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**§ 101-46.000 Why should executive agencies use the exchange/sale authority?**

To reduce the agencies' need for additional funding for the acquisition of replacement personal property. If an agency has personal property that needs to be replaced, it can exchange or sell that property and apply the exchange allowance or sales proceeds to the acquisition of similar replacement property. Using the exchange/sale authority also enables agencies to avoid the costs (e.g., administrative and storage) associated with holding the property and processing it through the normal disposal cycle, i.e., reutilization by other Federal agencies, donation to eligible non-Federal public or non-profit organizations, sale to the public, or abandonment or destruction. By contrast, if the holding agency does not use the exchange/sale authority but instead reports the property to be replaced as excess, any sales proceeds are forwarded to the miscellaneous receipts account at the United States Treasury and are not available to the agency disposing of the property.

**§ 101-46.001 What is prescribed by this part?**

Provisions for use by you (an executive agency) when using the exchange/sale authority of section 201(c) of the Federal Property and Administrative Services Act of 1949, 63 Stat. 384, as amended (40 U.S.C. 481(c)). This part applies to all personal property owned by executive agencies worldwide. For the exchange/sale of aircraft parts and hazardous materials, you must meet the requirements in this part and in parts 101-37 and 101-42 of this chapter, respectively.

**§ 101-46.002 What are the definitions of some of the key terms used in this part?**

**§ 101-46.002-1 Acquire.**

To procure or otherwise obtain personal property, including by lease.

**§ 101-46.002-2 Combat material.**

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

**§ 101-46.002-3 Exchange.**

To replace personal property by trade or trade-in with the supplier of the replacement property.

**§ 101-46.002-4 Exchange/sale.**

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.

**§ 101-46.002-5 Executive agency.**

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

**§ 101-46.002-6 Federal agency.**

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).

**§ 101-46.002-7 Historic item.**

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.

**§ 101-46.002-8 Replacement.**

The process of acquiring property to be used in place of property which is still needed but will no longer adequately perform all the tasks for which it is used.

**§ 101-46.002-9 Similar.**

Where the acquired item and replaced item:

- (a) Are identical; or
- (b) Are designed and constructed for the same purpose; or

(c) Both constitute parts or containers for identical or similar end items; or

(d) Both fall within a single Federal Supply Classification (FSC) group of property that is eligible for handling under the exchange/sale authority.

**§ 101-46.003 How do you request deviations from this part, and who can approve them?**

(a) General provisions for deviations from the Federal Property Management Regulations are found in § 101-1.110 of this chapter. Provisions for deviations from the regulations in this part are presented in this section.

(b) To request deviations from this part, you must submit a complete written justification to the General Services Administration (GSA), Office of Governmentwide Policy, Office of Transportation and Personal Property (MT), Washington, DC 20405. Only the Administrator of General Services (or designee) may grant deviations. Although the Administrator can approve deviations from most of the provisions in this part, he/she cannot approve deviations from provisions that are mandated by statute, i.e., the requirement at 101-46.204(b)(1) that the property exchanged or sold is similar to the property acquired, and the requirement at 101-46.204(b)(2) that the property exchanged or sold is not excess or surplus.

**Subpart 101-46.1 [Reserved]**

**Subpart 101-46.2—Exchange or Sale Determination**

**§ 101-46.200 How do you determine whether to do an exchange or a sale?**

(a) You must determine which method—exchange or sale—will provide the greater return for the Government. When estimating the return under each method, consider all administrative and overhead costs.

(b) If the exchange allowance or estimated sales proceeds for property would be unreasonably low, you should process the property according to the regulations in Part 101-43 (Utilization of Personal Property) or Subpart 101-45.9 (Abandonment or Destruction of

Personal Property) of this subchapter, as applicable.

**§ 101-46.201 When must you make a reimbursable transfer to another Federal agency?**

If you have property to replace which is eligible for exchange/sale, you should, to the maximum extent practicable, first solicit Federal agencies known to use or distribute such property and, if an agency wants it, arrange for a reimbursable transfer. Property that meets the replacement standards prescribed in subpart 101-25.4 of this chapter is not subject to this requirement.

**§ 101-46.202 To what other organizations may you make a reimbursable transfer?**

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.

**§ 101-46.203 What are the conditions for a reimbursable transfer?**

When transferring property, you must:

- (a) Do so under terms mutually agreeable to you and the recipient; and
- (b) Not require reimbursement of an amount greater than the estimated fair market value of the transferred property; and
- (c) Apply the transfer proceeds in whole or part payment for property acquired to replace the transferred property.

**§ 101-46.204 What prohibitions and necessary conditions apply to the exchange/sale of personal property?**

(a) You must not use the exchange/sale authority for:

- (1) The following FSC groups of personal property:
  - 10 Weapons.
  - 11 Nuclear ordnance.
  - 12 Fire control equipment.
  - 14 Guided missiles.
  - 15 Aircraft and airframe structural components, except FSC class 1560 Airframe Structural Components.
  - 42 Firefighting, rescue, and safety equipment.
  - 44 Nuclear reactors (FSC class 4472 only).