

the Defense Reutilization and Marketing Service (DRMS), in writing, a list or persons or entities eligible to bid under this Act, including expiration date of each DOT contract, and locations covered by the DOT contract.

(b) This requirement may not be delegated to the U.S. Coast Guard (USCG).

§ 207.5 Sale procedures.

Sale of aircraft and aircraft parts must be in accordance with the provisions of Chapter 4 of DoD 4160.21-M (August 1997), paragraph B 2, and with other pertinent parts of this manual, with the following changes and additions:

(a) Sales shall be limited to the aircraft types listed in Attachment 1 of Chapter 4 of DoD 4160.21-M (August 1997), and parts thereto.

(b) Sales shall be made at fair market value (FMV), as determined by the Secretary of Defense and, to the extent practicable, on a competitive basis.

(1) DRMS must conduct sales utilizing FMVs that are either provided by the Military Services on the Disposal Turn-In Documents (DTIDs) or based on DRMS's professional expertise and knowledge of the market. Advice regarding FMV shall be provided to DRMS by DOT, as appropriate.

(2) If the high bid for a sale item does not equal or exceed the FMV, DRMS is vested with the discretion to reject all bids and reoffer the item:

(i) As excess property on another oil spill sale, if there is indication that reoffer may be successful; or,

(ii) As surplus property if, after reporting the aircraft to the General Services Administration (GSA) for utilization and donation screening, there are no Federal or State Agency requirements as determined by GSA.

(3) Disposition of proceeds from sale of aircraft under the Act, net of DRMS's expenses, will be to the general fund of the United States Treasury as miscellaneous receipts.

(c) Purchasers shall certify that aircraft and aircraft parts will be used only in accordance with conditions stated in § 207.3.

(1) Sales solicitations will require bidders to submit end-use certificates with their bids, stating the intended use and proposed areas of operation.

(2) The completed end-use certificates shall be used in the bid evaluation process.

(d) Sales contracts shall include terms and conditions for verifying and enforcing the use of the aircraft and aircraft parts in accordance with provisions of the guidance.

(1) The DRMS Sales Contracting Officer (SCO) is responsible for

verifying and enforcing the use of aircraft and aircraft parts in accordance with the terms and conditions of the sales contract.

(i) Sales contracts include provisions for on-site visits to the purchaser's place(s) of business and/or worksite(s).

(ii) Sales contracts require the purchaser to make available to the SCO, upon his or her request, all records concerning the use of aircraft and aircraft parts.

(2) DOT shall nominate in writing, and the SCO shall appoint, qualified Government employees (not contract employees) to serve as Contracting Officer's Representatives (CORs) for the purpose of conducting on-site verification and enforcement of the use of aircraft and aircraft parts for those purposes permitted by the sales contract.

(i) COR appointments must be in writing and must state the COR's duties, the limitations of the appointment, and the reporting requirements.

(ii) DOT bears all COR costs.

(iii) The SCO may reject any COR nominee for cause, or terminate any COR appointment for cause.

(3) Sales contracts require purchasers to comply with the Federal Aviation Agency (FAA) requirements in Chapter 4 of DoD 4160.21-M (August 1997), paragraphs B 2 b (4) (d) 2 through B 2 b (4) (d) 5.

(4) Sales contracts require purchasers to comply with the Flight Safety Critical Aircraft Parts regime in Chapter 4 of DoD 4160.21-M (August 1997), paragraph B 26 c and d, and in Attachment 3 to Chapter 4 of DoD 4160.21-M (August 1997).

(5) Sales contracts require purchasers to obtain the prior written consent of the SCO for resale of aircraft or aircraft parts purchased from DRMS under this Act. Resales are only permitted to other entities that, at time of resale, meet the qualifications required of initial purchasers. The SCO must seek, and DOT must provide, written assurance as to the acceptability of a prospective repurchaser before approving resale. Resales will normally be approved for oil spill response contractors that have completed their contracts, or that have had their contracts terminated, or that can provide other valid reasons for seeking resale that are acceptable to the SCO.

(i) If it is determined by the SCO that there is no interest in the aircraft or aircraft parts being offered for resale among entities deemed qualified repurchasers by DOT, the SCO may permit resale to entities outside the oil spill response industry.

(ii) When an aircraft or aircraft parts are determined to be uneconomically repairable and suitable only for cannibalization and/or scrapping, the purchaser shall advise the SCO in writing and provide evidence in the form of a technical inspection document from a qualified FAA airframe and powerplant mechanic, or equivalent.

(iii) The policy outlined in paragraph (d)(5) of this section also applies to resales by repurchasers, and to all other manner of proposed title transfer (including, but not limited to, exchanges and barbers).

(iv) Sales of aircraft and aircraft parts under the Act are intended for principals only. Sales offerings will caution prospective purchasers not to buy with the expectation of acting as brokers, dealers, agents, or middlemen for other interested parties.

(6) The failure of a purchaser to comply with the sales contract terms and conditions may be cause for suspension and/or debarment, in addition to other administrative, contractual, civil, and criminal (including, but not limited to, 18 U.S.C. 1001) remedies which may be available to the Department of Defense.

(7) Aircraft parts will be made available as follows:

(i) DRMS may, based on availability and demand, offer for sale under the Act whole unflyable aircraft, aircraft carcasses for cannibalization, or aircraft parts, utilizing substantially the same provisions outlined in paragraphs (a) through (d)(6) of this section for flyable aircraft.

(ii) Sales contracts for unflyable aircraft shall contain a restriction in perpetuity against use for flight. DRMS will not issue a bill of sale for these aircraft. When unflyable aircraft or aircraft residue is to be sold for parts use, the data plates must be removed and destroyed by the owning military service prior to releasing the aircraft to the contractor.

(iii) If DOT requests that DRMS set aside parts for sale under Act, DOT must provide listings of parts required, by National Stock Number and Condition Code.

(iv) Only qualified oil spill response operators who fly the end-item aircraft will be allowed to purchase unflyable aircraft, aircraft carcasses, or aircraft parts applicable to that end-item.

(v) FMVs are not required for aircraft parts. DRMS will utilize historic prices received for similar parts in making sale determinations.