

their reports of excess personal property to prevent GSA from automatically programming the property for sale.

[59 FR 50696, Oct. 5, 1994]

§ 101-45.103-2 Holding agency sales.

All provisions of Parts 101-45 and 101-46 shall be followed in conducting sales of Government-owned personal property. Agency internal procedures shall be issued to ensure compliance and uniformity and to protect the integrity of the sales process.

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§ 101-45.103-3 Sales by GSA.

(a) For property reported to GSA for disposal, the following basic services will be provided at reimbursable rates established by GSA on an annual basis.

(1) Auction and spot bid sales. The following services are covered under the basic rate:

- (i) Property cataloging;
- (ii) Maintenance of mailing list;
- (iii) Printing and distribution of announcement to bidders on mailing list;
- (iv) Normal media advertising (one newspaper or equivalent);
- (v) Registration of bidders;
- (vi) Auctioneer;
- (vii) Onsite contracting officer;
- (viii) Award document preparation;
- (ix) Onsite collection of proceeds;
- (x) Follow-on collection of late payments;
- (xi) Security service;
- (xii) Deposit of proceeds;
- (xiii) Distribution of proceeds;
- (xiv) Financial and property line item accountability; and
- (xv) Contract administration.

(2) Sealed bid sales. The following services are covered under the basic rate:

- (i) Property cataloging;
 - (ii) Maintenance of mailing list;
 - (iii) Printing/distribution of invitation for bids to bidders on mailing list;
 - (iv) Bid opening;
 - (v) Contract awards;
 - (vi) Preparation of award documents;
 - (vii) Financial and property line item accountability; and
 - (viii) Contract administration;
- (b) GSA will deduct service charges from the proceeds of sale.

(c) For sales proceeds that are reimbursable to the holding agency, net proceeds (sales proceeds less GSA's direct, and indirect costs) will be distributed to the agency via the on-line payment and accounting control (OPAC) system.

(d) A portion of the proceeds from the sale of nonreimbursable surplus property will also be retained by GSA to cover its direct and indirect costs. The net proceeds will be deposited to miscellaneous receipts of the Treasury.

(e) Rates for accessorial services, including transportation, storage, maintenance, and reconditioning of property prior to sale, will vary according to local market conditions and will be published in GSA regional bulletins available from the servicing GSA region.

(f) Agencies may be consulted to assist GSA in the determination of the best method of sale and their requirements for accessorial services.

(g) Property for which the sales contract is terminated for default will be resold at no cost to the holding agency. Property for which the sales contract is terminated for cause, e.g., misdescription of the property, will be resold at the holding agency's cost if the cause is attributable to the holding agency.

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§ 101-45.103-4 Sales conducted at holding agency facilities.

If GSA sells property from holding agency facilities, holding agencies shall be responsible for the following:

(a) Providing the appropriate GSA regional office with information necessary for effective sale of property and the accounting data for appropriate application of gross proceeds;

(b) Transporting property to a consolidated sales site when agreed to by the holding agency and GSA;

(c) Providing for the inspection of property by prospective bidders;

(d) Providing facilities for the conduct of sales and the essential administrative, clerical, or labor assistance when requested by GSA; and

(e) Assisting in the physical lotting of property to be sold at agency facilities.

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§ 101-45.104 Care and handling pending disposal.

Pending disposal, each holding agency shall be responsible for performing, and bear the cost of, care and handling of its property.

§ 101-45.105 Exclusions and exemptions.

§ 101-45.105-1 Materials required for the national stockpile or the supplemental stockpile, or under the Defense Production Act.

This part 101-45 does not apply to materials acquired for the national stockpile or the supplemental stockpile or to materials or equipment acquired under section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093). However, to the extent deemed appropriate the provisions of this part 101-45 should be followed in the disposal of such materials.

§ 101-45.105-2 Disposal of certain vessels.

The Secretary of Transportation has jurisdiction over the disposal of vessels of 1,500 gross tons or more which the Secretary determines to be merchant vessels or capable of conversion to merchant use.

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§ 101-45.105-3 Exemptions.

Exemptions from the provisions of this Part 101-45 may be obtained by an agency head who believes that authority with respect to the programs covered by section 602(d) of the Act would be impaired or adversely affected by this part. Exemptions may be requested, in writing, from the Administrator of General Services.

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§ 101-45.106 Property controlled by other law.

No property shall be disposed of in violation of any other applicable law.

§ 101-45.107 Holding agency compliance function.

Subject to the provisions of § 101-45.107-1 requiring referral of criminal matters to the Department of Justice, each holding agency shall perform investigatory functions as are necessary to insure compliance with the provisions of the Federal Property Act and with the regulations, orders, directives, and policy statements of the Administrator of General Services. Nothing in this § 101-45.107 should be deemed to affect the jurisdiction of any agency over its own personnel or any existing arrangements with Department of Justice concerning the handling and prosecution of criminal matters.

§ 101-45.107-1 Referral to other Government agencies.

All information indicating violations by any person of Federal criminal statutes, or violations of section 209 of the Federal Property Act, including, but not limited to, fraud against the Government, mail fraud, bribery, attempted bribery, or criminal collusion, shall be referred immediately to the Department of Justice, for further investigation and disposition. Each holding agency shall make available to the Department of Justice, or to such other governmental investigating agency to which the matter may be referred by the Department of Justice, all pertinent information and evidence concerning the indicated violations; shall desist from further investigation of the criminal aspects of such matters except upon the request of the Department of Justice; and shall cooperate fully with the agency assuming final jurisdiction in establishing proof of criminal violations. After making the necessary referral to the Department of Justice, inquiries conducted by the holding agency compliance organizations shall be limited to obtaining information for administrative purposes. Where irregularities reported or discovered involve wrongdoing on the part of individuals holding positions in Government agencies other than the agency initiating the investigation, the case shall be reported immediately to the Administrator of General Services for an examination in the premises.