



# Federal Exchange/Sale Authority

Defense Pricing and Contracting (DPC)

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# Disclaimer

- ◆ **This information:**
  - » **Should not be construed as changing or modifying any statute, regulation, DoD policy or guidance, or any term(s) of any contract with the U.S. Government or any department or agency of the U.S. Government.**



# Purpose

- ◆ **Describe the regulations regarding exchange/sale**
- ◆ **Describe the exchange/sale process**
- ◆ **Address aircraft-specific considerations**



# Legal Authority – 40 USC

## **§ 503 – Exchange or sale of similar items**

**(a) AUTHORITY OF EXECUTIVE AGENCIES – In acquiring personal property, an executive agency may exchange or sell similar items and may apply the exchange allowance or proceeds of sale in whole or in part payment for the property acquired**

### **(b) APPLICABLE REGULATION AND LAW –**

- 1) REGULATIONS PRESCRIBED BY ADMINISTRATOR OF GENERAL SERVICES – A transaction under subsection (a) must be carried out in accordance with regulations the Administrator of General Services prescribes, subject to regulations prescribed by the Administrator for Federal Procurement Policy under division B (except sections 1704 and 2303) of subtitle I of title 41**
- 2) IN WRITING – A transaction under subsection (a) must be evidenced in writing**
- 3) SECTION 6101(b) TO (d) OF TITLE 41 – Section 6101(b) to (d) of title 41 applies to a sale of property under subsection (a), except that fixed price sales may be conducted in the same manner and subject to the same conditions as are applicable to the sale of property under section 545(d) of this title**



# Operative Language (1 of 4)

## ◆ In acquiring **personal property**

### » **FMR 102-36.40 – What definitions apply to this part?**

- “Personal property” means any property, except real property. For purposes of this part, the term excludes records of the Federal Government, and naval vessels of the following categories: battleships, cruisers, aircraft carriers, destroyers, and submarines.

### » **FAR 2.101**

- “Personal property” means property of any kind or interest in it except real property, records of the Federal Government, and naval vessels of the following categories:
  - (1) Battleships;
  - (2) Cruisers;
  - (3) Aircraft carriers;
  - (4) Destroyers; and
  - (5) Submarines.



# Operative Language (2 of 4)

- ◆ **“An executive agency **may exchange or sell**”**
  - » **Exchange – most commonly thought of as a “trade in”**
  - » **Sell – disposal sales as part of the federal disposal process**
    - **Plant Clearance under FAR and FMR 102-38**
    - **FMR Disposal Process under FMR 102-38**



# Operative Language (3 of 4)

- ◆ **“...similar items”**

- ◆ **Defined in FMR 102-39.20**

**“Similar” means the acquired item(s) and replaced item(s):**

**(1) Are identical; or**

**(2) Fall within a single Federal Supply Classification (FSC) Group of property (includes any and all forms of property within a single FSC Group); or**

**(3) Are parts or containers for similar end items; or**

**(4) Are designed or constructed for the same purpose (includes any and all forms of property regardless of the FSC Group to which they are assigned).**



# Operative Language (4 of 4)

- ◆ ***“IN WRITING – A *transaction* under subsection (a) must be evidenced in writing”***
- ◆ **Documentation must be sufficient to allow the disposition activity to provide required reports to the Administrator, GSA**
- ◆ **FMR 102-35.25 and 102-39.85 require submission of an annual “Exchange/Sale” report**
  - » **List** by FSC property sold
    - Number of items sold
    - Acquisition cost
    - Net proceeds
  - » **List** by FSC of property exchanged
    - Number of items exchanged
    - Acquisition cost
    - Exchange allowance





# FMR Allowances

- ◆ **Replacement of property that is still required, but is no longer functional due to wear or obsolescence**
- ◆ **May be accomplished as part of the acquisition of new *property***
- ◆ **May be used to acquire *property* under a service contract provided the *property* is similar to that being exchanged or sold**



# FMR Prohibitions – Property Types (1 of 3)

## ◆ Prohibited Federal Supply Groups

- » **10 – Weapons (DoD exception for all except FSC 1005 Guns)**
- » **11 – Nuclear ordnance**
- » **42 – Firefighting, rescue, and safety equipment**
- » **44 – Nuclear reactors (FSC Class 4470 only )**
- » **51 – Hand tools**
- » **54 – Prefabricated structure and scaffolding**
  - **FSC 5410 Prefabricated and Portable Buildings**
  - **FSC 5411 Rigid Wall Structures**
  - **FSC 5419 Collective Modular Support System only**
- » **68 – Chemicals and chemical products, except medicinal chemicals**
- » **84 – Clothing, individual equipment, and insignia**



# FMR Prohibitions – Property Types (2 of 3)

- ◆ **Materials in the National Defense Stockpile**
- ◆ **NRC Controlled materials (except for §101-42.1102-4)**
- ◆ **Controlled substances (except for §101-42.1102-3)**
- ◆ **Scrap condition property except**
  - » **Property that had utility when exchange/sale authority was determined**
  - » **Property that was determined in scrap condition due to damage after exchange/sale determination**
  - » **Scrap gold for fine gold**
- ◆ **Other agency excess, forfeited property or property not obtained from an acquisition, unless it has been in use for no less than 1 year since obtaining**



# FMR Prohibitions – Property Types (3 of 3)

- ◆ Dangerous property not rendered innocuous
- ◆ Combat material without demil or other DoD authorization
- ◆ **Flight Safety Critical Aircraft Parts and Critical Safety Items**
  - » **Unless meeting the provisions of §102-33.370**
- ◆ For acquisition of unauthorized replacement property
- ◆ Acquisition of replacement property that violates any
  - » Restriction on procurement of a commodity or commodities
  - » Replacement policy of standard prescribed by the President, Congress or the Administrator of GSA
  - » Contractual Obligation
- ◆ Vessels subject to 40 CFR § 548
- ◆ Aircraft and aircraft parts, unless there is **full compliance** with **all** exchange/sale provisions in Part 102-33 of this chapter
  - » DoD Exemption from all except participation in committees



# Exchange Sale Process

## ◆ **Methods**

- » **Reimbursable transfer to other departments, agencies or branches**
- » **As part of and exchange in the procurement of replacement property**
- » **Retention and application of proceeds of disposal sales**
- » **Negotiated sale to State Agencies for Surplus Property**

## ◆ **Caution**

- » **Returns must exceed costs of conducting the process**
- » **Retained sales value may not exceed the value of the replacement item**
  - **Excess funds must go to the General Treasury**
- » **Sales conducted in accordance with applicable parts of 40 USC and FMR**
- » **Documentation required**
- » **Reporting required**



# Exchange Method

- ◆ **Procurements may carry a line item which identifies the value of items to be traded in**
  - » **In order to comply with 40 USC and FMR annual reporting requirements transactions must be documented**



# Reimbursable Transfer Method

- ◆ **Utilization Officer/Plant Clearance Officer identifies property as “Exchange/Sale” on disposal report to GSA**
  - » **Must determine “fair market value” and report the property at that value**
  - » **Must provide accounting information for fund transfer**
- ◆ **If another agency desires the property, they must reimburse the losing agency for the fair market value**
- ◆ **Reimbursement may not exceed the value of the new item**
  - » **Avoid Budget Augmentation**
  - » **Funds must be used within 1 year to offset cost of new item**
- ◆ **Interagency transfer occurs in accordance with FMR 102-36.125**



# Sale Method

- ◆ **Utilization Officer/Plant Clearance Officer identifies property as “Exchange/Sale” on disposal report to GSA**
  - » **Must determine “fair market value” and report the property at that value**
  - » **Must provide accounting information for fund transfer**
- ◆ **If property is reutilized by another agency, they must reimburse fair market value as in reimbursable transfer method**
- ◆ **If property is not reutilized, it can proceed to sale**
  - » **May offer it as a fixed price negotiated sale to SASP**
  - » **Fair market value of sale can be used to offset price of new procurement for up to one year**





# What Does It Mean?

- ◆ **Agencies are encouraged to utilize the proceeds from sale or trade-in of existing property when purchasing replacement property**
- ◆ **Under contracts, even service contracts, property must be acquired**
- ◆ **Property must be similar, but need not be equivalent in quantity, as long as the function remains the same, e.g. several small trucks could be sold or exchanged for one large truck that can haul the same or better volume**
- ◆ **Agencies may request deviations from GSA regarding the item type restrictions**
- ◆ **Agencies must report exchange/sale transactions in list form to GSA annually**
  - » **List form implies that individual transactions are recorded AND reported**



# **Special Aircraft Requirements – Flight Safety Critical Aircraft Parts (FSCAP)**



# Applicable Definitions

- ◆ **“Flight Safety Critical Aircraft Part (FSCAP)”** means any military aircraft part, assembly, or installation containing a critical characteristic whose failure, malfunction, or absence could cause a catastrophic failure resulting in loss or serious damage to the aircraft or an uncommanded engine shut-down resulting in an unsafe condition.
- ◆ **“Life-limited part”** means any aircraft part that has an established replacement time, inspection interval, or other time-related procedure associated with it. For non-military parts, FAA specifies life-limited parts’ airworthiness limitations in 14 CFR chapter I, §§21.50, 23.1529, 25.1529, 27.1529, 29.1529, 31.82, 33.4, and 35.5, and on product Type Certificate Data Sheets (TCDS) for products certified before airworthiness limitations were added to 14 CFR Chapter I. Letters authorizing Technical Standards Orders (TSO) must also note or reference mandatory replacement or inspection of parts.



# FSCAP Disposal Requirements

- ◆ **Exchange Sale is a disposal action**
- ◆ **Aircraft regulation requirements**
  - » §102-33.370—What must we do to dispose of military FSCAP or life-limited parts?
  - » To dispose of military FSCAP or life-limited parts, you must use the following tables:

**Table 1 for Disposing of Uninstalled FSCAP and Live-Limited Parts**

(1) If an Uninstalled FSCAP (i.e., not installed in an aircraft or engine)-		
(i) Is documented-	Then	(A) You may exchange or sell it or transfer it to another executive agency under Parts 102-36 and 102-39 of this subchapter and the rules in this part (B) GSA may donate it for flight use under Part 102-37 of this subchapter B; or (C) GSA may donate it for ground use only, after you mutilate and mark it, "FSCAP – NOT AIRWORTHY" (the State Agency for Surplus property must certify that the party has been mutilated and marked before donation).
(ii) Is undocumented, but traceable to its original equipment manufacturer (OEM) or production approval holder (PAH)	Then	(A) You may exchange or sell it only to the OEM or PAH under Part 102-39 of this subchapter B (B) GSA may transfer or donate it for flight use, but only by making it a condition of the transfer or donation agreement that the recipient will have the part inspected, repaired, and certified by the OEM or PAH before putting it into service (Note: Mark parts individually to ensure that the recipient is aware of the parts' service status); or (C) GSA may donate it for ground use only, after you mutilate it and mark it before donation), "FSCAP – NOT AIRWORTHY" (the State Agency for Surplus property must certify that the party has been mutilated and marked before donation).
(iii) Is undocumented and untraceable, you must mutilate it, and -	Then	(A) (A) GSA may transfer or donate it for ground use only, after you mark it, "FSCAP – NOT AIRWORTHY" (the State Agency for Surplus property must certify that the party has been mutilated and marked before donation) (B) You may sell it only for scrap under §§103-22.210 and 102-33.315.
(2) If an uninstalled life-limited part (i.e., not installed in an aircraft or engine) -		
(i) Is documented with service life remaining -	Then	(A) You may exchange or sell it to another executive agency under Parts 102-36 and 102-39 of this subchapter G and the rules in this part; (B) GSA may donate it for flight use under Part 102-37 of this subchapter B; or, (C) GSA may donate it for ground use only, after you mutilate and mark it, "EXPIRED LIFE-LIMITED – NOT AIRWORTHY ( the State Agency for Surplus Property must certify that the part has been mutilated and marked before donation)
(ii) Is documented with no service life remaining, or undocumented. GSA may not transfer it to another executive agency for flight use-	Then	(A) GSA may transfer or donate it for ground use only, after you mutilate and mark it, "EXPIRED LIFE-LIMITED – NOT AIRWORTHY ( the State Agency for Surplus Property must certify that the part has been mutilated and marked before donation) (B) You must mutilate it and sell it only for scrap.

**Table 2 for Disposing of Installed Life-Limited Parts**

(1) If a life-limited part is installed in an aircraft or an engine, and it-		
(i) Is documented with service life remaining -	Then	<p>(A) You may exchange or sell the aircraft or engine or transfer it to another executive agency under Parts 102-36 and 102-39 of this subchapter and the rules in this part</p> <p>(B) GSA may donate the aircraft or engine for flight use; or,</p> <p>(C) GSA may donate the aircraft or engine for ground use only, after remove the part, mutilate it and mark it, "EXPIRED LIFE-LIMITED – NOT AIRWORTHY." (Note: An internal engine part may be left installed, if, as a condition of the donation agreement, the receiving done agrees to remove and mutilate the part, and mark it (the State Agency for Surplus Property must certify that the part has been mutilated and marked)).</p>
ii) Is documented with no service life remaining, or undocumented—	Then	<p>(A) You must remove and mutilate the part before you exchange or sell the aircraft or engine (see rules for disposing of uninstalled life-limited parts in <a href="#">Table 1</a> of paragraph (a) of this section). (Note: If an aircraft or engine is exchanged or sold to its OEM or PAH, you do not have to remove the expired life-limited part);</p> <p>(B) You must remove and mutilate it before GSA may transfer or donate the aircraft or engine for flight use (see the rules for disposing of uninstalled FSCAP in <a href="#">Table 1</a> in paragraph (a) of this section). (Note: An internal engine part may be left installed, if you identify the part individually to ensure that the receiving agency is aware of the part’s service status and, as a condition of the transfer or donation agreement, the receiving agency agrees to remove and mutilate the part before the engine is put into service. You must certify mutilation for transfers, and the State Agency for Surplus Property must certify that the part has been mutilated for donations); or</p> <p>(C) GSA may donate the aircraft or engine for ground use only, after you remove the part, mutilate and mark it "EXPIRED LIFE-LIMITED—NOT AIRWORTHY." (Note: An internal engine part may be left installed, if, as a condition of the donation agreement, the receiving agency agrees to remove and mutilate the part and mark it (the State Agency for Surplus Property must certify that the part has been mutilated and marked)).</p>



# FSCAP Acquisition Requirements

- ◆ **§102-33.115 – Are there special requirements for acquiring military FSCAP?**
  - » **Yes, when you acquire FSCAP, you must—**
    - **(a) Accept a FSCAP only when it is documented or traceable to its original equipment manufacturer (a FSCAP’s DOD FSCAP Criticality Code should be marked or tagged on the part or appear on its invoice/transfer document; see 102-33.375 for further explanation of the FSCAP Criticality Codes); and**
    - **(b) Not install undocumented, but traceable FSCAP until you have the parts inspected and recertified by the original equipment manufacturer or FAA-approved production approval holder (see 102-33.370 on FSCAP).**



# FSCAP Acquisition Requirements (cont.)

- ◆ **§102-33.120 – Are there special requirements for acquiring life-limited parts?**
  - » **Yes, when you acquire new or used life-limited parts, you must—**
    - **(a) Identify and inspect the parts, ensuring that they have civil or military-certified documentation (i.e., complete life histories); and**
    - **(b) Mutilate and dispose of any expired life-limited parts (see 102-33.370 on handling life-limited parts).**



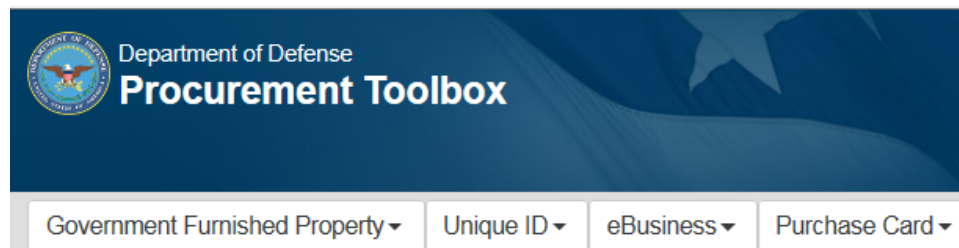


# For More Information

## GFP Policy



## Training, Procedures, Tools



## Department of Defense Procurement Toolbox

<http://www.acq.osd.mil/dpap/pdi/gfp/index.html>

[www.dodprocurementtoolbox.com](http://www.dodprocurementtoolbox.com)

or

Contact Carol Brown at [carol.a.brown160.civ@mail.mil](mailto:carol.a.brown160.civ@mail.mil)



# GFP Resources

- ◆ **DoD Procurement Toolbox**  
**(www.dodprocurementtoolbox.com)**
  - » **GFP Module Transition information**
  - » **General GFP Information**
  - » **Sign up for updates and ask questions (“Contact Us”)**

## GFP Resources

Information regarding the DoD GFP processing and tracking environment.

Name	Date	
Data Item Description DI-PSSS-80727A - Government Furnished Material by National Stock Number	1/2021	<a href="#">View &gt;&gt;</a>
GFP Module Reports Provides guidance on access to and content of GFP Module reports	1/2021	<a href="#">View &gt;&gt;</a>
Registering for Roles in the PIEE Government Furnished Property Module – Government Provides guidance on registering for GFP Module roles for government users	5/2020	<a href="#">View &gt;&gt;</a>
Registering for Roles in the PIEE Government Furnished Property Module – Contractors Provides guidance on registering for GFP Module roles for contractor users	5/2020	<a href="#">View &gt;&gt;</a>
Electronic File Formats Guide How to access the formats to electronically exchange data with the GFP Module for shipping and receiving.	11/2019	<a href="#">View &gt;&gt;</a>
CDRL for reporting Government Inventory IAW DFARS PGI 245.103-73.	9/2019	<a href="#">View &gt;&gt;</a>



# GFP Training

## Government Furnished Property (GFP)

- Policy
- General GFP Information
- Attachment Information
- GFP Shipping and Receiving Information
- GFP Disposition Information
- Resources
- Training
- FAQs

Training available  
on the DoD  
Procurement  
Toolbox

(<http://dodprocurementtoolbox.com/site-pages/gfp-training>)

## GFP Training

### General GFP Topics

Name	Date	
<b>GFP Property Transfer for Government Users</b> Describes the government roles, processes, and procedures to ship, receipt, and view GFP	3/2021	<a href="#">View &gt;&gt;</a>
<b>GFP Property Transfer for Contractors</b> Describes the contractor roles, processes, and procedures to ship, receipt, and view GFP	3/2021	<a href="#">View &gt;&gt;</a>
<b>GFP Property Loss for Government Users</b> Describes the GFP Module Property Loss capability to adjudicate loss cases. The roles of Property Administrator, Industrial Property Management Specialist, Contracting Specialist, Contracting Officer, and Ground and Flight Risk Representative are addressed.	3/2021	<a href="#">View &gt;&gt;</a>
<b>GFP Process Training</b> Provides overview of the end-to-end GFP Process including policy, GFP Attachment, GFP Receipt and Reconciliation. Information systems and DoD and Contractor roles and responsibilities are addressed.	10/2020	<a href="#">View &gt;&gt;</a>
<b>GFP Module Attachment Training</b> This training describes the workflow concepts and execution steps to create, review, and approve GFP Attachments in the GFP Module.	10/2020	<a href="#">View &gt;&gt;</a>
<b>Property Transfer Excel Tutorial</b> Provides walk through of using the Property Transfer Excel template for various DoD and Contractor scenarios	8/2020	<a href="#">View &gt;&gt;</a>



# Questions?

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