

CHAPTER 7

SALES/RESOURCE RECOVERY AND RECYCLING PROGRAM

A. GENERAL

1. This chapter provides DoD policy pertaining to the DoD surplus (and FEPP) sales and recycling programs. DRMS is the DoD executive agent for surplus sales and is responsible for sales planning, merchandising, contracting, and releasing surplus, foreign excess, and other categories of property authorized for sale. This chapter refers to DRMS' sales program, to include sales of recyclable materials under the DoD RRRP. Other DoD selling activities will conduct their sales programs in accordance with their own internal operating guidance which must comply with the FPMR. The Defense DEMIL and TSC Manual, DoD 4160.21-M-1 applies to all DoD sales of MLI/SLI. Personal property shall be advertised for sale only after all prescribed screening actions are taken.

2. Requests on how to buy surplus property shall be referred to DRMS. Requests for information on sales of FEPP in Europe and Asia may be referred to Defense Reutilization and Marketing Service International, Postfach 2027, 65010 Wiesbaden, Bundesrepublik Deutschland.

3. All persons or organizations, other than those specifically listed below, shall be entitled to purchase property offered by DRMS (Note: see paragraph I8 for eligibility for retail sales).

a. Anyone under contract for the purpose of conducting a specific sale, their agents or employees, and immediate members of their households.

b. Military and civilian personnel of the DoD and military and civilian personnel of the USCG whose duties include any functional or supervisory responsibilities for or within the Defense Materiel Disposition Program, their agents, employees, and immediate members of their households.

c. Any persons or organizations intending direct or indirect shipment of excess, surplus and FEPP located in overseas areas (exclusive of Alaska, Hawaii, Puerto Rico, American Samoa, Guam, TTPI, and the Virgin Islands) to those countries or geographical areas listed as Denied Areas.

d. Persons under 18 years of age.

e. Individuals or firms who are ineligible as purchasers due to suspension or debarment procedures.

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4. Disposable assets (FEPP, scrap, NAF fund property, disposable MAP property, etc.) located in nonexempted overseas areas may not be sold directly or indirectly to denied areas or any other area(s) that may be designated by the Deputy Under Secretary of Defense (Trade Security Policy (DUSD[TSP])).

B. PREPARATION FOR SALE

1. Authorized sale methods are:

- a. Sealed Bid--used for one-time and term, advertised competitive type sales.
- b. Spot Bid--used for one-time, advertised competitive type sales.
- c. Auction--used for one-time, advertised competitive type sales.
- d. Negotiated--used for one-time and term competitive type sales.
- e. Retail--used for sales of small quantities of consumer oriented property at fixed prices

NOTE: See Chapter 4, Property Requiring Special Processing, for instructions pertaining to restrictions on the sale of certain commodities requiring special handling.

2. Sales Planning

a. The DRMS has the primary role in obtaining satisfactory sale results and is also responsible for coordination with the DRMO on the adequacy of lotting, item description, and the development of improved sale techniques. No one method of sale shall be used to the exclusion of other sale methods in the absence of extenuating circumstances. DRMS shall employ the most efficient and economical methods of identifying, segregating, merchandising, and selling personal property.

b. Small quantities of low dollar value property in poor condition shall be subjected to the economy formula (see Chapter 8, A/D). If it is determined that there is no reasonable prospect of disposing of the property by sale, the property shall be expended to scrap or disposed of in accordance with the provisions of Chapter 8.

c. Property shall be lotted and displayed in a manner that will enhance its sale value and result in maximum net return to the U.S. Government.

d. Market Impact Reporting. Careful consideration will be given to the adverse market impact which may result from the untimely sale of large quantities of certain surplus items.

Where applicable, DoD components will consult with outside organizations for market impact advice.

e. Property reporting and sale schedules shall be developed to ensure expeditious property disposal, maximum competition, maximum sale proceeds, good public relations, and uniform workload.

f. The DRMS shall provide advance notice to the U.S. Department of Commerce, Room 1300, 433 West Van Buren Street, Chicago, IL 60607, of all proposed or scheduled competitive bid sales (except negotiated, zone spot bid, zone auction, and zone local sealed bid sales) of surplus usable property located in the United States, Puerto Rico, American Samoa, Guam, TTPI, and the Virgin Islands, having a total acquisition cost of \$250,000 or more per sale and sales of scrap and recyclable material with a minimum potential return of \$5,000 per sale.

C. SALE SOLICITATIONS

1. Preparation and distribution of sale solicitations

a. Sale solicitations should be prepared in a manner that provides the prospective purchasers with general information, instructions, general sale terms and conditions, special conditions, and an accurate, complete description of the property being offered for sale.

b. Sale solicitations shall be given adequate public notice and shall be distributed in sufficient time to be received by prospective purchasers before the first day of the inspection period.

c. DRMS shall maintain consolidated lists of prospective purchasers for control and distribution of sale solicitations. This listing shall be maintained by classes of property and geographical areas to permit selection of prospective purchasers both by commodity desired and geographic location in which the purchaser has stated an interest in buying.

2. Sales Terms and Conditions

a. General sale terms and conditions and special conditions found in DRMS' publication "Sale by Reference" shall be used in the sale of all surplus, foreign excess, or other categories of property offered for sale by DRMS. Sales contracting will be conducted in accordance with the FPMR.

b. Additional sales terms and conditions applicable to the sale of MLI/SLI are found in the DoD 4160.21-M-1, Defense DEMIL and TSC Manual, and are required for all sales of MLI/SLI.

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3. Sales Promotion. Property offered for sale shall be brought to the attention of the buying public by various means and media and by both free publicity and paid advertising. Every effort shall be made to obtain maximum free publicity. The amount of paid advertising shall be commensurate with the type and value of property being sold.

D. WITHDRAWAL FROM SALE

1. General. Property which has survived screening and has become eligible for sale may be requested to satisfy valid requirements within limitations specified in this paragraph. Generally, property once advertised for sale may not be withdrawn. However, circumstances may require the withdrawal of property from sale to satisfy valid needs within the DoD or federal civilian agencies. Every effort shall be made to keep such withdrawals to a minimum. These efforts shall include searching for assets available elsewhere in the disposal process. Exceptions to this policy shall be implemented only when all efforts to otherwise satisfy a valid need have been exhausted and the withdrawal action is determined to be cost effective and in the best interest of the Government. Heads of DoD components shall ensure that this withdrawal authority is stringently controlled and applied. This policy is predicated upon the workload and adverse public relations which often results from such withdrawals, including legal action.

2. Requests for withdrawal of property. Requests shall be made to the DRMO by the most expeditious means. With the exception of IMM/ICP and Not Mission Capable Supply requisitions, requests shall provide full justification to include a statement that the property is needed to satisfy a valid requirement.

a. Withdrawals may not be processed subject to property inspection for acceptability. If inspection is required, it shall be accomplished before requesting withdrawal.

b. Justification statements are not required on requisitions submitted by ICPs/IMMs before award.

c. The following minimum factual information is required to justify withdrawal requests:

(1) Detailed justification as to why the property is required, to include the use which shall be made of the property if withdrawn from sale; such as, applicability of material to active weapons systems.

(2) Mission impact statement from a support, procurement, and funding standpoint, if property is not withdrawn from sale; such as, effect on operational readiness requirements within a specified period of time.

(3) Effort made to meet requirement from other sources to include consideration of use of substitute items.

3. When the TSC Resident Office determines that property was misdescribed and that TSC are applicable, property will either be withdrawn or a provision made to accomplish TSC or DEMIL, as appropriate. The TSC Resident Office may request withdrawal of property and suspend further action regarding the property until the matter is resolved.

4. Approvals. As property moves through the sales cycle, more severe constraints are placed on requests for withdrawal from sale, as specified in the following:

a. The DRMO Chief is authorized to approve requests for the period between ESD and the date the property is referred to DRMS for sale cataloging. The DRMO Chief can also approve withdrawals prior to bid opening for items on local sales.

b. DRMS is authorized to approve withdrawal requests from date of referral until the property is awarded. DRMS can also return requests for withdrawal after award which do not include the factual information required in paragraph D2b above.

c. DLA-MMLC approval, with DLA-GC concurrence, is required on any request after the award but before removal.

5. Property retrieval after sale. After award and removal, the requesting organization must negotiate with the purchaser for return/purchase of the item. The SCO shall provide contract information when requested.

6. Withdrawal requests for the purpose of donation shall be processed in accordance with Chapter 6, Donations/Loans and Exchanges.

E. SALES CONTRACTING

1. SCOs shall enter into and administer contracts for the sale of Government property under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, other applicable statutes and regulations.

2. SCO responsibilities shall be issued by their parent activity.

3. The SCO under the title of "Sales Contracting Officer" shall sign all contracting documentation on behalf of the U.S. Government.

4. Sales requiring approval after offering and before award.

a. SCOs may make awards of contracts on sales of usable property having an acquisition cost (estimated if unknown) of less than \$100,000. Except for antitrust advice limitations, awards of scrap property do not require approval by higher authority.

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b. The DRMS will appoint personnel at the appropriate managerial level to authorize contract awards on the sale of usable property having an acquisition cost of \$100,000 or more.

c. DRMS shall obtain antitrust advice through local counsel, from the Attorney General before award of a contract when the property, usable or scrap, has an estimated fair market value of \$3,000,000 or more, under Section 207 of the Federal Property and Administrative Services Act of 1949, as amended. Simultaneously, the SCO shall apprise the Administrator of General Service of the antitrust advice request.

5. Sales Contracts, Awards, and Contract Administration

a. The following types of sales are authorized for use in the sale of surplus, foreign excess, and other categories of property sold in the DoD Defense Material Disposition Program.

(1) A one-time sale for disposal of property already generated (actual deliveries may comprise several release transactions).

(2) A term sale for the disposal of property generated over a period of time, and in quantities which can be reasonably estimated for a specific period of time, or offered with minimum-maximum quantity provisions.

b. DRMS shall prescribe procedures for the receipt, acceptance, and processing of bids for the various methods of authorized sales.

c. The SCO shall normally award sales contracts to the highest responsible and responsive bidder. Exceptions to this policy and definitions regarding a responsible/responsive bidder shall be as determined by DRMS.

d. DRMS shall prescribe the distribution of sales contracts.

F. NEGOTIATED SALES

1. Conditions

a. In CONUS, property is authorized for negotiated sale when it has an estimated fair market value not in excess of \$15,000 and the sale is considered to be in the best interest of the U.S. Government. Negotiated sales (except for FEPP) with an estimated fair market value exceeding \$15,000 must be submitted for Congressional approval before award. Large quantities of material may not be divided nor disposed of through multiple sales to avoid these requirements.

For each proposed negotiated sale of surplus property having a market value in excess of \$15,000, irrespective of the authority being used, the SCO shall prepare an explanatory

statement of the circumstances of the sale. The statement shall be included as an enclosure to the transmittal letter to HQ DRMS, in advance of each such sale. DRMS shall review the proposed sale and forward the request (10 copies) to the Administrator of General Services for review and transmittal to the appropriate committees of the Senate and the House of Representatives and forward one copy to DLA-MMLC. GSA shall furnish DRMS a copy of its letter of transmittal to Congress. Thirty-five days from the date on the GSA letter of transmittal and in the absence of any objections by the Congress, the sale may be consummated without further referral or actions by GSA.

b. Public exigency does not permit delay. This includes disposal of perishable food or other property which may spoil or deteriorate so rapidly as to require that dispositions or disposal be made immediately for the preservation of human life or the alleviation of human suffering.

c. Bid prices received after advertising are not reasonable (either as to all or a portion of the property) or bid prices have not been independently arrived at in open competition and it is determined that re-advertising shall serve no useful purpose. Under this condition, all responsible bidders who responded to the previous advertising shall be accorded an opportunity to submit offers for the property.

d. Disposal shall be to a State, Territory, possession, political subdivision thereof, or tax-supported agency therein, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation.

e. Public health, safety, or national security shall be promoted, such as when the property is a hazard to health or other property and requires immediate disposition.

f. Disposal is necessary in the public interest during the period of a national emergency declared by the President or the Congress. The authority of this paragraph shall be used only with respect to:

(1) Particular items of personal property identified by the Administrator of General Services.

(2) Specifically described category or categories of property determined by the Administrator of General Services during any period fixed by the Administrator but not in excess of 3 months. (**NOTE:** Declaration of a national emergency alone is not justification for use of this authority. Other compelling reasons must exist for negotiation in the public interest).

2. The DRMS Commander or designee is authorized to approve negotiated sales of FEPP when the estimated fair market value is under \$250,000.

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3. Sales of Vessels. The Secretary of the Navy authorizes the DRMS to approve the sales of Navy vessels (battleships, cruisers, aircraft carriers, destroyers, and submarines) stricken from the Naval Register under 10 USC 7304 carried out in provisions of Executive Order 11765, 21 January 1974.

G. DISSEMINATION OF AWARDS INFORMATION. DRMS shall provide awards information to all interested parties.

H. CONTRACT ADMINISTRATION FILES. Contract administration files shall consist of a sale solicitation folder, financial folder, individual contract folder(s), and an unsuccessful bids folder for each sale. DRMS shall develop procedures for maintaining, completing, reviewing, and auditing these files.

I. RETAIL SALES. Retail sales of surplus, foreign excess, and abandoned privately-owned property may be conducted at DRMOs whenever such a program can effectively and economically be used to supplement other methods of sale. The DRMS may approve retail sales on a case-by-case basis using the following guidance:

1. All items shall undergo screening, as appropriate, before being offered for retail sale.
2. The item being sold must have a fair market value of less than \$15,000.
3. All property received as items, if offered for sale by retail, shall be sold as items and not by weight or lot. An exception to this policy is granted for scrap authorized for retail sale (see subparagraph I6 below).
4. Prices established must reflect the estimated fair market value of the property and must be publicized to the extent consistent with the nature and value of the property.
5. Limitations of retail sales
 - a. Retail sales are limited to FSCs approved by GSA.
 - b. Property must be DEMIL code "A."
 - c. The retail selling price of property may not be set below the price it would bring by competitive bid.
6. Scrap may not be sold by the retail sale method except as authorized by DRMS. These authorizations shall be limited to specific situations and types of property for which deviation can be fully justified. Authorizations shall be in writing, and shall specify the quantities and types of property and time period covered.

7. Retail sales shall be conducted on a first-come-first-served, as is where is, basis. Cash or credit/debit cards are the only authorized payment methods.

8. With the exception of the following DoD and USCG personnel, retail sales shall be open to the public and to all U.S. Government personnel.

a. A civilian employee of the DoD or the USCG whose duties at the installation where the property is sold include any functional or supervisory responsibility for or within the DoD Materiel Disposition Program.

b. A member of the Armed Forces of the United States, including the USCG, whose duties at the installation where the property is being sold include any functional or supervisory responsibility for or within the DoD Materiel Disposition Program.

c. An agent, employee, or immediate member of the household of personnel in the aforementioned subparagraphs.

9. Property having a fair market value exceeding \$15,000 is subject to the limitations applicable to negotiated sales of surplus personal property.

J. DEFAULTS, MISTAKES IN BIDS, DISPUTES AND APPEALS, CLAIMS, AND PROTESTS AGAINST AWARDS. SCOs shall process all defaults, mistakes in bids, disputes, appeals, claims, and protests in accordance with established DRMS procedures.

K. SALE RELEASES

1. DRMO personnel or representatives shall inspect all sales property when it is delivered or shipped to purchasers, in order to prevent error, fraud, or theft. Base commanders shall provide, by letter designation and upon request from the DRMO, the names, telephone numbers and titles of those non-DRMO personnel authorized to release property located at their activities. Annually, in January or as changes occur, base commanders shall provide additions, deletions, and revisions in writing to the DRMO.

2. Property sold by weight shall be weighed at the time of delivery to the purchaser. Property sold by unit shall be counted or measured at the time of delivery.

3. Weighing of Sale Deliveries

a. DRMO Scales. The DRMO is responsible for the inspections of platform, truck, and railroad scales at a frequency not less than annually and more often if required by State or local

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laws. A record shall be maintained of visits by qualified inspectors showing the date of the visit, and where appropriate, action taken to correct the accuracy of the scales. It is the responsibility of the DRMO to initiate the action to obtain the services of a qualified scale inspector, and to request repair action when needed.

b. Military Services/Defense Agency Scales. The host installation shall inspect, calibrate, and maintain scales under their jurisdiction at a frequency not less than annually and more often if required by States or local laws.

4. Purchasers are required to pay, before delivery of any of the property, the full purchase price based upon the quantity or weight as set forth in the sale offering, except for term sales. If prepayment of an overage quantity is not practicable or possible, payment shall be due upon issuance by the SCO of a Statement of Account after release of property. Where the purchaser is a State, local government, or instrumentality thereof whose laws or regulations prevent payment before delivery, the purchaser shall be provided 60 days from the date of removal of property within which to make the payment.

5. Removal of property shall be subject to general and special conditions of sale and the loading table as set forth in the sale solicitation and resulting contract.

L. MLI/SLI

1. Policy and procedures for the control of MLI/SLI, are contained in DoD 4160.21-M-1, and incorporate the provisions of DoDD 2030.1, Trade Security Controls on DoD Personal Property. It applies to all MLI/SLI property owned, procured by or under the control of the DoD (referred to as U.S. origin property), that is released through transfer, donation, grant loan, lease, barter, trade or sale to any entity other than another DoD Component activity (except DoD/Military Service museums), to include all Government owned property furnished to or acquired by DoD contractors. It also applies to U.S. Origin property that was sold by commercial sale and licensed for export by the DoS, Bureau of Politico-Military Affairs, Office of Defense Trade Controls (PM/ODTC); the Department of Commerce, Bureau of Export Administration (BXA); the DT, Office of Foreign Assets Control (FAC); or that is granted or sold by the DoD through Security Assistance Programs, to include the MAP.

2. Specialized Sale of Defense Items Requiring DEMIL. See DoD 4160.21-M-1.

M. COMMERCIAL SPACE LAUNCH ACT (CSLA) (PUBLIC LAW 98-575)

1. General. The purpose of the CSLA is to promote economic growth and entrepreneurial activity through the utilization of the space environment for peaceful purposes; encourage the private sector to provide launch vehicles and associated launch services; facilitate/encourage the acquisition (sale, lease, transaction in lieu of sale, or otherwise) by the private sector of launch

property of the U.S. which is "excess or otherwise not needed for public use," in consultation with Secretary of Transportation. Donation screening is not required prior to sale.

2. Responsibilities

a. The Director, Strategic Space Systems (OUSD [Space]), has the primary responsibility for coordinating DoD issues/views with the DoT, other Executive Department organizations, and the Congress, on matters arising from private sector commercial space activities, particularly the operations of commercial expendable launch vehicles national security interests.

b. The Secretary of the Air Force has primary responsibility for establishing, coordinating, implementing, and monitoring procedures with the DoD components and with Executive Department organizations regarding private sector commercial space activities. USAF responsibilities include managing the use of property and services at USAF-operated bases and ranges, as well as ensuring consistency among the DoD components in supporting private sector commercial space operations by establishing and maintaining a Standard Commercialization Agreement for use by all DoD components.

c. The DRMS is the DoD executive agent for CSLA sales. Sales will be by competitive bid to U.S. firms or persons having demonstrated action towards becoming a commercial launch provider. The OUSD(Space) and the USAF will support DLA/DRMS, as necessary, in the sale or transfer of excess and surplus personal property to the private sector, to include the identification of potential bidders, and any special sales terms and conditions. The DoD generator will also assist, as necessary, in completing sales transactions.

N. RESOURCE RECOVERY AND RECYCLING PROGRAM (RRRP)

1. General

a. All installations, worldwide, shall have recycling programs as required by Executive Order 12780. Pursuant to Public Law 97-214 (10 USC 2577), and DoD Instruction (DoDI) 4715.4, Pollution Prevention, each installation and facility not on a military installation, worldwide, shall have, or be associated with, a QRP to service all tenant activities. This includes all leased and Government Owned/Contractor Operated (GOCO) space. Installations having several recycling programs shall incorporate them into the single installation QRP. Each DoD Component will ensure the GOCO facilities participate in QRP. Each QRP shall have a designated coordinator.

b. Recyclable material includes materials diverted from the solid waste stream and the beneficial use of such materials. Diversion includes collection, separation, and processing of

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materials for use as raw materials in the manufacture of goods sold or distributed in commerce or, the reuse of materials as substitutes for goods made of virgin materials. Examples of recyclable materials include, but are not limited to, paper, food waste, plastic, glass, all cardboard and other packaging materials, newspapers, and empty food beverage containers.

c. Each QRP shall be continually reviewed to identify materials appropriate for waste stream diversion, explore recycling methods and identify potential markets. Additional recyclable materials include not only materials generating profit, but materials whose diversion from the waste stream generate a savings to the Department in disposal costs, or when diversion is required by state/local law or regulation. Materials generated from non-appropriated or personal funds (e.g. post consumer wastes from base housing, private homes, and installation concessions) may be included.

2. Responsibilities

a. DoD components may authorize installation commanders to sell recyclable materials directly. Otherwise, recyclables will be turned in to the DRMO for disposal. If selling directly, installations shall maintain operational records for annual fiscal year reporting requirements, review, and program evaluation purposes. These records are to include at a minimum, quantity and types of materials recycled and proceeds from sale and shall be consistent with guidance provided by the Comptroller. Sales shall be accomplished in accordance with the FPMR and military service/agency regulations.

b. Excluded Materials (see DoDI 4715.4)

c. Although scrap recyclable materials do not require formal screening, those purchased with appropriated funds, as surplus property under the FPMR, are nonetheless available to meet RTD requirements.

3. Collection and Distribution of Proceeds. When sold directly by the installation, proceeds shall be used to reimburse the installation level costs incurred in operating the recycling program. After reimbursement of the costs incurred by the installation for operations (i.e., operation and maintenance, and overhead), installation commanders may use the remaining sales proceeds as authorized by DoDI 4715.4.

O. SALES TO STATE AND LOCAL LAW ENFORCEMENT AND FIREFIGHTING ORGANIZATIONS. 10 USC 2576 authorizes the Secretary of Defense to sell to state and local law enforcement and firefighting agencies, surplus pistols, revolvers, shotguns, rifles (caliber not exceeding .30), ammunition, gas masks, and protective body armor.

P. COLLECTION, DISTRIBUTION, AND DEPOSITING OF PROCEEDS

1. Acceptance of Payment

a. Buyers may pay for purchased property with cash, cashiers check, certified check, traveler's check, bank draft, money order or credit/debit cards (as authorized by the U.S. Department of the Treasury). Bidders whose payment is accompanied by a bank letter of credit, or who have on file an approved bank guarantee or bid bond may make payment by uncertified personal company checks up to the penal sum of their bond or the amount of their letter of credit.

b. Acceptance of Foreign Currency

(1) Buyers of FEPP shall pay in U.S. dollars or the equivalent in foreign currency which is readily convertible into U.S. dollars. Where U.S. dollars are not available, or a greater monetary return to the United States can be realized, the acceptance of foreign currency is authorized subject to the following conditions.

(a) Payments exceeding the equivalent of 5,000 U.S. dollars in individual sale transactions (that is, total of all items offered in a single sale, not for individual items included in a sale) may be accepted only after obtaining prior approval from the Defense Finance and Accounting Service (DFAS), which shall, when required, submit the requests through their Comptroller channels to the DoS and TD for approval. In countries where a considerable amount of FEPP may be available for sale and where it is expected it may be necessary to accept foreign currency, DRMS shall submit a request to the DFAS. That office shall submit, through their Comptroller channels, a request for an annual authorization. on a calendar year basis, for the acceptance of foreign currency.

(b) Payments of up to the equivalent of 5,000 U.S. dollars for individual transactions, at the rate of exchange applicable to the U.S. Government, may be accepted without further consultation if:

1 Assurance has been obtained through the local DoS representative that such currency may be used in payment of any or all U. S. Government expenditures in the country whose currency is accepted. This provision is applicable only when annual authorizations have not been received.

2 It is not feasible to sell for U.S. dollars or to ship the property to a country (other than the United States, except where property is a type authorized for return) where it may be sold for U.S. dollars or a freely convertible foreign currency.

3 The currency is not that of a country whose assets in the U.S. are blocked by TD regulations.

4 The currency is that of a country with which the United States maintains diplomatic relations.

(c) Foreign currency accepted need not be the currency of the country of sale if the currency offered is otherwise acceptable to the DoS and TD and can be accepted under the U.S. and host governments agreements governing the sale of U.S. FEPP. In this connection, the sale solicitation shall indicate the foreign currencies which shall be accepted for a particular sale.

2. Collection and Deposit of Proceeds. See DoDI 7310.1, Disposition of Proceeds from DoD Sales of Surplus Personal Property.

Q. SUSPENSION AND DEBARMENT OF BIDDERS

1. Authority to Suspend and Debar. For the purpose of this chapter, the DLA Special Assistant for Contracting Integrity (DLA-GC) is the exclusive representative of the Secretary of Defense to suspend or debar contractors from both contracts for the purchase of Federal personal property generated by the DoD under the FPMR 101-45.16 and this manual and DLA acquisition contractors under the FAR Subpart 9.4. The DLA Special Assistant for Contracting Integrity has re-delegated authority to suspend or debar contractors who solely engage in the purchase of Federal personal property generated by DoD to DRMS Counsel with respect to offerors on sales contracts whose principal place of business is located in a geographic area not within the area of responsibility of DLA Europe or Pacific, where authority is delegated to Counsel DEUR-G or DPAC-G, respectively.

2. Concurrent suspension or debarment with respect to offerors on both sales and acquisition contracts whose principal place of business is located within all areas except the area of responsibility for DLA-Europe rests exclusively with DLA Special Assistant for Contracting Integrity. In such cases, reports recommending simultaneous suspension or debarment from the sale of Federal property and acquisition contracts shall be prepared by sales contracting officers and forwarded through their servicing legal office to DLA-GC for action by the Special Assistant for Contracting Integrity.

3. Copies of all DRMS debarment and suspension orders shall be forwarded to DLA-GC for record keeping purposes. DRMS shall transmit copies of DRMS debarment and suspension actions to GSA for inclusion in Category J or K of the GSA's List of Parties Excluded From Procurement and Non-procurement Programs.

4. Policy

a. The FPMR and this manual are recognized as the authority for the suspension or debarment of bidders/contractors whose only contractual dealings with the DoD are through

participation in DRMS sales of Federal personal property generated by the DoD.

b. The DRMS and its subordinate sales activities shall solicit offers from, award contracts to, and consent to subcontracts only with responsible contractors, as defined by FAR 9.104.1.

c. The policies, procedures, and requirements of the FAR Subpart 9.4 and DoD FAR Supplement Subpart 209.4 are incorporated by reference and made applicable to contracts for, and to contractors who engage in the purchase of Federal personal property generated by DoD. In addition, the policies, procedures, and requirements of DLAD 4105.1, Defense Logistics Acquisition Directive, Subpart 9.4, are incorporated by reference and made applicable to offerors who bid on both sales contracts and acquisition contracts and are recommended for suspension or debarment.

d. The suspension or debarment of a contractor from the purchase of Federal personal property has Government-wide effect and precludes any agency from entering into a contract for purchase of personal property with that contractor unless the agency's head or a designee determines that there is a compelling reason for such action (See FAR 9.405(a)).

e. Parties who violate TSC may be recommended for debarment or suspension as prescribed in DoD 4160.21-M-1, DoD DEMIL and TSC Manual.

5. Scope of Suspension or Debarment. In addition to applicable guidance in the FAR and DoD FAR Supplement, contractors suspended, debarred, or proposed for debarment are also excluded from conducting business with the Government as agents or representatives of another contractor. Firms or individuals who submit bids on sale solicitations on behalf of suspended or debarred contractors, or in any other manner conduct business with the Government as agents or representatives of suspended or debarred contractors, may be treated as "affiliates" in accordance with FAR 9.403 and may be suspended or debarred.

6. Reporting Requirements. Sales contracting officers shall prepare reports in accordance with DoD FAR Supplement 209.472-2 in all cases where sales contractors are recommended for suspension or debarment for the reasons outlined in FAR 9.406-2, 9.407-2, and DoD FAR Supplement 209.473-5. Completed reports shall be submitted to the suspension/debarment authority through the servicing legal office, DRMS-G, DEUR-G, or DPAC-G, as appropriate.

7. Inquiries from Suspended or Debarred Bidders. All inquiries regarding suspended or debarred bidders shall be referred or forwarded to the office effecting the action.