

## GENERAL SERVICES ADMINISTRATION

### 41 CFR Parts 101–45 and 102–38

[FPMR Amendment H–211 and FMR  
Amendment B–3]

RIN 3090–AH10

### Federal Management Regulation; Sale of Personal Property

**AGENCY:** Office of Governmentwide  
Policy, GSA.

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration (GSA) is amending the Federal Property Management Regulations (FPMR) by revising coverage on the sale of personal property and moving it into the Federal Management Regulation (FMR). A cross-reference is added to the FPMR to direct readers to the coverage in the FMR. The FMR coverage is written in plain language to provide agencies with updated regulatory material that is easy to read and understand.

**DATES:** *Effective Date:* August 26, 2003.

**FOR FURTHER INFORMATION CONTACT:** The Regulatory Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 208–7312, for information pertaining to status or publication schedules. For clarification of content, contact Robert Holcombe, Director, Personal Property Management Policy Division, (202) 501–3828. Please cite PMR H–211.

#### SUPPLEMENTARY INFORMATION:

#### A. Background

This final rule updates, streamlines, and clarifies FPMR part 101–45 and moves most of the part into the FMR. FPMR part 101–45 is revised to include a cross reference to the regulations moved to FMR part 102–38. Section 101–45.101 has been revised to clarify the applicability of these regulations to agencies in the executive, legislative, and judicial branches of the Federal Government. Section 101–45.307 has been revised to reflect Congress' clear intent as stated in the codification of title 40 into positive law whereby Congress recognized that GSA and other agencies are permitted to retain direct and reasonably related indirect expenses of sale from the proceeds of sale of surplus personal property. Sections 101–45.309–3, 101–45.309–9, 101–45.309–12, and 101–45.309–13 remain in part 101–45 but are revised and given new section numbers. The final rule is written in a plain language question and answer format. This style uses an active voice, shorter sentences, and pronouns. A question and its

answer combine to establish a rule. The employee and the agency must follow the language contained in both the question and its answer.

A proposed rule was published in the **Federal Register** at 67 FR 47494, July 19, 2002. All public comments received were considered in the formulation of this final rule.

#### B. Executive Order 12866

GSA has determined that this final rule is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993.

#### C. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment; therefore the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply.

#### D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

#### E. Small Business Regulatory Enforcement Fairness Act

This final rule is exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

#### List of Subjects in 41 CFR Parts 101–45 and 102–38

Government property management,  
Surplus Government property.

Dated: July 10, 2003.

**Stephen A. Perry,**

*Administrator of General Services.*

For the reasons set forth in the preamble, GSA amends 41 CFR chapters 101 and 102 as follows:

### CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

1. Part 101–45 is revised to read as follows:

#### PART 101–45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Sec.

101–45.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

101–45.001 Demilitarization and decontamination.

101–45.002 Gold.

101–45.003 Vehicle reconditioning.

101–45.004 All terrain vehicles.

**Authority:** 40 U.S.C. 545 and 121(c).

#### § 101–45.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102– 220).

For information on the sale of personal property previously contained in this part, see FMR part 38 (41 CFR part 102–38).

#### § 101–45.001 Demilitarization and decontamination.

(a) Dangerous material shall not be disposed of pursuant to part 102–38 of the Federal Management Regulation (FMR) without first being demilitarized or decontaminated when a duly authorized official of the executive agency concerned determines this action to be in the interest of public health, safety, or security. This may include rendering the property innocuous, stripping from it any confidential or secret characteristics, or otherwise making it unfit for further use.

(b) Demilitarization or decontamination of property to be donated to public bodies pursuant to part 102–37 of the FMR shall be accomplished in a manner so as to preserve so far as possible any civilian utility or commercial value of the property.

(c) Except for those sales otherwise authorized by part 101–42 of the Federal Property Management Regulations or other statutes, and for specialized sales authorized by the Secretary of Defense, U.S. Munitions List items identified as requiring demilitarization shall not be reported for public sale without first being demilitarized or requiring demilitarization to be a part of the terms and conditions of sale. The General Services Administration may refer technical questions on demilitarization to the Department of Defense for advice.

#### § 101–45.002 Gold.

(a) Gold will be sold in accordance with this section and part 102–38 of the Federal Management Regulation.

(b) Sales of gold shall be processed to—

- (1) Use the sealed bid method of sale;
- (2) Require a 20 percent bid deposit;
- (3) Certify all forms of bid deposit and payments; and

(4) Include in the invitation for bids only gold and such other precious and semiprecious materials as may be available for sale at that time.

(c) Each agency generating scrap gold and also having a continuing need for fine gold may arrange for the acceptance of scrap gold for fine gold with a private