

GENERAL SERVICES ADMINISTRATION  
Washington, DC 20405

March 15, 2007

FEDERAL MANAGEMENT REGULATION  
Amendment 2007-01

TO: Heads of Federal agencies

SUBJECT: FMR Case 2004-102-1; Disposition of Personal Property

1. Purpose. This document includes pages that reflect amendments to Part 102-35 of the Federal Management Regulation (FMR). This rule was published in the *Federal Register* at 72 FR 10084, March 7, 2007.

2. Background. A proposed rule was published in the *Federal Register* on September 12, 2006 (71 FR 53646) soliciting comments on proposed changes to 41 CFR part 102-35. The due date for comments was extended in a *Federal Register* proposed rule document on October 18, 2006 (71 FR 61445). Comments were received from three respondents relating to the sale of personal property. These comments do not directly address any provisions contained in this final rule, and will be held for consideration when the regulation covering the sale of Federal personal property assets, FMR part 102-38, is released for comment. FMR part 102-38 is currently being reviewed within GSA for revisions.

This final rule adds a new part, 102-35, to subchapter B of the FMR to provide an overview of the property disposal regulation and to provide definitions for terms found in FMR parts 102-36 through 102-42 (41 CFR 102-36 through 102-42). This part serves as a summary and overview of the policies relating to the disposal of Federal personal property and provides overall guidance for all methods of property disposal.

This part emphasizes the use of excess property from other agencies as the first source of supply, and establishes the preference to transfer excess property to Federal agencies for their own use before transferring that property to agencies for use by non-Federal entities.

3. Effective date. April 6, 2007.

4. Explanation of changes. Part 102-35 is amended by adding a new part to subchapter B of the FMR to provide an overview of the property disposal regulation and provide definitions for terms found in the FMR parts.

5. Filing instructions. Make the following page changes:

Remove FMR pages:

Structure i and ii

Subchapter B TOC

Part 102-35 TOC  
pp. 102-35-i and 102-35-ii

None

Insert FMR pages:

Structure i and ii

Subchapter B TOC

Part 102-35 TOC  
pp. 102-35-i and 102-35-ii

102-35-1 and 102-35-2



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Attachment

## General Structure and Parts

### SUBCHAPTER A—GENERAL

- 102-1 General [Reserved]
- 102-2 Federal Management Regulation System
- 102-3 Federal Advisory Committee Management
- 102-4 Nondiscrimination in Federal Financial Assistance Programs [Reserved]
- 102-5 Home-to-Work Transportation

### SUBCHAPTER B—PERSONAL PROPERTY

- 102-31 General [Reserved]
- 102-32 Management of Personal Property [Reserved]
- 102-33 Management of Government Aircraft
- 102-34 Motor Vehicle Management
- 102-35 Disposition of Personal Property
- 102-36 Disposition of Excess Personal Property
- 102-37 Donation of Surplus Personal Property
- 102-38 Sale of Personal Property
- 102-39 Replacement of Personal Property Pursuant to the Exchange/Sale Authority
- 102-40 [Reserved]
- 102-41 Disposition of Seized, Forfeited, Voluntarily Abandoned, and Unclaimed Personal Property
- 102-42 Utilization, Donation, and Disposal of Foreign Gifts and Decorations

### SUBCHAPTER C—REAL PROPERTY

- 102-71 General
- 102-72 Delegation of Authority
- 102-73 Real Estate Acquisition
- 102-74 Facility Management
- 102-75 Real Property Disposal
- 102-76 Design and Construction
- 102-77 Art-in-Architecture
- 102-78 Historic Preservation
- 102-79 Assignment and Utilization of Space
- 102-80 Safety and Environmental Management
- 102-81 Security
- 102-82 Utility Services
- 102-83 Location of Space
- 102-84 Annual Real Property Inventories

**SUBCHAPTER D—TRANSPORTATION**

- 102-116 General [Reserved]
- 102-117 Transportation Management
- 102-118 Transportation Payment and Audit

**SUBCHAPTER E—TRAVEL MANAGEMENT**

- 102-141 General [Reserved]

**SUBCHAPTER F—TELECOMMUNICATIONS**

- 102-171 General [Reserved]
- 102-172 Telecommunications Management Policy [Reserved]
- 102-173 Internet GOV Domain

**SUBCHAPTER G—ADMINISTRATIVE PROGRAMS**

- 102-191 General [Reserved]
- 102-192 Mail Management
- 102-193 Creation, Maintenance, and Use of Records
- 102-194 Standard and Optional Forms Management Program
- 102-195 [Reserved]
- 102-196 Federal Facility Ridesharing [Reserved]

## **SUBCHAPTER B—PERSONAL PROPERTY**

- 102-31 General [Reserved]
- 102-32 Management of Personal Property [Reserved]
- 102-33 Management of Government Aircraft
- 102-34 Motor Vehicle Management
- 102-35 Disposition of Personal Property
- 102-36 Disposition of Excess Personal Property
- 102-37 Donation of Surplus Personal Property
- 102-38 Sale of Personal Property
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**AMENDMENT 2007-01 APRIL 6, 2007**

**PART 102-35—DISPOSITION OF PERSONAL PROPERTY**

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| 102-35.5—  | What is the scope of the General Services Administration's regulations on the disposal of personal property? | 102-35.20— | What definitions apply to GSA's personal property regulations?                                     |
| 102-35.10— | How are these regulations for the disposal of personal property organized?                                   | 102-35.25— | What management reports must we provide?   |
| 102-35.15— | What are the goals of GSA's personal property regulations?   | 102-35.30— | What actions must I take or am I authorized to take regardless of the property disposition method? |

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## PART 102-35—DISPOSITION OF PERSONAL PROPERTY

**§102-35.5—What is the scope of the General Services****Administration’s regulations on the disposal of personal property?**

The General Services Administration’s personal property disposal regulations are contained in this part and in [parts 102-36](#) through [102-42](#) of this subchapter B as well as in parts 101-42 and 101-45 of the Federal Property Management Regulations (FPMR)(41 CFR parts 101-42 and 101-45). With two exceptions, these regulations cover the disposal of personal property under the custody and control of executive agencies located in the United States, the U.S. Virgin Islands, American Samoa, Guam, Puerto Rico, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, and Palau. The exceptions to this coverage are [part 102-39](#) of this subchapter B, which applies to the replacement of all property owned by executive agencies worldwide using the exchange/sale authority, and [§§102-36.380](#) through [102-36.400](#), which apply to the disposal of excess property located in countries and areas not listed in this subpart, *i.e.*, foreign excess personal property. The legislative and judicial branches are encouraged to follow these provisions for property in their custody and control.

**§102-35.10—How are these regulations for the disposal of personal property organized?**

The General Services Administration (GSA) has divided its regulations for the disposal of personal property into the following program areas:

- (a) Disposition of excess personal property ([part 102-36](#) of this subchapter B).
- (b) Donation of surplus personal property ([part 102-37](#) of this subchapter B).
- (c) Sale of surplus personal property ([part 102-38](#) of this subchapter B).
- (d) Replacement of personal property pursuant to the exchange/sale authority ([part 102-39](#) of this subchapter B).
- (e) Disposition of seized and forfeited, voluntarily abandoned, and unclaimed personal property ([part 102-41](#) of this subchapter B).
- (f) Utilization, donation, and disposal of foreign gifts and decorations ([part 102-42](#) of this subchapter B).
- (g) Utilization and disposal of hazardous materials and certain categories of property (part 101-42 of the Federal Property Management Regulations (FPMR), 41 CFR part 101-42).

**§102-35.15—What are the goals of GSA’s personal property regulations?**

The goals of GSA’s personal property regulations are to:

- (a) Improve the identification and reporting of excess personal property;

- (b) Maximize the use of excess property as the first source of supply to minimize expenditures for the purchase of new property, when practicable;

**Note to §102-35.15(b):** If there are competing requests among Federal agencies for excess property, preference will be given to agencies where the transfer will avoid a new Federal procurement. A transfer to an agency where the agency will provide the property to a non-Federal entity for the non-Federal entity’s use will be secondary to Federal use.

- (c) Achieve maximum public benefit from the use of Government property through the donation of surplus personal property to State and local public agencies and other eligible non-Federal recipients;

- (d) Obtain the optimum monetary return to the Government for surplus personal property sold and personal property sold under the exchange/sale authority; and

- (e) Reduce management and inventory costs by appropriate use of the abandonment/destruction authority to dispose of unneeded personal property that has no commercial value or for which the estimated cost of continued care and handling would exceed the estimated sales proceeds (see FMR [§§102-36.305](#) through [102-36.330](#)).

**§102-35.20—What definitions apply to GSA’s personal property regulations?**

The following are definitions of, or cross-references to, some key terms that apply to GSA’s personal property regulations in the FMR (CFR Parts 102-36 through 102-42). Other personal property terms are defined in the sections or parts to which they primarily apply.

“Accountable Personal Property” includes nonexpendable personal property whose expected useful life is two years or longer and whose acquisition value, as determined by the agency, warrants tracking in the agency’s property records, including capitalized and sensitive personal property.

“Accountability” means the ability to account for personal property by providing a complete audit trail for property transactions from receipt to final disposition.

“Acquisition cost” means the original purchase price of an item.

“Capitalized Personal Property” includes property that is entered on the agency’s general ledger records as a major investment or asset. An agency must determine its capitalization thresholds as discussed in Financial Accounting Standard Advisory Board (FASAB) Statement of Federal Financial Accounting Standards No. 6 *Accounting for Property, Plant and Equipment*, Chapter 1, paragraph 13.

“Control” means the ongoing function of maintaining physical oversight and surveillance of personal property throughout its complete life cycle using various property

management tools and techniques taking into account the environment in which the property is located and its vulnerability to theft, waste, fraud, or abuse.

“Excess personal property” (see [§102-36.40](#) of this subchapter B).

“Exchange/sale” (see [§102-39.20](#) of this subchapter B).

“Executive agency” (see [§102-36.40](#) of this subchapter B).

“Federal agency” (see [§102-36.40](#) of this subchapter B).

“Foreign gifts and decorations” (for the definition of relevant terms, see [§102-42.10](#) of this subchapter B).

“Forfeited property” (see [§102-41.20](#) of this subchapter B).

“Inventory” includes a formal listing of all accountable property items assigned to an agency, along with a formal process to verify the condition, location, and quantity of such items. This term may also be used as a verb to indicate the actions leading to the development of a listing. In this sense, an inventory must be conducted using an actual physical count, electronic means, and/or statistical methods.

“National property management officer” means an official, designated in accordance with [§102-36.45\(b\)](#) of this subchapter B, who is responsible for ensuring effective acquisition, use, and disposal of excess property within your agency.

“Personal property” (see [§102-36.40](#) of this subchapter B).

“Property management” means the system of acquiring, maintaining, using and disposing of the personal property of an organization or entity.

“Seized property” means personal property that has been confiscated by a Federal agency, and whose care and handling will be the responsibility of that agency until final ownership is determined by the judicial process.

“Sensitive Personal Property” includes all items, regardless of value, that require special control and accountability due to unusual rates of loss, theft or misuse, or due to national security or export control considerations. Such property includes weapons, ammunition, explosives, information technology equipment with memory capability, cameras, and communications equipment. These classifications do not pre-

clude agencies from specifying additional personal property classifications to effectively manage their programs.

“Surplus personal property” (see [§102-37.25](#) of this subchapter B).

“Utilization” means the identification, reporting, and transfer of excess personal property among Federal agencies.

#### **§102-35.25—What management reports must we provide?**

(a) There are three reports that must be provided. The report summarizing the property provided to non-Federal recipients and the report summarizing exchange/sale transactions (see [§§102-36.295](#) and [102-39.75](#) respectively of this subchapter B) must be provided every year (negative reports are required). In addition, if you conduct negotiated sales of surplus personal property valued over \$5,000 in any year, you must report this transaction in accordance with [§102-38.115](#) (negative reports are not required for this report).

(b) The General Services Administration (GSA) may request other reports as authorized by 40 U.S.C. 506(a)(1)(A).

#### **§102-35.30—What actions must I take or am I authorized to take regardless of the property disposition method?**

Regardless of the disposition method used:

(a) You must maintain property in a safe, secure, and cost-effective manner until final disposition.

(b) You have authority to use the abandonment/destruction provisions at any stage of the disposal process (see [§§102-36.305](#) through [102-36.330](#) and [§102-38.70](#) of this subchapter B).

(c) You must implement policies and procedures to remove sensitive or classified information from property prior to disposal. Agency-affixed markings should be removed, if at all possible, prior to personal property permanently leaving your agency’s control.

(d) Government-owned personal property may only be used as authorized by your agency. Title to Government-owned personal property cannot be transferred to a non-Federal entity unless through official procedures specifically authorized by law.