

Subpart 239.70 Exchange or Sale of Information Technology (IT)

SOURCE: 62 FR 1059, Jan. 8, 1997, unless otherwise noted.

239.7000 Scope of subpart.

This subpart contains unique DoD procedures for the exchange or sale of information technology using the exchange authority of the General Services Administration (GSA). This subpart only applies to items with an original acquisition cost of \$1,000,000 or more.

239.7001 Policy.

Agencies should consider exchange/sale when replacing Government-owned information technology. Exchange/sale is a method of—

(a) Transferring the equipment to be replaced to—

(1) Another Government agency, with reimbursement (sale); or

(2) The supplier of the replacement information technology for a trade-in allowance (exchange).

(b) Applying the proceeds of sale or the exchange allowance toward the purchase of replacement information technology.

239.7002 Conditions for using exchange/sale.

(a) The requiring activity must make a written determination that—

(1) The trade-in allowance of the exchange or the proceeds of the sale will be applied to acquire the replacement information technology; and

(2) The exchange/sale transaction will foster the economic and efficient accomplishment of a continuing requirement.

(b) The replacement equipment must be information technology—

(1) Similar to the resource being sold or exchanged;

(2) Which will satisfy the continuing requirement currently met by the resource being replaced.

239.7003 Procedures.

(a) Comply with—

(1) This subpart;

(2) Subpart 217.70; and

(3) The Defense Automation Resources Management Manual.

(b) Solicit offers both on an exchange (trade-in for allowance) or no exchange (no trade-in) basis.

(c) Retain the option to exercise any exchange offer at the time of award.

(d) List and describe the information technology to be exchanged in the solicitation. At a minimum include—

(1) A brief description of each item;

(2) Name of manufacturer;

(3) Equipment type;

(4) Model number; and

(5) The condition code and explanation of the code.

(e) Allow sufficient time in the contracting schedule to permit screening within the Government of the information technology to be exchanged prior to contract award.

(f) Immediately upon receipt of offers, determine the highest exchange offer (if any) and use it to initiate screening under the Defense Automation Resources Management Manual.

(1) Send an SF 120, Report of Excess Personal Property, to the Defense Information Systems Agency, Chief Information Officer, Defense Automation Resources Management Program Division, Attn: D03D, 701 South Courthouse Road, Arlington, VA 22204-2199. Prominently display the following note on the original and five copies of the SF 120:

Exchange/"Sale" Property

A written administrative determination has been (will be) made to apply the exchange allowance or proceeds of "sale" to the acquisition of similar items.

(2) Include the following additional information with the SF 120:

(i) The identity of the offeror of the exchange;

(ii) The type of replacement equipment;

(iii) The acquisition method for the replacement equipment;

(iv) The anticipated purchase price for the replacement equipment; and

(v) The name and telephone number of the contracting officer.

(g) Evaluate offers using the solicitation criteria, including consideration of any exchange allowance offers. Award can be made whether or not the replaced information technology is exchanged.

239.7100

(h) Before a contract is awarded, consider the results of the screening. Do not make an exchange if another Government agency wants to acquire the replaced equipment.

(1) If another agency is going to acquire the replaced equipment, do not include the exchange allowance in the contract price.

(2) The actual sale price to the agency acquiring the replaced equipment will be the exchange allowance (if any) of the successful offeror.

(i) If no Government agency wants to acquire the replaced equipment, the contract price shall include the exchange allowance, if any.

(j) If no exchange allowance was offered by the successful contractor, see the Defense Automation Resources Management Manual for disposal instructions.

[62 FR 1059, Jan. 8, 1997, as amended at 62 FR 34127, June 24, 1997; 62 FR 49305, Sept. 19, 1997]

Subpart 239.71—Security and Privacy for Computer Systems

239.7100 Scope of subpart.

This subpart applies to all acquisitions for computer systems. It covers both security and Privacy Act considerations.

239.7101 General.

Security requirements are in addition to provisions concerning protection of privacy of individuals (see FAR subpart 24.1).

239.7102 Security against compromising emanations.

239.7102-1 General.

(a) The National Security or Atomic Energy Acts, as amended, may require protection of information that is—

- (1) Processed;
- (2) Transmitted;
- (3) Stored;
- (4) Retrieved; or
- (5) Displayed.

(b) When acquiring computer equipment to be used to process classified information, the contracting officer shall obtain from the requiring activity—

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(1) A determination as to whether the equipment must provide protection against compromising emanations; and

(2) Identification of an established National TEMPEST standard (e.g., NACSEM 5100, NACSIM 5100A) or a standard used by other authority.

(c) When contracts will require the use of FIP resources involving classified data, programs, etc., the contracting officer shall obtain from the requiring activity—

(1) Advice to whether to require contractors performing these services to use equipment meeting the requirements in paragraph (a) of this subsection (as prescribed in the clause at 252.239-7000, Protection Against Compromising Emanations;

(2) Information concerning any requirement for marking of TEMPEST-certified equipment (especially if to be reused); and

(3) Information on how to validate TEMPEST equipment compliance with required standards.

239.7102-2 Validation of TEMPEST compliance.

Include requirements for validation of TEMPEST compliance in section E (Inspection and Acceptance) of the contract.

239.7102-3 Contract clause.

When contracting for computer equipment or systems that are to be used to process classified information, use the clause at 252.239-7000, Protection Against Compromising Emanations.

[62 FR 34127, June 24, 1997]

Subpart 239.72—Standards

239.7200 Scope of subpart.

This subpart contains guidance for implementing—

- (a) Federal Information Processing Standards (FIPS); and
- (b) Federal Telecommunications Standards (FED-STD).

239.7201 [Reserved]

239.7202 Waivers.

(a) The Secretary of Commerce has delegated to the Secretary of Defense the authority to waive FIP standards,