

May 27, 2010

FEDERAL MANAGEMENT REGULATION  
Amendment 2010-01

TO: Heads of Federal agencies

SUBJECT: Amendment 2010-01, FMR Case 2009-102-3, Replacement of Personal Property Pursuant to the Exchange/Sale Authority

1. Purpose. This document includes pages that reflect amendments to Part 102-39 of the Federal Management Regulation (FMR).

2. Background. A proposed rule was published in the *Federal Register* at 74 FR 30493 on June 26, 2009. Three changes were proposed. One proposed change, removing the exchange/sale prohibition on aircraft and airframe structural components subject to certain conditions, received several comments. GSA is considering those comments and has decided not to go forward with that change at this time.

Another proposed change considered removing the prohibition on using scrap property in an exchange/sale transaction when the property had utility and value at the point in time when a determination was made to use the exchange/sale authority, thus addressing situations where the dismantling of property rendered it as "scrap", but where replacement of property similar to the originally-configured property is still required. Only one substantive comment was received regarding that proposed change. The commenter suggested that property which has been coded as scrap because of damage caused by, for example, natural disaster or accident, should also be eligible for exchange/sale. GSA agrees with that comment, and has addressed it in the final rule.

The third proposed change was editorial in nature. GSA received no comments regarding it.

GSA published FMR Amendment 2010-01, FMR Case 2009-102-3, final rule, in the *Federal Register*, at 75 FR 24820, May 6, 2010.

3. Effective date. June 7, 2010.

4. Explanation of changes. The General Services Administration amended the Federal Management Regulation (FMR) by making changes to FMR 102-39. The revisions primarily cover how to handle scrap in an exchange/sale transaction.

5. Filing instructions. Make the following page changes:

Remove FMR pages

102-39-3 and 102-39-4

Insert FMR pages

102-39-3 and 102-39-4



Robert Holcombe,  
Director, Personal Property Management Policy  
Office of Travel, Transportation &  
Asset Management

# AMENDMENT 2010-01 JUNE 7, 2010

(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.

## §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.