled materials. Direct all inquiries to the U.S. Nuclear Regulatory Commission, Washington, DC 20555.

102-40.215 How do we handle ozone depleting substances (ODSs)?

Handle ODSs in accordance with Federal and state laws and regulations. Prior to disposal of ODSs removed or reclaimed from facilities or equipment, including disposal as part of a contract, trade or donation, coordinate with the Defense Ozone Depleting Substances Reserve Program Office to determine if the recovered ODS is a critical requirement for DOD missions. Direct inquiries to the Defense Ozone Depleting Substances Reserve Program Office, Defense Supply Center, Richmond, Virginia; e-mail: DSCR.ODSReserve@dla.mil; phone: (804) 279-3064. Additional guidance is available from EPA at: http://www.epa.gov/ozone/title6/608/608fact.html#overview.

102-40.220 How do we handle polychlorinated biphenyls (PCBs)?

(a) In accordance with EPA regulations (40 CFR 761.1 and 761.3), property defined by EPA as excluded polychlorinated biphenyl (PCB) products may be transferred, donated or sold in accordance with parts 102-36, 102-37, and 102-38 of this subchapter. For additional guidance on PCB classifications and other Federal restrictions, contact: Director, National Program Chemicals Division (NPCD), (7404), Office of Pollution Prevention and Toxics, 1200 Pennsylvania Avenue, NW., Washington, DC or visit the EPA's website at: http://www.epa.gov/waste/hazard/tsd/pcbs/index.htm. You should also contact state regulatory agencies since some states regulate at a stricter level than the Federal Government.

(b) Property defined by the EPA in 40 CFR 761.3 as either a PCB item or PCB must be labeled or marked with a warning statement that the item contains PCB and must be handled and disposed of in accordance with EPA regulations (40 CFR part 761), DOT regulations (49 CFR parts 171 through 180), and applicable state laws.

(1) PCB items and PCBs may be transferred or donated, provided:

(i) The items are intact, non-leaking, and totally enclosed.

(ii) All transfers orders or transfer documents must cite the specific provision in 40 CFR part 761 that permits continued use of the item, and contains a certification that the property has been inspected by the transferee and complies with all the use, inspection, labeling, and other provisions of 40 CFR part 761.

(iii) The recipient must annotate its property accountability records to reflect the nature and extent of the PCB content and must provide the specific authorization covering the use of this item from 40 CFR part 761. If tests are conducted to ascertain the nature and extent of PCB contamination, the recipient must furnish the GSA regional office with a copy of the test results. This information will be perpetuated on any notification or release document when the agency disposes of the property.

(iv) If PCBs or PCB items are donated to service educational activities or to public airports, the Department of Defense and the Federal Aviation Administration, respectively, must obtain the warning and certification as described in paragraph (e) of this section.

(v) The recipient certifies to you that the item will be handled and disposed of in accordance with EPA regulation 40 CFR part 761, DOT regulations 49 CFR parts 171 through 180, and other applicable Federal and state laws.

(2) PCB and PCB items not transferred or donated must be destroyed or otherwise disposed of under EPA regulations and applicable state laws. You must not sell any PCB or PCB item unless 40 CFR part 761 authorizes the sale and continued use of the specific item.

(c) You must not transfer, donate, or sell items with an unknown level of concentrations of PCBs.

(d) Property containing PCBs and PCB items should be labeled with a warning such as the following:

Caution – This item contains PCBs (poly- chlorinated biphenyls), a toxic environmental contaminant requiring special handling and disposal in accordance with the U.S. Environmental Protection Agency regulations (40 CFR part 761), applicable state laws, and 41 CFR 102-40.215. For proper disposal information, contact the nearest EPA office. For transportation requirements, see 49 CFR parts 171 through 180.

(e) The SASP must have the following certification, or an equivalent certification, on all transfer paperwork where PCBs are involved.

WARNING AND CERTIFICATION

The undersigned donee is aware that the item(s) listed as containing polychlorinated biphenyls (PCBs), a toxic environmental contaminant, require(s) special handling and disposal in accordance with U.S. Environmental Protection Agency regulation (40 CFR part 761) and U.S. Department of Transportation regulations codified in 49 CFR parts 171 through 180. The donee certifies that this item (or these items) will be handled and disposed of in accordance with applicable Federal statutes and regulations and applicable state laws. This certification is made in accordance with and subject to the penalties of Title 18, Section 1001, the United States Code, Crime and Criminal Procedures.

_____

Name and title of donee (print or type)

_____

Signature of donee

102-40.225 How do we handle precious metals?

(a) You must identify activities in your organization that generate precious metals; recover precious metals created from work processes, such as photographic film developing, and identify equipment or materials containing recoverable precious metals; and adequately control precious metals in your custody. Federal civil agencies may participate in the DOD Precious Metal Recovery Program (PMRP) in accordance with this subpart, and have an Inter-Agency Service Agreement (ISA) in effect between the Defense Logistics Agency (DLA) and individual Federal civil agencies. You may acquire recovered fine precious metals as Government Furnished Material or for other authorized uses by submitting a request to the Commander, Defense Supply Center, Philadelphia (DSCP), 700 Robbins Avenue, Philadelphia, Pennsylvania 19111-5096.

(b) Precious metals will be sold in accordance with this subpart and part 102-38 of this subchapter.

(c) Sales of precious metals will be processed as follows:

(1) Require a bid deposit appropriate to the circumstances of the sale;

(2) Certify all forms of bid deposit and payments; and

(3) Include in the invitation for bids only precious and semiprecious materials as may be available for sale at that time.

(d) Each agency generating scrap precious metals and also having a continuing need for fine precious metals may arrange for the acceptance of scrap precious metals for fine precious metals with a private contractor or the DLA.

110-40.225 Does USDA participate in the DOD Precious Metal Recovery Program?

USDA participates in the DOD Precious Metal Recovery Program and has an Inter-Agency Service Agreement in effect with the Defense Logistics Agency (DLA). Agencies should refer to agreement #SC4403-98121-009. Agencies can use DLA's Disposition Service Site Locator Tool at http://www.dispositionservices.dla.mil/drmo/Pages/default.aspx.

102-40.230 How do we handle universal waste(s) (UWs)?

When disposing of universal waste, follow the instructions on the websites below, which contain descriptions of the commodities addressed, as well as the handling and disposal requirements from the relevant sections of 40 CFR part 273:

(a) *Batteries*.

http://www.epa.gov/osw/hazard/wastetypes/universal/batteries.htm;

(b) *Pesticides*.

http://www.epa.gov/epawaste/hazard/wastetypes/universal/pesticides.htm;

(c) *Mercury-containing equipment*.

http://www.epa.gov/epawaste/hazard/wastetypes/universal/mce.htm; and

(d) *Mercury-containing light bulbs (such as fluorescent bulbs)*

http://www.epa.gov/osw/hazard/wastetypes/universal/lamps/index.htm.

102-40.235 How do we handle motor vehicles not suitable for highway use?

Refer to subpart H of part 102-34 of this subchapter for the general policies regarding disposal of motor vehicles. Some Government-owned motor vehicles might receive such extensive damage as a result of an accident, event or other activity, that they are no longer suitable for utilization, donation, or sale for highway use. Such vehicles may only be donated or sold for salvage or scrap. Prior to disposal of damaged motor vehicles, you must evaluate known damage to determine their suitability for continued highway use. When a determination is made that a vehicle is unfit for continued highway use, you must include such information in the property record and subsequent reports. When selling such vehicles, provide an appropriate warning statement in the solicitation regarding vehicle condition that the vehicle cannot be titled for highway use. See §102-34.305 of this subchapter (note to §102-34.305(a)(2)) if the vehicle is not designed or not legal for operation on highways.

Appendix A to Part 102-40 - Federal Supply Classes (FSC) Composed Predominantly of Hazardous Items

FSC	Nomenclature
6810	Chemicals
6820	Dyes
6830	Gases: Compressed & liquefied
6840	Pest control agents & disinfectants
6850	Misc. chemical specialties
7930	Cleaning & polishing compounds & preparations
8010	Paints, dopes, varnishes, & related products
8030	Preservative & sealing compounds
8040	Adhesives
9110	Fuels, solid
9130	Liquid propellants & fuels, petroleum base
9135	Liquid propellant fuels & oxidizers, chemical base
9140	Fuel oils
9150	Oils & greases: cutting, lubricating, & hydraulic
9160	Misc. waxes, oils, & fats

Appendix B to Part 102-40 - Federal Supply Classes and Groups Which Contain a Significant Number of Hazardous Items

Note: If an item is determined to be hazardous material as defined in §102-40.30, a Material Safety Data Sheet (or equivalent) should accompany the item even though the Federal Supply Class or Group is not listed in this table.

Federal Supply Class/Group	Title	Examples of Hazardous materials requiring identification
1370	Pyrotechnics	Warning fuse, fire starter
1375	Demolition materials	Explosive device
2520	Vehicular power transmission components	Items containing asbestos
2530	Vehicular brake, steering, axle, wheel, and track components	Items containing asbestos
2540	Vehicular furniture and accessories	Items containing asbestos
2640	Tire rebuilding and tire and tube repair materials	Items containing flammable or toxic compounds
Group 28	Engines, turbines, and components	Engine valves containing metallic sodium
Group 29	Engine accessories	Engine valves containing metallic sodium
Group 30	Mechanical power transmission equipment	Equipment containing hazardous hydraulic fluid, including PCBs
Group 34	Metalworking machinery	Equipment containing hazardous hydraulic fluid, including PCBs
3433	Gas welding, heat cutting, and metalizing equipment	Compressed gases
3439	Miscellaneous welding, soldering, and brazing supplies and accessories	Hazardous items such as cleaners, acids, flux, and supplies that contain or produce hazardous fumes
3610	Printing, duplication, and bookbinding equipment	Flammable or toxic lithographic solutions
3655	Gas generating and dispensing systems, fixed or mobile	Items that produce hazardous fumes
3680	Foundry machinery, related equipment and supplies	Flammable or toxic casting compounds
4240	Safety and rescue equipment	Items which involve oxygen, compressed gases, or contain emitting charges

5610	Mineral construction materials, bulk	Hazardous items such as cutback asphalt, deck and floor covering, deck and surface underlay compound, sealing compound, flight deck compound
5660	Wallboard, building paper, and thermal insulation materials	Asbestos cloth which has loose fibers or particles that may become airborne and materials containing formaldehyde
5820	Radio and television communication equipment, except airborne	Circuit cooler items that contain gases that are regarded as hazardous to the earth's ozone layer
5835	Sound recording and reproducing equipment	Recording tape cleaners that contain hazardous cleaning fluids
5910	Capacitors	Items that contain polychlorinated biphenyls (PCBs) or sulfuric acid
5915	Filters and networks	Items that contain polychlorinated biphenyls (PCBs)
5920	Fuses and lighting arresters	Items containing radioactive material
5925	Circuit breakers	Items containing radioactive material
5930	Switches	Items containing radioactive material
5935	Connectors, electrical	Kits that contain flammable chemicals
5950	Coils and transformers	Items containing polychlorinated biphenyls (PCBs)
5960	Electron tubes and associated hardware	Tubes that contain radioactive isotopes and require warning labels and magnetron tubes, which require special precautions when being prepared for air shipment
5965	Headsets, handsets, microphones, and speakers	Items containing magnetic material
5970	Electrical insulators and insulating materials	Items containing flammable solvents
5975	Electrical hardware and supplies	Items containing asbestos
5985	Antennas, waveguides, and related equipment	Kits that contain flammable chemicals
5999	Miscellaneous electrical and oxide electronic components	Contact plates that contain beryllium
Group 61	Electric wire and power and distribution equipment	Power factor capacitors containing PCBs
6120	Transformers: Distribution and power station	Transformers containing PCBs
6135	Batteries, primary	Lead-acid, lithium, and mercury batteries and alkaline (with electrolyte)
6140	Batteries, secondary	Items that are wet or moist containing corrosive or other hazardous compounds
6145	Wire and cable, electrical	Insulated wire containing asbestos

6220	Electric vehicular lights and fixtures	Items that contain mercury
6230	Electric portable and hand lighting equipment	Items that contain wet batteries
6240	Electric lamps	Items that contain mercury
6260	Nonelectrical lighting fixtures	Items that contain mercury
6350	Miscellaneous signal and security detection systems	Items that contain wet batteries or radioactive material
6505	Drugs, biologicals, and official reagents	Hazardous items as defined in Sec. 102-40.30
6508	Medicated cosmetics and toiletries	Hazardous items as defined in Sec. 102-40.30, subject to DOT Hazardous Materials Regulations
6510	Surgical dressing materials	Items containing flammable solvents
6520	Dental instruments, equipment, and supplies	Items containing flammable solvents, mercury or asbestos
6525	X-ray equipment and supplies: medical, dental, veterinary	Items containing hazardous chemicals, solvents
6625	Electrical and electronic properties measuring and testing instruments	Items containing radioactive materials
6640	Laboratory equipment and supplies	Items containing flammable compounds, mercury or asbestos
6685	Pressure, temperature, and humidity measuring and controlling instruments	Items containing mercury or compressed gases
6740	Photographic	Items containing radioactive compounds
6750	Photographic supplies	Items containing hazardous chemicals, solvents, thinners, and cements
6780	Photographic sets, kits, and outfits	Items containing hazardous chemicals, solvents, thinners, and cements
7360	Sets, kits, and outfits; food preparation and serving	Items containing compressed gases such as fire extinguishers
7510	Office supplies	Hazardous items, such as thinners, cleaning fluids, flammable inks, and varnishes
8405	Outerwear, men’s	Maintenance kits containing flammable solvents
8410	Outerwear, women’s	Maintenance kits containing flammable solvents
8415	Clothing, special purpose	Maintenance kits containing flammable solvents
8465	Individual equipment	Maintenance kits containing flammable solvents
8510	Perfumes, toilet preparations, and powders	Shipping containers and pressurized containers with flammable or nonflammable propellants
8520	Toilet soap, shaving preparations, and dentifrices	Shipping containers and pressurized containers with flammable or nonflammable propellants

8720	Fertilizers	Items containing weed and pest control or other harmful ingredients or because of their composition, are hazardous
9390	Miscellaneous fabricated nonmetallic materials	Items containing flammable solvents or asbestos
9920	Smokers' articles and matches	Lighter fuel and matches only
9930	Memorials; cemeteries and mortuary equipment and supplies	Items containing formaldehyde or its solutions

CHAPTER 110 - AGRICULTURE PROPERTY MANAGEMENT REGULATIONS
SUBCHAPTER B - PERSONAL PROPERTY
PART 110-41 - DISPOSITION OF SEIZED, FORFEITED, VOLUNTARILY ABANDONED, AND UNCLAIMED PERSONAL PROPERTY

SUPPLEMENTING

CHAPTER 102 - FEDERAL MANAGEMENT REGULATION
SUBCHAPTER B - PERSONAL PROPERTY
PART 102-41 - DISPOSITION OF SEIZED, FORFEITED, VOLUNTARILY ABANDONED, AND UNCLAIMED PERSONAL PROPERTY

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Subpart A - General Provisions

102-41.5 What does this part cover?

(a) This part covers the disposition of seized, forfeited, voluntarily abandoned, and unclaimed personal property under the custody of any Federal agency located in the United States, the U.S. Virgin Islands, American Samoa, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, and Palau. Disposition of such personal property located elsewhere must be in accordance with holding agency regulations. Please see 102-36.380 of this subchapter B regarding the disposal of foreign excess. The General Services Administration (GSA) does not normally accept responsibility for disposal of property located outside the United States and its territories. Additional guidance on disposition of seized, forfeited, voluntarily abandoned, and unclaimed personal property that requires special handling (*e.g.*, firearms, hazardous materials) is contained in part 101-42 of this title. Additional guidance on the disposition of firearms (as scrap only), distilled spirits, wine, beer, and drug paraphernalia is provided in subpart E of this part.

(b) These regulations do not include disposal of seized, forfeited, voluntarily abandoned, and unclaimed personal property covered under authorities outside of the following statutes:

(1) 40 U.S.C. 552, Abandoned or Unclaimed Property on Government Premises.
(2) 40 U.S.C. 1306, Disposition of Abandoned or Forfeited Property.
(3) 26 U.S.C. 5688, Forfeited Distilled Spirits, Wines, and Beer.
(4) 26 U.S.C. 5872, Forfeited Firearms.
(5) 21 U.S.C. 863, Drug Paraphernalia.

102-41.10 To whom do “we”, “you”, and their variants refer?

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

102-41.15 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.

110-41.15 Agency requests for deviation from the FMR or AGPMR.

See 110-2.80 of this chapter for USDA agency requirements to request a deviation from the requirements of this part in addition to the GSA deviation requirements.

Definitions

102-41.20 What definitions apply to this part?

The following definitions apply to this part:

Beer means an alcoholic beverage made from malted cereal grain, flavored with hops, and brewed by slow fermentation.

Distilled spirits, as defined in the Federal Alcohol Administration Act (27 U.S.C. 211), means ethyl alcohol; hydrated oxide of ethyl; or spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for non-industrial use.

Drug paraphernalia means any equipment, product, or material primarily intended or designed for use in manufacturing, compounding, converting, concealing, processing, preparing, or introducing into the human body a controlled substance in violation of the Controlled Substances Act (see 21 U.S.C. 863). It includes items primarily for use in injecting, ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, PCP, or amphetamines into the human body.

Eleemosynary institution means any nonprofit health or medical institution that is organized and operated for charitable purposes.

Firearms means any weapon, silencer, or destructive device designed to, or readily convertible to, expel a projectile by the action of an explosive, as defined in the Internal Revenue Code (26 U.S.C. 5845). Excludes antique firearms as defined in 26 U.S.C. 5845(g).

Forfeited property means personal property that the Government has acquired ownership of through a summary process or court order pursuant to any law of the United States.

Seized property means personal property that has been confiscated by a Federal agency, and whose care and handling will be the responsibility of the agency until final ownership is determined by the judicial process.

Unclaimed property means personal property unknowingly abandoned and found on premises owned or leased by the Government, i.e., lost and found property.

Voluntarily abandoned property means personal property abandoned to any Federal agency in a way that immediately vests title to the property in the Government. There must be written or circumstantial evidence that the property was intentionally and voluntarily abandoned. This evidence should be clear that the property was not simply lost by the owner.

Wine means the fermented juice of a plant product, as defined in 27 U.S.C. 211.

Responsibility

102-41.25 Who retains custody and is responsible for the reporting, care, and handling of property covered by this part?

You, the holding agency, normally retain physical custody of the property and are responsible for its care and handling pending final disposition. With the exception of property listed in 102-41.35, you must report promptly to the GSA forfeited, voluntarily abandoned, or unclaimed personal property not being retained for official use and seized property on which

proceedings for forfeiture by court decree are being started or have begun. In general, the procedures for reporting such property parallel those for reporting excess personal property under Part 102-36 of this subchapter B.

110-41.25 Agency reporting of property covered by this part.

The USDA holding agency must report all property outlined in 102-41.25 in the USDA Agency Asset Management System (AAMS). Follow the procedures for reporting excess personal property under Part 110-36 of this subchapter B.

102-41.30 What is GSA's role in the disposition of property covered by this part?

(a) *Seized property subject to court proceedings for forfeiture.*

(1) If the seizing agency files a request for the property for its official use, the GSA Region 3/National Capital Region will apply to the court for an order to turn the property over to the agency should forfeiture be decreed. If no such request has been filed, GSA will determine whether retention of the property for Federal official use is in the Government's best interest, and, if so, will apply to the court to order delivery of the property to—

(i) Any other Federal agency that requests it; or

(ii) (The seizing agency to be retained for a reasonable time in case the property may later become necessary to any agency for official use.

(2) In the event that the property is not ordered by competent authority to be forfeited to the United States, it may be returned to the claimant.

(b) *Forfeited, voluntarily abandoned, or unclaimed property*. When forfeited, voluntarily abandoned, or unclaimed property is reported to GSA for disposal, GSA will direct its disposition by—

(1) Transfer to another Federal agency;

(2) Donation to an eligible recipient, if the property is not needed by a Federal agency and there are no requirements for reimbursement to satisfy the claims of owners, lien holders, or other lawful claimants;

(3) Sale; or

(4) Abandonment and destruction in accordance with 102-36.305 of this subchapter B.

102-41.35 Do we report to GSA all seized personal property subject to judicial forfeiture as well as forfeited, voluntarily abandoned, or unclaimed personal property not retained for official use?

Yes, send GSA reports of excess (see 102-36.125 of this subchapter B) for all seized personal property subject to judicial forfeiture as well as forfeited, voluntarily abandoned, or unclaimed personal property not required for official use, except the following, whose disposition is covered under other statutes and authorities:

(a) Forfeited firearms or munitions of war seized by the Department of Commerce and transferred to the Department of Defense (DOD) pursuant to 22 U.S.C 401.

(b) Forfeited firearms directly transferable to DOD by law.

(c) Seeds, plants, or misbranded packages seized by the Department of Agriculture.

(d) Game animals and equipment (other than vessels, including cargo) seized by the Department of the Interior.

(e) Files of papers and undeliverable mail in the custody of the United States Postal Service.

(f) Articles in the custody of the Department of Commerce Patent and Trademark Office that are in violation of laws governing trademarks or patents.

(g) Unclaimed and voluntarily abandoned personal property subject to laws and regulations of the U.S. Customs and Border Protection, Department of Homeland Security.

(h) Property seized in payment of or as security for debts arising under the internal revenue laws.

(i) Lost, abandoned, or unclaimed personal property the Coast Guard or the military services are authorized to dispose of under 10 U.S.C. 2575.

(j) Property of deceased veterans left on a Government facility subject to 38 U.S.C. 8501.

(k) Controlled substances reportable to the Drug Enforcement Administration, Department of Justice, Washington, DC 20537.

(l) Forfeited, condemned, or voluntarily abandoned tobacco, snuff, cigars, or cigarettes which, if offered for sale, will not bring a price equal to the internal revenue tax due and payable thereon; and which is subject to destruction or delivery without payment of any tax to any hospital maintained by the Federal Government for the use of present or former members of the military.

(m) Property determined appropriate for abandonment/destruction (see 102-36.305 of this subchapter B).

(n) Personal property where handling and disposal is governed by specific legislative authority notwithstanding Title 40 of the United States Code.

110-41.35 Agency reporting of seized personal property not retained for official use.

All personal property required to be reported to GSA under 102-41.35 must first be entered into the USDA Agency Asset Management System (AAMS) for internal screening before being listed for Federal screening (see 110-36.35). Agencies must enter pertinent information in the property description field, e.g., agencies must state that the personal property has been seized and is awaiting final determination of ownership.

Subpart B - Seized or Forfeited Personal Property

102-41.40 How is personal property forfeited?

Personal property that has been seized by a Federal agency may be forfeited through court decree (judicial forfeiture) or administratively forfeited if the agency has specific authority without going through the courts.

102-41.45 May we place seized personal property into official use before the forfeiture process is completed?

No, property under seizure and pending forfeiture cannot be placed into official use until a final determination is made to vest title in the Government.

102-41.50 May we retain forfeited personal property for official use?

Yes, you may retain for official use personal property forfeited to your agency, except for property you are required by law to sell. Retention of large sedans and limousines for official use is only authorized under the provisions of Part 102-34 of this subchapter B. Except for the items noted in 102-41.35, report to GSA all forfeited personal property not being retained for official use.

102-41.55 Where do we send the reports for seized or forfeited personal property?

(a) Except for the items noted in paragraph (b) of this section, report seized or forfeited personal property not retained for official use to the General Services Administration, Property Management Branch (3FPD), Washington, DC 20407.

(b) Report aircraft, firearms, and vessels to the regional GSA Property Management Branch office specified in 102-36.125 of this subchapter B.

110-41.55 Agency reporting of property covered by this part.

The USDA holding agency must report all property outlined in 102-41.55 in the USDA Agency Asset Management System (AAMS). Follow the procedures for reporting excess personal property under Part 110-36 of this subchapter B.

102-41.60 Are there special requirements in reporting seized or forfeited personal property to GSA?

Yes, in addition to the information required in 102-36.235 of this subchapter B for reporting excess, you must indicate—

(a) Whether the property—

(1) Was forfeited in a judicial proceeding or administratively (without going through a court);

(2) Is subject to pending court proceedings for forfeiture, and, if so, the name of the defendant, the place and judicial district of the court from which the decree will be issued, and whether you wish to retain the property for official use;

(b) The report or case number under which the property is listed; and

(c) The existence or probability of a lien, or other accrued or accruing charges, and the amount involved.

110-41.60 Special requirements in reporting seized or forfeited personal property.

Additional information listed in the special requirements outlined in 102-41.60 is entered in the 'Property Description' box of the Agency Asset Management System (AAMS) property report data form. The property type radial button used is 'No special requirements'.

102-41.65 What happens to forfeited personal property that is transferred or retained for official use?

Except for drug paraphernalia (see §§102-41.210 through 102-41.235), forfeited personal property retained for official use or transferred to another Federal agency under this subpart loses its identity as forfeited property. When no longer required for official use, you must report it to GSA as excess for disposal in accordance with Part 102-36 of this subchapter B. You must follow the additional provisions of subpart E of this part and part 101-42 of Chapter 101, Federal Property Management Regulations in this title when disposing of firearms, distilled spirits, wine, beer, and drug paraphernalia.

102-41.70 Are transfers of forfeited personal property reimbursable?

Recipient agencies do not pay for the property. However, you may charge the recipient agency all costs you incurred in storing, packing, loading, preparing for shipment, and transporting the property. If there are commercial charges incident to forfeiture prior to the transfer, the recipient agency must pay these charges when billed by the commercial organization. Any payment due to lien holders or other lawful claimants under a judicial forfeiture must be made in accordance with provisions of the court decree.

102-41.75 May we retain the proceeds from the sale of forfeited personal property?

No, you must deposit the sales proceeds in the U.S. Treasury as miscellaneous receipts, unless otherwise directed by court decree or specifically authorized by statute.

Subpart C - Voluntarily Abandoned Personal Property

102-41.80 When is personal property voluntarily abandoned?

Personal property is voluntarily abandoned when the owner of the property intentionally and voluntarily gives up title to such property and title vests in the Government. The receiving agency ordinarily documents receipt of the property to evidence its voluntary relinquishment. Evidence of the voluntary abandonment may be circumstantial.

102-41.85 What choices do I have for retaining or disposing of voluntarily abandoned personal property?

You may either retain or dispose of voluntarily abandoned personal property based on the following circumstances:

(a) If your agency has a need for the property, you may retain it for official use, except for large sedans and limousines which may only be retained for official use as authorized under Part 102-34 of this subchapter B. See 102-41.90 for how retained property must be handled.

(b) If your agency doesn't need the property, you should determine whether it may be abandoned or destroyed in accordance with the provisions at FMR 102-36.305 through 102-36.330. Furthermore, in addition to the circumstances when property may be abandoned or destroyed without public notice at FMR 102-36.330, voluntarily abandoned property may also be abandoned or destroyed without public notice when the estimated resale value of the property is less than $500.

(c) If the property is not retained for official use or abandoned or destroyed, you must report it to GSA as excess in accordance with 102-41.95.

102-41.90 What happens to voluntarily abandoned personal property retained for official use?

Voluntarily abandoned personal property retained for official use or transferred to another Federal agency under this subpart loses its identity as voluntarily abandoned property. When no longer required for official use, you must report it to GSA as excess, or abandon/destroy the property, in accordance with Part 102-36 of this subchapter B.

102-41.95 Where do we send the reports for voluntarily abandoned personal property?

Except for aircraft, firearms, and vessels, report voluntarily abandoned personal property to the regional GSA Property Management Branch office for the region in which the property is located. Report aircraft, firearms, and vessels to the regional GSA Property Management Branch office specified in 102-36.125 of this subchapter B.

110-41.95 Agency reporting of property covered by this part.

The USDA holding agency must report all property outlined in 102-41.95 in the USDA Agency Asset Management System (AAMS). Follow the procedures for reporting excess personal property under Part 110-36 of this subchapter B.

102-41.100 What information do we provide when reporting voluntarily abandoned personal property to GSA?

When reporting voluntarily abandoned personal property to GSA, you must provide a description and location of the property, and annotate that the property was voluntarily abandoned.

110-41.100 Information required when reporting voluntarily abandoned personal property.

The information required in 102-41.100 is entered in the 'Property Description' box of the Agency Asset Management System (AAMS) property report data form.

102-41.105 What happens to voluntarily abandoned personal property when reported to GSA?

Voluntarily abandoned personal property reported to GSA will be made available for transfer, donation, sale, or abandonment/destruction in accordance with Parts 102-36, 102-37, 102-38, and §§102-36.305 through 102-36.330 of this subchapter B, respectively. You must follow the additional provisions of §§102-41.190 through 102-41.235 and part 101-42 of Chapter 101, Federal Property Management Regulations in this title when disposing of firearms and other property requiring special handling.

102-41.110 Are transfers of voluntarily abandoned personal property reimbursable?

No, all transfers of voluntarily abandoned personal property will be without reimbursement. However, you may charge the recipient agency all costs you incurred in storing, packing, loading, preparing for shipment, and transporting the property.

102-41.115 May we retain the proceeds received from the sale of voluntarily abandoned personal property?

No, you must deposit the sales proceeds in the U.S. Treasury as miscellaneous receipts unless your agency has specific statutory authority to do otherwise.

Subpart D—Unclaimed Personal Property

102-41.120 How long must we hold unclaimed personal property before disposition?

You must generally hold unclaimed personal property for 30 calendar days from the date it was found. Unless the previous owner files a claim, title to the property vests in the Government after 30 days, and you may retain or dispose of the property in accordance with this part. However, see the following sections for handling of unclaimed personal property under specific circumstances.

102-41.125 What choices do I have for retaining or disposing of unclaimed personal property?

You may either retain or dispose of unclaimed abandoned personal property based on the following circumstances:

(a) If your agency has a need for the property, you may retain it for official use if you have held the unclaimed property for 30 calendar days and the former owner has not filed a claim. After 30 days, title vests in the Government and you may retain the unclaimed property for official use. Large sedans and limousines which may only be retained for official use as authorized under Part 102-34 of this subchapter B. See 102-41.130 for how retained property must be handled.

(b) If your agency doesn't need the property, you should determine whether it may be immediately abandoned or destroyed in accordance with the provisions at FMR 102-36.305 through 102-36.330. You are not required to hold unclaimed property for 30 days, if you decide to abandon or destroy it. Title to the property immediately vests in the Government in these circumstances. In addition to the circumstances when property may be abandoned or destroyed without public notice at FMR 102-36.330, unclaimed personal property may also be abandoned or destroyed without public notice when the estimated resale value of the property is less than $500. See 102-41.135 for procedures to be followed if a claim is filed.

(c) If the property is not retained for official use or abandoned or destroyed, you must report it to GSA as excess in accordance with 102-41.140.

102-41.130 What must we do when we retain unclaimed personal property for official use?

(a) You must maintain records of unclaimed personal property retained for official use for 3 years after title vests in the Government to permit identification of the property should the former owner file a claim for the property. You must also deposit funds received from disposal of such property in a special account to cover any valid claim filed within this 3-year period.

(b) When you no longer need the unclaimed property which you have placed in official use, report it as excess in the same manner as other excess property under Part 102-36 of this subchapter B.

102-41.135 How much reimbursement do we pay the former owner when he or she files a claim for unclaimed personal property that we no longer have?

If the property was sold, reimbursement of the property to the former owner must not exceed any proceeds from the disposal of such property, less the costs of the Government's care and handling of the property. If the property was abandoned or destroyed in accordance with 102-41.125, or otherwise used or transferred, reimbursement of the property to the former owner must not exceed the estimated resale value of the property at the time of the vesting of the property with the Government, less costs incident to the care and handling of the property, as determined by the General Services Administration, Office of Travel, Transportation, and Asset Management (MT), Washington DC, 20405

102-41.140 When do we report to GSA unclaimed personal property not retained for official use?

After you have held the property for 30 calendar days and no one has filed a claim for it, the title to the property vests in the Government. If you decide not to retain the property for official use, report it as excess to GSA in accordance with Part 102-36 of this subchapter B.

102-41.145 Where do we send the reports for unclaimed personal property?

Except for the items noted in 102-36.125 of this subchapter B, report unclaimed personal property to the regional GSA Property Management Branch office for the region in which the property is located.

110-41.145 Agency reporting of property covered by this part.

The USDA holding agency must report all property outlined in 102-41.145 in the USDA Agency Asset Management System (AAMS). Follow the procedures for reporting excess personal property under Part 110-36 of this subchapter B.

102-41.150 What special information do we provide on reports of unclaimed personal property?

On reports of unclaimed personal property, you must provide the report or case number assigned by your agency, property description and location, and indicate the property as unclaimed and the estimated fair market value.

110-41.150 Information required when reporting unclaimed personal property.

The information required in 102-41.150 is entered in the 'Property Description' box of the Agency Asset Management System (AAMS) property report data form.

102-41.155 Is unclaimed personal property available for transfer to another Federal agency?

Yes, unclaimed personal property is available for transfer to another Federal agency, but only after 30 calendar days from the date of finding such property and no claim has been filed by the former owner, and with fair market value reimbursement from the recipient agency. The transferred property then loses its identity as unclaimed property and becomes property of the Government, and when no longer needed it must be reported excess in accordance with Part 102-36 of this subchapter B.

102-41.160 May we retain the reimbursement from transfers of unclaimed personal property?

No, you must deposit the reimbursement from transfers of unclaimed personal property in a special account for a period of 3 years pending a claim from the former owner. After 3 years, you must deposit these funds into miscellaneous receipts of the U.S. Treasury unless your agency has statutory authority to do otherwise.

102-41.165 May we require reimbursement for the costs incurred in the transfer of unclaimed personal property?

Yes, you may require reimbursement from the recipient agency of any direct costs you incur in the transfer of the unclaimed property (*e.g.*, storage, packing, preparation for shipping, loading, and transportation).

102-41.170 Is unclaimed personal property available for donation?

No, unclaimed personal property is not available for donation because reimbursement at fair market value is required.

102-41.175 May we sell unclaimed personal property?

Yes, you may sell unclaimed personal property after title vests in the Government (as provided for in 102-41.120) and when there is no Federal interest. You may sell unclaimed personal property subject to the same terms and conditions as applicable to surplus personal property and in accordance with Part 102-38 of this subchapter B.

102-41.180 May we retain the proceeds from the sale of unclaimed personal property?

No, you must deposit proceeds from the sale of unclaimed personal property in a special account to be maintained for a period of 3 years pending a possible claim by the former owner. After the 3-year period, you must deposit the funds in the U.S. Treasury as miscellaneous receipts or in such other agency accounts when specifically authorized by statute.

Subpart E - Personal Property Requiring Special Handling

102-41.185 Are there certain types of forfeited, voluntarily abandoned, or unclaimed property that must be handled differently than other property addressed in this part?

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

Firearms

102-41.190 May we retain forfeited, voluntarily abandoned, or unclaimed firearms for official use?

Generally, no; you may retain forfeited, voluntarily abandoned, or unclaimed firearms only when you are statutorily authorized to use firearms for official purposes.

102-41.195 How do we dispose of forfeited, voluntarily abandoned, or unclaimed firearms not retained for official use?

Report forfeited, voluntarily abandoned, or unclaimed firearms not retained for official use to the General Services Administration, Property Management Branch (7FP–8), Denver, CO 80225–0506 for disposal in accordance with §101-42.1102-10 of the Federal Property Management Regulations in this title.

110-41.195 Agency reporting of property covered by this part.

The USDA holding agency must report all property outlined in 102-41.195 in the USDA Agency Asset Management System (AAMS). Follow the procedures for reporting excess personal property under Part 110-36 of this subchapter B.

102-41.200 Are there special disposal provisions for firearms that are seized and forfeited for a violation of the National Firearms Act?

Yes, firearms seized and forfeited for a violation of the National Firearms Act (26 U.S.C. 5801–5872) are subject to the disposal provisions of 26 U.S.C. 5872(b). When there is no contrary judgment or action under such forfeiture, GSA will direct the disposition of the firearms. GSA may—

(a) Authorize retention for official use by the Treasury Department;

(b) Transfer to an executive agency for use by it; or

(c) Order the firearms destroyed.

Forfeited Distilled Spirits, Wine, and Beer

102-41.205 Do we report all forfeited distilled spirits, wine, and beer to GSA for disposal?

(a) Yes, except do not report distilled spirits, wine, and beer not fit for human consumption or for medicinal, scientific, or mechanical purposes. When reporting, indicate quantities and kinds, proof rating, and condition for shipping. GSA (3FPD) may transfer such property to another Federal agency for official purposes, or donate it to eligible eleemosynary institutions for medicinal purposes only.

(b) Forfeited distilled spirits, wine, and beer that are not retained for official use by the seizing agency or transferred or donated to eligible recipients by GSA must be destroyed. You must document the destruction with a record of the time and location, property description, and quantities destroyed.

110-41.205 Agency reporting of forfeited distilled spirits, wine, and beer for disposal.

(a) All personal property required to be reported to GSA under 102-41.205 must first be entered into the USDA Agency Asset Management System (AAMS) for internal screening before being listed for Federal screening (see 110-36.35). Agencies must enter pertinent information in the property description field, e.g. agencies must state quantities and kinds, proof rating, and condition for shipping.

(b) The destruction of forfeited distilled spirits, wine, and beer that are not retained for official use by the seizing agency or transferred or donated to eligible recipients by GSA are documented on an AD Form 112 (Report of Unserviceable, Lost, Stolen, Damaged or Destroyed Property) with the time and location, property description, and quantities destroyed.

Drug Paraphernalia

102-41.210 What are some examples of drug paraphernalia?

Some examples of drug paraphernalia are—

(a) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(b) Water pipes;

(c) Carburetion tubes and devices;

(d) Smoking and carburetion masks;

(e) Roach clips (objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand);

(f) Miniature spoons with level capacities of one-tenth cubic centimeter or less;

(g) Chamber pipes;

(h) Carburetor pipes;

(i) Electric pipes;

(j) Air-driven pipes;

(k) Chillums;

(l) Bongs;

(m) Ice pipes or chillers;

(n) Wired cigarette papers; or

(o) Cocaine freebase kits.

102-41.215 Do we report to GSA all forfeited, voluntarily abandoned, or unclaimed drug paraphernalia not required for official use?

No, only report drug paraphernalia that has been seized and forfeited for a violation of 21 U.S.C. 863. Unless statutorily authorized to do otherwise, destroy all other forfeited, voluntarily abandoned, or unclaimed drug paraphernalia. You must ensure the destruction is performed in the presence of two witnesses (employees of your agency), and retain in your records a signed certification of destruction.

102-41.220 Is drug paraphernalia forfeited under 21 U.S.C. 863 available for transfer to other Federal agencies or donation through a State Agency for Surplus Property (SASP)?

Yes, but GSA will only transfer or donate forfeited drug paraphernalia for law enforcement or educational purposes and only for use by Federal, State, or local authorities. Federal or State Agencies for Surplus Property (SASP) requests for such items must be processed through the General Services Administration, Property Management Branch (3FPD), Washington, DC 20407. The recipient must certify on the transfer document that the drug paraphernalia will be used for law enforcement or educational purposes only.

102-41.225 Are there special provisions to reporting and transferring drug paraphernalia forfeited under 21 U.S.C. 863?

Yes, you must ensure that such drug paraphernalia does not lose its identity as forfeited property. Reports of excess and transfer documents for such drug paraphernalia must include the annotation that the property was seized and forfeited under 21 U.S.C. 863.

102-41.230 May SASPs pick up or store donated drug paraphernalia in their distribution centers?

No, you must release donated drug paraphernalia directly to the donee as designated on the transfer document.

102-41.235 May we sell forfeited drug paraphernalia?

No, you must destroy any forfeited drug paraphernalia not needed for transfer or donation and document the destruction as specified in 102-41.215.

CHAPTER 110 - AGRICULTURAL PROPERTY MANAGEMENT REGULATIONS
SUBCHAPTER B - PERSONAL PROPERTY

PART 110-42 - UTILIZATION, DONATION, AND DISPOSAL OF FOREIGN GIFTS AND DECORATIONS

SUPPLEMENTING

CHAPTER 102 - FEDERAL MANAGEMENT REGULATION
SUBCHAPTER B - PERSONAL PROPERTY
PART 102-42 - UTILIZATION, DONATION, AND DISPOSAL OF FOREIGN GIFTS AND DECORATIONS

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102-42.10 What definitions apply to this part?

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Subpart A - General Provisions

102-42.5 What does this part cover?

This part covers the acceptance and disposition of gifts of more than minimal value and decorations from foreign governments under 5 U.S.C. 7342. If you receive gifts other than from a foreign government, you should refer to §102-36.405 of this subchapter B.

Definitions

102-42.10 What definitions apply to this part?

The following definitions apply to this part:

"Decoration" means an order, device, medal, badge, insignia, emblem, or award offered by or received from a foreign government.

"Employee" means:

(1) An employee as defined by 5 U.S.C. 2105 and an officer or employee of the United States Postal Service or of the Postal Rate Commission;

(2) An expert or consultant who is under contract under 5 U.S.C. 3109 with the United States or any agency, department, or establishment thereof, including, in the case of an organization performing services under that section, any individual involved in the performance of such services;

(3) An individual employed by or occupying an office or position in the government of a territory or possession of the United States or the government of the District of Columbia;

(4) A member of a uniformed service as specified in 10 U.S.C 101;

(5) The President and the Vice President;

(6) A Member of Congress as defined by 5 U.S.C. 2106 (except the Vice President) and any Delegate to the Congress; and

(7) The spouse of an individual described in paragraphs (1) through (6) of this definition of "employee" (unless this individual and his or her spouse are separated) or a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986 (26 U.S.C. 152)) of this individual, other than a spouse or dependent who is an employee under paragraphs (1) through (6) of this definition of "employee".

"Employing agency" means:

(1) The department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees;

(2) The Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in 5 U.S.C. 7342(c)(2)(A), (e)(1), and (g)(2)(B) must be carried out by the Clerk of the House;

(3) The Select Committee on Ethics of the Senate, for Senators and employees of the Senate, except that those responsibilities (other than responsibilities involving approval of the employing agency) specified in 5 U.S.C. 7342(c)(2), (d), and (g)(2)(B) must be carried out by the Secretary of the Senate; and

(4) The Administrative Offices of the United States Courts, for judges and judicial branch employees.

"Foreign government means:

(1) Any unit of foreign government, including any national, State, local, and municipal government and their foreign equivalents;

(2) Any international or multinational organization whose membership is composed of any unit of a foreign government; and

(3) Any agent or representative of any such foreign government unit or organization while acting as such.

"Gift" means a monetary or non-monetary present (other than a decoration) offered by or received from a foreign government. A monetary gift includes anything that may commonly be used in a financial transaction, such as cash or currency, checks, money orders, bonds, shares of stock, and other securities and negotiable financial instruments.

"Minimal value" means a retail value in the United States at the time of acceptance that is at or below the dollar value established by GSA and published in a Federal Management Regulation (FMR) Bulletin at www.gsa.gov/personalpropertypolicy.

(1) GSA will adjust the definition of minimal value every three years, in consultation with the Secretary of State, to reflect changes in the Consumer Price Index for the immediately preceding 3-year period.

(2) An employing agency may, by regulation, specify a lower value than this Government-wide value for its agency employees.

"Spouse" means any individual who is lawfully married (unless legally separated), including an individual married to a person of the same sex who was legally married in a state or other jurisdiction (including a foreign country), that recognizes such marriages, regardless of whether or not the individual's state of residency recognizes such marriages. The term *spouse* does not include individuals in a formal relationship recognized by a state, which is other than lawful marriage; it also does not include individuals in a marriage in a jurisdiction outside the United States that is not recognized as a lawful marriage under United States law.

Care, Handling and Disposition

102-42.15 Under what circumstances may an employee retain a foreign gift or decoration?

Employees, with the approval of their employing agencies, may accept and retain:

(a) Gifts of minimal value received as souvenirs or marks of courtesy. When a gift of more than minimal value is accepted, the gift becomes the property of the U.S. Government, not the employee, and must be reported.

(b) Decorations that have been offered or awarded for outstanding or unusually meritorious performance. If the employing agency disapproves retention of the decoration by the employee, the decoration becomes the property of the U.S. Government.

110-42.15 Assessment of value for gifts.

The Administrator of the employing agency, or their designee, shall make an initial assessment of value for the gift. If the employee disputes this value, the employing agency shall secure the services of an outside appraiser to determine the value of the gift.

Firearms received as a foreign gift, regardless of value, are to be reported to the Office of Procurement and Property Management, Property Management Division.

102-42.20 What is the typical disposition process for gifts and decorations that employees are not authorized to retain?

(a) *Non-monetary gifts or decorations*. When an employee receives a non-monetary gift above the minimal value or a decoration that he/she is not authorized to retain:

(1) The employee must report the gift or decoration to his/her employing agency within 60 days after accepting it.

(2) The employing agency determines if it will keep the gift or decoration for official use.

(3) If it does not return the gift or decoration to the donor or keep it for official use, the employing agency reports it as excess personal property to GSA for Federal utilization screening under §102-42.95.

(4) If GSA does not transfer the gift or decoration during Federal utilization screening, the employee may purchase the gift or decoration (see §102-42.140).

(5) If the employee declines to purchase the gift or decoration, and there is no Federal requirement for either, GSA may offer it for donation through State Agencies for Surplus Property (SASP) under part 102-37 of this subchapter B.

(6) If no SASP requests the gift or decoration for donation, GSA may offer it for public sale, with the approval of the Secretary of State, or will authorize the destruction of the gift or decoration under part 102-38 of this subchapter B.

(b) *Monetary gifts*. When an employee receives a monetary gift above the minimal value:

(1) The employee must report the gift to his/her employing agency within 60 days after accepting it.

(2) The employing agency must:

(i) Report a monetary gift with possible historic or numismatic (i.e., collectible) value to GSA; or

(ii) Deposit a monetary gift that has no historic or numismatic value with the Department of the Treasury.

110-42.20 Employee reporting of property covered by this part.

USDA employees must report the gift or decoration to their employing agency within 60 days after accepting it. When reporting the gift or decoration, employees must include a statement with the same information as required under parts 102-42.95 and 110-42.95.

102-42.25 Who retains custody of gifts and decorations pending disposal?

(a) The employing agency retains custody of gifts and decorations that employees have expressed an interest in purchasing.

(b) GSA will accept physical custody of gifts above the minimal value, which employees decline to purchase, or decorations that are not retained for official use or returned to donors.

Note to §102-42.25(b): GSA will not accept physical custody of foreign gifts of firearms. Firearms reported by the agency as excess must be disposed of in accordance with part 101-42 of this title. See part 110-42.15 for USDA's regulation as it relates to firearms.

102-42.30 Who is responsible for the security, care and handling, and delivery of gifts and decorations to GSA, and all costs associated with such functions?

The employing agency is responsible for the security, care and handling, and delivery of gifts and decorations to GSA, and all costs associated with such functions.

102-42.35 Can the employing agency be reimbursed for transfers of gifts and decorations?

No, all transfers of gifts and decorations to Federal agencies or donation through SASPs will be without reimbursement. However, the employing agency may require the receiving agency to pay all or part of the direct costs incurred by the employing agency in packing, preparation for shipment, loading, and transportation.

Appraisals

102-42.40 When is an appraisal necessary?

An appraisal is necessary when –

(a) An employee indicates an interest in purchasing a gift or decoration. In this situation, the appraisal must be obtained before the gift or decoration is reported to GSA for screening (see 102-42.20); or

(b) GSA requires the employing agency to obtain an appraisal of a gift or decoration that the agency has retained for official use and no longer needs before accepting the agency's report of the item as excess personal property; or

(c) The policy of one's own agency requires it, pursuant to 5 U.S.C. 7342(g).

Note to §102-42.40 paragraphs (a) and (b): Refer to §102-42.50 for how appraisals under these two situations are handled.

102-42.45 What is my agency's responsibility for establishing procedures for obtaining an appraisal?

The employing agency is responsible for establishing its own procedure for obtaining an appraisal that represents the value of the gift in the United States. This applies to all gifts, even when the recipient wishes to retain and/or purchase the gift. Appraisals are required for gifts that are personalized (*e.g.*, Books signed by the author, Gifts personally labeled).

102-42.50 What types of appraisals may my agency consider?

Your agency may allow -

(a) Written commercial appraisals conducted by an appraisal firm or trade organization; and

(b) Retail value appraisals where the value of the gift may be ascertained by reviewing current and reliable non-discounted retail catalogs, retail price lists, or retail Web site valuations.

102-42.55 What does the employing agency do with the appraisal?

When an appraisal is necessary under §102-42.40, the employing agency must include the appraisal with the Standard Form (SF) 120, Report of Excess Personal Property, and send it to GSA in accordance with the requirements of §102-42.95. By attaching the appraisal, the employing agency is certifying that the value cited is the retail value/appraised value of the item in the United States in U.S. dollars on the date set forth on the appraisal.

Special Disposals

102-42.60 Who is responsible for gifts and decorations received by Senators and Senate employees?

Gifts and decorations received by Senators and Senate employees are deposited with the Secretary of the Senate for disposal by the Commission on Art and Antiquities of the United States Senate under 5 U.S.C. 7342(e)(2). GSA is responsible for disposing of gifts or decorations received by Members and employees of the House of Representatives.

102-42.65 What happens if the Commission on Art and Antiquities does not dispose of a gift or decoration?

If the Commission on Art and Antiquities does not dispose of a gift or decoration, then it must be reported to GSA for disposal. If GSA does not dispose of a gift or decoration within one year of the Commission's reporting, the Commission may:

(a) Request that GSA return the gift or decoration and dispose of it itself; or

(b) Continue to allow GSA to dispose of the gift or decoration in accordance with this part.

102-42.70 Who handles gifts and decorations received by the President or Vice President or a member of their family?

The National Archives and Records Administration normally handles gifts and decorations received by the President and Vice President or a member of the President's or Vice President's family.

102-42.75 How are gifts containing hazardous materials handled?

Gifts containing hazardous materials are handled in accordance with the requirements and provisions of this part and part 101-42 of this title.

Subpart B - Utilization of Foreign Gifts and Decorations

102-42.80 To whom do "we", "you", and their variants refer?

Use of pronouns "we", "you", and their variants throughout this subpart refers to the employing agency.

102-42.85 What gifts or decorations must we report to GSA?

You must report to GSA gifts of more than minimal value, except for monetary gifts that have no historic or numismatic value (see §102-42.20), or decorations the employee is not authorized to retain that are:

(a) Not being retained for official use or have not been returned to the donor; or

(b) Received by a Senator or a Senate employee and not disposed of by the Commission on Art and Antiquities of the United States Senate.

110-42.85 Agency reporting of property covered by this part

The USDA holding agency must report all property outlined in part 102-42.85, in the USDA Agency Asset Management System. Follow the procedures for reporting excess personal property under part 110-36 of this subchapter B.

102-42.90 What is the requirement for reporting gifts or decorations that were retained for official use but are no longer needed?

Non-monetary gifts or decorations that were retained for official use must be reported to GSA as excess property within 30 days after termination of the official use. See part 110-42.85 for USDA policy on the disposal of gifts.

102-42.95 How do we report gifts and decorations as excess personal property?

You must complete a Standard Form (SF) 120, Report of Excess Personal Property, and send it to the General Services Administration, Utilization and Donation Program Division (QSCA), Washington, DC 20406. Conspicuously mark the SF 120, "FOREIGN GIFTS AND/OR DECORATIONS", and include the following information:

Entry	Description
(a) Identity of Employee	Give the name and position of the employee.
(b) Description of Item	Give a full description of the gift or decoration, including the title of the decoration.
(c) Identity of Foreign Government	Give the identity of the foreign government (if known) and the name and position of the individual who presented the gift or decoration.
(d) Date of Acceptance	Give the date the gift or decoration was accepted by the employee.
(e) Appraised Value	Give the appraised value in United States dollars of the gift or decoration, including the cost of the appraisal. (The employing agency must obtain a commercial appraisal before the gift is offered for sale to the employee.)
(f) Current Location of Item	Give the current location of the gift or decoration.
(g) Employing Agency Contact Person	Give the name, address, and telephone number of the accountable official in the employing agency.

(h) Purchase Interest or Donation Recommendation	Indicate whether the employee wants to buy the gift, or whether the employee wants the gift or decoration donated to an eligible donee through GSA's surplus donation program. Document this interest in a letter outlining any special significance of the gift or decoration to the proposed donee. Also provide the mailing address and telephone number of both the employee and the proposed donee.
(i) Administration	Give the Administration in which the gift or decoration was received (for example, Clinton Administration).
(j) Multiple Items	Identify each gift or decoration as a separate line item. Report multiple gift items that make up a set (for example, a tea set, a necklace and matching earrings) as a single line item.

110-42.95 Agency reporting of property covered by this part.

Reports of gifts and decorations as excess personal property must first be entered into the USDA Agency Asset Management System (AAMS) for internal screening before being listed for Federal screening (see part 110-36.35). Agencies must enter the information required by part 102-42.95 in the property description field.

102-42.100 How can we obtain an excess gift or decoration from another agency?

To obtain an excess gift or decoration from another agency, you would complete a Standard Form (SF) 122, Transfer Order Excess Personal Property, or any other transfer order form approved by GSA, for the desired item(s) and submit the form to the General Services Administration, Property Management Division (FBP), Washington, DC 20406.

102-42.105 What special information must be included on the SF 122?

Conspicuously mark the SF 122, "FOREIGN GIFTS AND/OR DECORATIONS", and include all information furnished by the employing agency as specified in §102-42.95. Also, include on the form the following statement: "At such time as these items are no longer required, they will be reported to the General Services Administration, Property Management Division (FBP), Washington, DC 20406, and will be identified as foreign gift items and cross-referenced to this transfer order number."

102-42.110 How must we justify a transfer request?

You may only request excess gifts and decorations for public display or other bona fide agency use and not for the personal benefit of any individual. GSA may require that transfer orders be supported by justifications for the intended display or official use of requested gifts and decorations. Jewelry and watches that are transferred for official display must be displayed with adequate provisions for security.

102-42.115 What must we do when the transferred gifts and decorations are no longer required for official use?

When transferred gifts and decorations are no longer required for official use, report these gifts and decorations to the GSA as excess property on a SF 120, including the original transfer order number or a copy of the original transfer order.

Subpart C - Donation of Foreign Gifts and Decorations

102-42.120 When may gifts or decorations be donated to State agencies?

If there is no Federal requirement for the gifts or decorations, and if gifts were not sold to the employee, GSA may make the gifts or decorations available for donation to State agencies under this subpart and part 102-37 of this subchapter B.

102-42.125 How is donation of gifts or decorations accomplished?

The State Agencies for Surplus Property (SASP) must initiate the process on behalf of a prospective donee (e.g., units of State or local governments and eligible non-profit organizations) by:

(a) Completing a Standard Form (SF) 123, Transfer Order Surplus Personal Property, and submitting it to General Services Administration, Property Management Division (FBP), Washington, DC 20406. Conspicuously mark the SF 123 with the words, "FOREIGN GIFTS AND/OR DECORATIONS."

(b) Attaching an original and two copies of a letter of intent to each SF 123 submitted to GSA. An authorized representative of the proposed donee must sign and date the letter, setting forth a detailed plan for use of the property. The letter of intent must provide the following information:

(1) Identifying the donee applicant, including its legal name and complete address, its status as a public agency or as an eligible nonprofit tax-exempt activity, and the name, title, and telephone number of its authorized representative;

(2) A description of the gift or decoration requested, including the gift's commercially appraised value or estimated fair market value if no commercial appraisal was performed; and

(3) Details on the planned use of the gift or decoration, including where and how it will be used and how it will be safeguarded.

102-42.130 Are there special requirements for the donation of gifts and decorations?

Yes, GSA imposes special handling and use limitations on the donation of gifts and decorations. The SASP distribution document must contain or incorporate by reference the following:

(a) The donee must display or use the gift or decoration in accordance with its GSA-approved letter of intent.

(b) There must be a period of restriction which will expire after the gift or decoration has been used for the purpose stated in the letter of intent for a period of 10 years, except that GSA may restrict the use of the gift or decoration for such other period when the inherent character of the property justifies such action.

(c) The donee must allow the right of access to the donee's premises at reasonable times for inspection of the gift or decoration by duly authorized representatives of the SASP or the U.S. Government.

(d) During the period of restriction, the donee must not:

(1) Sell, trade, lease, lend, bail, encumber, cannibalize or dismantle for parts, or otherwise dispose of the property;

(2) Remove it permanently for use outside the State;

(3) Transfer title to the gift or decoration directly or indirectly; or

(4) Do or allow anything to be done that would contribute to the gift or decoration being seized, attached, lost, stolen, damaged, or destroyed.

(e) If the gift or decoration is no longer suitable, usable, or needed by the donee for the stated purpose of donation during the period of restriction, the donee must promptly notify the General Services Administration, Property Management Division (FBP), Washington, DC 20406, through the SASP, and upon demand by GSA, title and right to possession of the gift or decoration reverts to the U.S. Government. In this event, the donee must comply with transfer or disposition instructions furnished by GSA through the SASP, and pay the costs of transportation, handling, and reasonable insurance during transportation.

(f) The donee must comply with all additional conditions covering the handling and use of any gift or decoration imposed by GSA.

(g) If the donee fails to comply with the conditions or limitations during the period of restriction, the SASP may demand return of the gift or decoration and, upon such demand, title and right to possession of the gift or decoration reverts to the U.S. Government. In this event, the donee must return the gift or decoration in accordance with instructions furnished by the SASP, with costs of transportation, handling, and reasonable insurance during transportation to be paid by the donee or as directed by the SASP.

(h) If the gift or decoration is lost, stolen, or cannot legally be recovered or returned for any other reason, the donee must pay to the U.S. Government the fair market value of the gift or decoration at the time of its loss, theft, or at the time that it became unrecoverable as determined by GSA. If the gift or decoration is damaged or destroyed, the SASP may require the donee to:

(1) Return the item and pay the difference between its former fair market value and its current fair market value; or

(2) Pay the fair market value, as determined by GSA, of the item had it not been damaged or destroyed.

Subpart D - Sale or Destruction of Foreign Gifts and Decorations

102-42.135 Whose approval must be obtained before a foreign gift or decoration is offered for public sale?

The Secretary of State or the Secretary's designee must approve any sale of foreign gifts or decorations (except sale of foreign gifts to the employee, that is approved in this part).

102-42.140 How is a sale of a foreign gift or decoration to an employee conducted?

Foreign gifts and decorations must be offered first through negotiated sales to the employee who has indicated an interest in purchasing the item. The sale price must be the commercially appraised value of the gift. Sales must be conducted and documented in accordance with part 102-38 of this subchapter B.

102-42.145 When is public sale of a foreign gift or decoration authorized?

A public sale is authorized if a foreign gift or decoration:

(a) Survives Federal utilization screening;

(b) Is not purchased by the employee;

(c) Survives donation screening; and

(d) Is approved by the Secretary of State or designee.

102-42.150 What happens to proceeds from sales?

The proceeds from the sale of foreign gifts or decorations must be deposited in the Treasury as miscellaneous receipts, unless otherwise authorized.

102-42.155 Can foreign gifts or decorations be destroyed?

Yes, foreign gifts or decorations that are not sold under this part may be destroyed and disposed of as scrap or for their material content under part 102-38 of this subchapter B.