

**§ 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.

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- 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).
- 51 Hand tools.
- 54 Prefabricated structure and scaffolding.
- 68 Chemicals and chemical products, except medicinal chemicals.
- 71 Furniture.
- 84 Clothing, individual equipment, and insignia.

(2) Materials in the National Defense Stockpile (50 U.S.C. 98-98h) or the Defense Production Act inventory (50 U.S.C. App. 2093).

(3) Nuclear Regulatory Commission-controlled materials unless you meet the requirements of §101-42.1102-4 of this subchapter.

(4) Controlled substances, unless you meet the requirements of §101-42.1102-3 of this subchapter.

(5) Scrap materials, except in the case of scrap gold for fine gold.

(6) Property which 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.

(7) 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.

(8) Combat material without demilitarizing it in accordance with applicable regulations.

(9) Flight Safety Critical Aircraft Parts unless you meet the provisions of §101-37.610 of this chapter.

(10) Acquisition of unauthorized replacement property.

(11) Acquisition of replacement property which violates:

- (i) Any restriction on procurement of a commodity or commodities; or
- (ii) Any replacement policy or standard prescribed by the President, the

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Congress, or the Administrator of General Services; or

(iii) Any contractual obligation.

(b) You may use the exchange/sale authority only if you meet all of the following conditions:

(1) The property exchanged or sold is similar to the property acquired; and

(2) The property exchanged or sold is not excess or surplus, and the property acquired is needed for approved programs; and

(3) The number of items acquired must equal the number of items exchanged or sold unless:

(i) The item(s) acquired perform all or substantially all of the tasks for which the item(s) exchanged or sold would otherwise be used; or

(ii) The item(s) acquired and the item(s) exchanged or sold meet the test for similarity specified at §101-46.002-9(iii) in that they are a part(s) or container(s) for identical or similar end items; and

(4) The property exchanged or sold was not acquired for the principal purpose of exchange or sale; and

(5) You document at the time of exchange or sale (or at the time of acquisition if it precedes the sale):

(i) That the exchange allowance or sale proceeds will be applied to the acquisition of replacement property; and

(ii) For any property exchanged or sold under this part, the pertinent Federal Supply Classification (FSC) Group, the number of items, the original acquisition cost, the exchange allowance or sales proceeds (as applicable), and the source from which the property was originally acquired i.e., new procurement, excess, forfeiture, or another source other than new procurement. These data, aggregated at the agency level, may be requested by GSA to evaluate use of the exchange/sale authority.

**§101-46.205 What special exceptions apply to the exchange/sale authority?**

(a) You may exchange books and periodicals in your libraries for other books and periodicals, without monetary appraisal or detailed listing or reporting.