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41

Chapter 101
Revised as of July 1, 2005

Public Contracts and Property Management

Containing a codification of documents of general applicability and future effect

As of July 1, 2005

With Ancillaries

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Cite this Code: CFR

To cite the regulations in this volume use title, part and section number. Thus, 41 CFR 101–1.100 *refers to title 41, part 101–1, section 100.*

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The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16.....as of January 1
Title 17 through Title 27.....as of April 1
Title 28 through Title 41.....as of July 1
Title 42 through Title 50.....as of October 1

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OMB CONTROL NUMBERS

The Paperwork Reduction Act of 1980 (Pub. L. 96–511) requires Federal agencies to display an OMB control number with their information collection request.

Many agencies have begun publishing numerous OMB control numbers as amendments to existing regulations in the CFR. These OMB numbers are placed as close as possible to the applicable recordkeeping or reporting requirements.

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Provisions that become obsolete before the revision date stated on the cover of each volume are not carried. Code users may find the text of provisions in effect on a given date in the past by using the appropriate numerical list of sections affected. For the period before January 1, 2001, consult either the List of CFR Sections Affected, 1949–1963, 1964–1972, 1973–1985, or 1986–2000, published in 11 separate volumes. For the period beginning January 1, 2001, a ''List of CFR Sections Affected'' is published at the end of each CFR volume.

CFR INDEXES AND TABULAR GUIDES

A subject index to the Code of Federal Regulations is contained in a separate volume, revised annually as of January 1, entitled CFR INDEX AND FINDING AIDS. This volume contains the Parallel Table of Statutory Authorities and Agency Rules (Table I). A list of CFR titles, chapters, and parts and an alphabetical list of agencies publishing in the CFR are also included in this volume.

An index to the text of ''Title 3—The President'' is carried within that volume.

The Federal Register Index is issued monthly in cumulative form. This index is based on a consolidation of the ''Contents'' entries in the daily Federal Register.

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For a legal interpretation or explanation of any regulation in this volume, contact the issuing agency. The issuing agency's name appears at the top of odd-numbered pages.

For inquiries concerning CFR reference assistance, call 202-741-6000 or write to the Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408 or e-mail, *fedreg.info@nara.gov*.

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RAYMOND A. MOSLEY,
Director,
Office of the Federal Register.

July 1, 2005.

THIS TITLE

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT consists of Subtitle A—Federal Procurement Regulations System [Note]; Subtitle B—Other Provisions Relating to Public Contracts; Subtitle C—Federal Property Management Regulations System; Subtitle D is reserved for other provisions relating to property management, Subtitle E—Federal Information Resources Management Regulations System and Subtitle F—Federal Travel Regulation System.

As of July 1, 1985, the text of subtitle A is no longer published in the Code of Federal Regulations. For an explanation of the status of subtitle A, see 41 CFR chapters 1—100 (page 3).

Other government-wide procurement regulations relating to public contracts appear in chapters 50 through 100, subtitle B.

The Federal property management regulations in chapter 101 of subtitle C are government-wide property management regulations issued by the General Services Administration. In the remaining chapters of subtitle C are the *implementing* and *supplementing* property management regulations issued by individual Government agencies. Those regulations which implement chapter 101 are numerically keyed to it.

The Federal Travel Regulation System in chapters 300–304 of subtitle F is issued by the General Services Administration.

Title 41 is composed of four volumes. The chapters in these volumes are arranged as follows: Chapters 1—100, chapter 101, chapters 102—200, and chapter 201 to End. These volumes represent all current regulations codified under this title of the CFR as of July 1, 2005.

For this volume, Carol A. Conroy was Chief Editor. The Code of Federal Regulations publication program is under the direction of Frances D. McDonald, assisted by Alomha S. Morris.

Title 41—Public Contracts and Property Management

(This book contains chapter 101)

Part

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Subtitle C—Federal Property Management Regulations System

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PART 101–1—INTRODUCTION

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AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 29 FR 13255, Sept. 24, 1964, unless otherwise noted.

Subpart 101–1.1—Regulation System

§ 101–1.100 Scope of subpart.

This subpart sets forth introductory material concerning the Federal Property Management Regulations System: its content, types, publication, authority, applicability, numbering, deviation procedure, as well as agency consultation, implementation, and supplementation.

§ 101–1.101 Federal Property Management Regulations System.

The Federal Property Management Regulations System described in this subpart is established and shall be used by General Services Administration (GSA) officials and, as provided in this subpart, by other executive agency officials, in prescribing regulations, policies, procedures, and delegations of authority pertaining to the management of property, and other programs and activities of the type administered by GSA, except procurement and contract matters contained in the Federal Acquisition Regulations (FAR).

[54 FR 37652, Sept. 12, 1989]

§ 101–1.102 Federal Property Management Regulations.

The Federal Property Management Regulations (FPMR) are regulations, as described by § 101–1.101, prescribed by the Administrator of General Services to govern and guide Federal agencies.

§ 101–1.103 FPMR temporary regulations.

(a) FPMR temporary regulations are authorized for publication when time or exceptional circumstances will not permit promulgation of an amendment to the Code of Federal Regulations and if the regulation will be effective for a period of 12 months or less except as provided in § 101–1.103(b), below. These temporary regulations will be codified before the designated expiration date or their effective date will be extended if it is determined that conversion to permanent form cannot be accomplished within the specified time frame.

(b) FPMR temporary regulations may have an effective period of up to 2 years when codification is not anticipated or is not considered practical.

[54 FR 37652, Sept. 12, 1989]

§ 101–1.104 Publication and distribution of FPMR.

§ 101–1.104–1 Publication.

FPMR will be published in the FEDERAL REGISTER, in looseleaf form, and in accumulated form in the Code of Federal Regulations. Temporary-type FPMR will be published in the Notices

section of the FEDERAL REGISTER[1] and in looseleaf form.

[36 FR 4983, Mar. 16, 1971]

§ 101–1.104–2 Distribution.

(a) Each agency shall designate an official to serve as liaison with GSA on matters pertaining to the distribution of FPMR and other publications in the FPMR series. Agencies shall report all changes in designation of agency liaison officers to the General Services Administration (CAR), Washington, DC 20405.

(b) FPMR and other publications in the FPMR series will be distributed to agencies in bulk quantities for internal agency distribution in accordance with requirements information furnished by liaison officers. FPMR and other publications in the FPMR series will not be stocked by, and cannot be obtained from, GSA regional offices.

(c) Agencies shall submit their consolidated requirements for FPMR and other publications in the FPMR series, including requirements of field activities, and changes in such requirements on GSA Form 2053, Agency Consolidated Requirements for GSA Regulations and Other External Issuances (illustrated at §101–1.4902–2053). The mailing address is shown on the form.

[36 FR 4983, Mar. 16, 1971, as amended at 53 FR 2739, Feb. 1, 1988]

§ 101–1.105 Authority for FPMR System.

The FPMR system is prescribed by the Administrator of General Services under authority of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, and other laws and authorities specifically cited in the text.

§ 101–1.106 Applicability of FPMR.

The FPMR apply to all Federal agencies to the extent specified in the Federal Property and Administrative Services Act of 1949 or other applicable law.

[1] EDITORIAL NOTE: FPMR temporary regulations are published in the Rules and Regulations section of the FEDERAL REGISTER and, if in effect on the revision date of the Code of Federal Regulations volume, in the appendixes to the subchapters in 41 CFR chapter 101.

§ 101–1.107 Agency consultation regarding FPMR.

FPMR are developed and prescribed in consultation with affected Federal agencies.

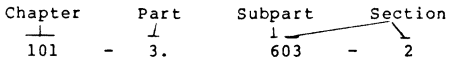
§ 101–1.108 Agency implementation and supplementation of FPMR.

Chapters 102 through 150 of this title are available for agency implementation and supplementation of FPMR contained in chapter 101 of this title. Supplementation pertains to agency regulations in the subject matter of FPMR but not yet issued in chapter 101.

[54 FR 37652, Sept. 12, 1989]

§ 101–1.109 Numbering in FPMR System.

(a) In the numbering system, all FPMR material is preceded by the digits 101–. This means that it is chapter 101 in title 41 of the Code of Federal Regulations. It has no other significance. The digit(s) before the decimal point indicates the part; the digits after the decimal point indicate, without separation, the subpart and section. For example:



(b) At the bottom of each page appears the number and date (month and year) of the FPMR amendment which transmitted it.

(c) Agency implementing regulations should conform to the FPMR section numbers, except for the substitution of the chapter designation of the agency. Agency supplementing regulations should be numbered ''50'' or higher for section, subpart, or part as may be involved.

[54 FR 37652, Sept. 12, 1989]

§ 101–1.110 Deviation.

(a) In the interest of establishing and maintaining uniformity to the greatest extent feasible, deviations; i.e., the use of any policy or procedure in any manner that is inconsistent with a policy or procedure prescribed in the Federal Property Management Regulations, are prohibited unless such deviations have been requested from the approved by

the Administrator of General Services or his authorized designee. Deviations may be authorized by the Administrator of General Services or his authorized designee when so doing will be in the best interest of the Government. Request for deviations shall clearly state the nature of the deviation and the reasons for such special action.

(b) Requests for deviations from the FPMR shall be sent to the General Services Administration for consideration in accordance with the following:

(1) For onetime (individual) deviations, requests shall be sent to the address provided in the applicable regulation. Lacking such direction, requests shall be sent to the Administrator of General Services, Washington, DC 20405.

(2) For class deviations, requests shall be sent to only the Administrator of General Services.

[54 FR 37652, Sept. 12, 1989]

§ 101–1.111 Retention of FPMR amendments.

Retention of FPMR amendments and removed pages will provide a history of FPMR issuances and facilitate determining which regulations were in effect at particular times.

[39 FR 40952, Nov. 22, 1974]

§ 101–1.112 Change lines.

(a) Single-column format: Vertical lines in the right margin of a page indicate material changed, deleted, or added by the FPMR amendment cited at the bottom of that page. Where insertion of new material results in shifting of unchanged material on following pages, no vertical lines will appear on such pages but the FPMR amendment transmitting such new pages will be cited at the bottom of each page.

(b) Double-column format: Arrows printed in the margin of a page indicated material changed, deleted, or added by the FPMR amendment cited at the bottom of that page.

[54 FR 37652, Sept. 12, 1989]

Subparts 101–1.2—101–1.48 [Reserved]

Subpart 101–1.49—Illustrations of Forms

§ 101–1.4900 Scope of subpart.

This subpart illustrates forms prescribed or available for use in connection with subject matter covered in other subparts of this part 101–1.

[36 FR 4983, Mar. 16, 1971]

§ 101–1.4901 Standard forms. [Reserved]

§ 101–1.4902 GSA forms.

(a) The GSA forms are illustrated in this section to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this section correspond with the GSA numbers.

(b) GSA forms illustrated in § 101–1.4902 may be obtained by addressing requests to the General Services Administration, National Forms and Publications Center–7 CAR-W, Warehouse 4, Dock No. 1, 501 West Felix Street, Forth Worth, TX 76115.

[36 FR 4984, Mar. 16, 1971, as amended at 53 FR 2739, Feb. 1, 1988]

§ 101–1.4902–2053 GSA Form 2053, Agency Consolidated Requirements for GSA Regulations and Other External Issuances.

NOTE: The form listed in § 101–1.4902–2053 is filed as part of the original document. Copies of the form may be obtained from the General Services Administration (3BRD), Washington, DC 20407.

[36 FR 4984, Mar. 16, 1971]

PART 101–3—ANNUAL REAL PROPERTY INVENTORIES

AUTHORITY: 40 U.S.C. 486(c).

SOURCE: 66 FR 55594, Nov. 2, 2001, unless otherwise noted.

§ 101–3.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For information on annual real property inventories previously contained in this part, see FMR part 84 (41 CFR part 102–84).

PART 101–4—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

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101–4.535 Effect of state or local law or other requirements.
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101–4.550 Sex as a bona fide occupational qualification.

Subpart F—Procedures

101–4.600 Notice of covered programs.
101–4.605 Enforcement procedures.

AUTHORITY: 20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688.

SOURCE: 65 FR 52865, 52891, Aug. 30, 2000, unless otherwise noted.

Subpart A—Introduction

§ 101–4.100 Purpose and effective date.

The purpose of these Title IX regulations is to effectuate Title IX of the Education Amendments of 1972, as amended (except sections 904 and 906 of those Amendments) (20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688), which is designed to eliminate (with certain exceptions) discrimination on the basis of sex in any education program or activity receiving Federal financial assistance, whether or not such program or activity is offered or sponsored by an educational institution as defined in these Title IX regulations. The effective date of these Title IX regulations shall be September 29, 2000.

§ 101–4.105 Definitions.

As used in these Title IX regulations, the term:

Administratively separate unit means a school, department, or college of an educational institution (other than a local educational agency) admission to which is independent of admission to any other component of such institution.

Admission means selection for part-time, full-time, special, associate, transfer, exchange, or any other enrollment, membership, or matriculation in or at an education program or activity operated by a recipient.

Applicant means one who submits an application, request, or plan required to be approved by an official of the Federal agency that awards Federal financial assistance, or by a recipient, as a condition to becoming a recipient.

Designated agency official means the Associate Administrator for Civil Rights.

Educational institution means a local educational agency (LEA) as defined by 20 U.S.C. 8801(18), a preschool, a private elementary or secondary school, or an applicant or recipient that is an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, or an institution of vocational education, as defined in this section.

Federal financial assistance means any of the following, when authorized or extended under a law administered by the Federal agency that awards such assistance:

(1) A grant or loan of Federal financial assistance, including funds made available for:

(i) The acquisition, construction, renovation, restoration, or repair of a building or facility or any portion thereof; and

(ii) Scholarships, loans, grants, wages, or other funds extended to any entity for payment to or on behalf of students admitted to that entity, or extended directly to such students for payment to that entity.

(2) A grant of Federal real or personal property or any interest therein, including surplus property, and the proceeds of the sale or transfer of such property, if the Federal share of the fair market value of the property is not, upon such sale or transfer, properly accounted for to the Federal Government.

(3) Provision of the services of Federal personnel.

(4) Sale or lease of Federal property or any interest therein at nominal consideration, or at consideration reduced for the purpose of assisting the recipient or in recognition of public interest to be served thereby, or permission to use Federal property or any interest therein without consideration.

(5) Any other contract, agreement, or arrangement that has as one of its purposes the provision of assistance to any education program or activity, except a contract of insurance or guaranty.

Institution of graduate higher education means an institution that:

(1) Offers academic study beyond the bachelor of arts or bachelor of science degree, whether or not leading to a certificate of any higher degree in the liberal arts and sciences;

(2) Awards any degree in a professional field beyond the first professional degree (regardless of whether the first professional degree in such field is awarded by an institution of undergraduate higher education or professional education); or

(3) Awards no degree and offers no further academic study, but operates ordinarily for the purpose of facilitating research by persons who have received the highest graduate degree in any field of study.

Institution of professional education means an institution (except any institution of undergraduate higher education) that offers a program of academic study that leads to a first professional degree in a field for which there is a national specialized accrediting agency recognized by the Secretary of Education.

Institution of undergraduate higher education means:

(1) An institution offering at least two but less than four years of college-level study beyond the high school level, leading to a diploma or an associate degree, or wholly or principally creditable toward a baccalaureate degree; or

(2) An institution offering academic study leading to a baccalaureate degree; or

(3) An agency or body that certifies credentials or offers degrees, but that may or may not offer academic study.

Institution of vocational education means a school or institution (except an institution of professional or graduate or undergraduate higher education) that has as its primary purpose preparation of students to pursue a

technical, skilled, or semiskilled occupation or trade, or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees and whether or not it offers full-time study.

Recipient means any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, any public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial assistance is extended directly or through another recipient and that operates an education program or activity that receives such assistance, including any subunit, successor, assignee, or transferee thereof.

Student means a person who has gained admission.

Title IX means Title IX of the Education Amendments of 1972, Public Law 92–318, 86 Stat. 235, 373 (codified as amended at 20 U.S.C. 1681–1688) (except sections 904 and 906 thereof), as amended by section 3 of Public Law 93–568, 88 Stat. 1855, by section 412 of the Education Amendments of 1976, Public Law 94–482, 90 Stat. 2234, and by Section 3 of Public Law 100–259, 102 Stat. 28, 28–29 (20 U.S.C. 1681, 1682, 1683, 1685, 1686, 1687, 1688).

Title IX regulations means the provisions set forth at §§ 101–4.100 through 101–4.605.

Transition plan means a plan subject to the approval of the Secretary of Education pursuant to section 901(a)(2) of the Education Amendments of 1972, 20 U.S.C. 1681(a)(2), under which an educational institution operates in making the transition from being an educational institution that admits only students of one sex to being one that admits students of both sexes without discrimination.

§ 101–4.110 Remedial and affirmative action and self-evaluation.

(a) *Remedial action.* If the designated agency official finds that a recipient has discriminated against persons on the basis of sex in an education program or activity, such recipient shall take such remedial action as the designated agency official deems necessary to overcome the effects of such discrimination.

(b) *Affirmative action.* In the absence of a finding of discrimination on the basis of sex in an education program or activity, a recipient may take affirmative action consistent with law to overcome the effects of conditions that resulted in limited participation therein by persons of a particular sex. Nothing in these Title IX regulations shall be interpreted to alter any affirmative action obligations that a recipient may have under Executive Order 11246, 3 CFR, 1964–1965 Comp., p. 339; as amended by Executive Order 11375, 3 CFR, 1966–1970 Comp., p. 684; as amended by Executive Order 11478, 3 CFR, 1966–1970 Comp., p. 803; as amended by Executive Order 12086, 3 CFR, 1978 Comp., p. 230; as amended by Executive Order 12107, 3 CFR, 1978 Comp., p. 264.

(c) *Self-evaluation.* Each recipient education institution shall, within one year of September 29, 2000:

(1) Evaluate, in terms of the requirements of these Title IX regulations, its current policies and practices and the effects thereof concerning admission of students, treatment of students, and employment of both academic and nonacademic personnel working in connection with the recipient's education program or activity;

(2) Modify any of these policies and practices that do not or may not meet the requirements of these Title IX regulations; and

(3) Take appropriate remedial steps to eliminate the effects of any discrimination that resulted or may have resulted from adherence to these policies and practices.

(d) *Availability of self-evaluation and related materials.* Recipients shall maintain on file for at least three years following completion of the evaluation required under paragraph (c) of this section, and shall provide to the designated agency official upon request, a description of any modifications made pursuant to paragraph (c)(2) of this section and of any remedial steps taken pursuant to paragraph (c)(3) of this section.

§ 101–4.115 Assurance required.

(a) *General.* Either at the application stage or the award stage, Federal agencies must ensure that applications for Federal financial assistance or awards

of Federal financial assistance contain, be accompanied by, or be covered by a specifically identified assurance from the applicant or recipient, satisfactory to the designated agency official, that each education program or activity operated by the applicant or recipient and to which these Title IX regulations apply will be operated in compliance with these Title IX regulations. An assurance of compliance with these Title IX regulations shall not be satisfactory to the designated agency official if the applicant or recipient to whom such assurance applies fails to commit itself to take whatever remedial action is necessary in accordance with §101–4.110(a) to eliminate existing discrimination on the basis of sex or to eliminate the effects of past discrimination whether occurring prior to or subsequent to the submission to the designated agency official of such assurance.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended to provide real property or structures thereon, such assurance shall obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used to provide an education program or activity.

(2) In the case of Federal financial assistance extended to provide personal property, such assurance shall obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases such assurance shall obligate the recipient for the period during which Federal financial assistance is extended.

(c) *Form.* (1) The assurances required by paragraph (a) of this section, which may be included as part of a document that addresses other assurances or obligations, shall include that the applicant or recipient will comply with all applicable Federal statutes relating to nondiscrimination. These include but are not limited to: Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681–1683, 1685–1688).

(2) The designated agency official will specify the extent to which such assurances will be required of the applicant's or recipient's subgrantees, contractors, subcontractors, transferees, or successors in interest.

§101–4.120 Transfers of property.

If a recipient sells or otherwise transfers property financed in whole or in part with Federal financial assistance to a transferee that operates any education program or activity, and the Federal share of the fair market value of the property is not upon such sale or transfer properly accounted for to the Federal Government, both the transferor and the transferee shall be deemed to be recipients, subject to the provisions of §§101–4.205 through 101–4.235(a).

§101–4.125 Effect of other requirements.

(a) *Effect of other Federal provisions.* The obligations imposed by these Title IX regulations are independent of, and do not alter, obligations not to discriminate on the basis of sex imposed by Executive Order 11246, 3 CFR, 1964–1965 Comp., p. 339; as amended by Executive Order 11375, 3 CFR, 1966–1970 Comp., p. 684; as amended by Executive Order 11478, 3 CFR, 1966–1970 Comp., p. 803; as amended by Executive Order 12087, 3 CFR, 1978 Comp., p. 230; as amended by Executive Order 12107, 3 CFR, 1978 Comp., p. 264; sections 704 and 855 of the Public Health Service Act (42 U.S.C. 295m, 298b-2); Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*); the Equal Pay Act of 1963 (29 U.S.C. 206); and any other Act of Congress or Federal regulation.

(b) *Effect of State or local law or other requirements.* The obligation to comply with these Title IX regulations is not obviated or alleviated by any State or local law or other requirement that would render any applicant or student ineligible, or limit the eligibility of any applicant or student, on the basis of sex, to practice any occupation or profession.

(c) *Effect of rules or regulations of private organizations.* The obligation to comply with these Title IX regulations is not obviated or alleviated by any rule or regulation of any organization,

club, athletic or other league, or association that would render any applicant or student ineligible to participate or limit the eligibility or participation of any applicant or student, on the basis of sex, in any education program or activity operated by a recipient and that receives Federal financial assistance.

§ 101–4.130 Effect of employment opportunities.

The obligation to comply with these Title IX regulations is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for members of one sex than for members of the other sex.

§ 101–4.135 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* Each recipient shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under these Title IX regulations, including any investigation of any complaint communicated to such recipient alleging its noncompliance with these Title IX regulations or alleging any actions that would be prohibited by these Title IX regulations. The recipient shall notify all its students and employees of the name, office address, and telephone number of the employee or employees appointed pursuant to this paragraph.

(b) *Complaint procedure of recipient.* A recipient shall adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by these Title IX regulations.

§ 101–4.140 Dissemination of policy.

(a) *Notification of policy.* (1) Each recipient shall implement specific and continuing steps to notify applicants for admission and employment, students and parents of elementary and secondary school students, employees, sources of referral of applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of sex in the educational programs or activities that it operates, and that it is required by Title IX and these Title IX regulations not to discriminate in such a manner. Such notification shall contain such information, and be made in such manner, as the designated agency official finds necessary to apprise such persons of the protections against discrimination assured them by Title IX and these Title IX regulations, but shall state at least that the requirement not to discriminate in education programs or activities extends to employment therein, and to admission thereto unless §§ 101–4.300 through 101–4.310 do not apply to the recipient, and that inquiries concerning the application of Title IX and these Title IX regulations to such recipient may be referred to the employee designated pursuant to § 101–4.135, or to the designated agency official.

(2) Each recipient shall make the initial notification required by paragraph (a)(1) of this section within 90 days of September 29, 2000 or of the date these Title IX regulations first apply to such recipient, whichever comes later, which notification shall include publication in:

(i) Newspapers and magazines operated by such recipient or by student, alumnae, or alumni groups for or in connection with such recipient; and

(ii) Memoranda or other written communications distributed to every student and employee of such recipient.

(b) *Publications.* (1) Each recipient shall prominently include a statement of the policy described in paragraph (a) of this section in each announcement, bulletin, catalog, or application form that it makes available to any person of a type, described in paragraph (a) of this section, or which is otherwise used in connection with the recruitment of students or employees.

(2) A recipient shall not use or distribute a publication of the type described in paragraph (b)(1) of this section that suggests, by text or illustration, that such recipient treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by these Title IX regulations.

(c) *Distribution.* Each recipient shall distribute without discrimination on the basis of sex each publication described in paragraph (b)(1) of this section, and shall apprise each of its admission and employment recruitment representatives of the policy of nondiscrimination described in paragraph (a) of this section, and shall require such representatives to adhere to such policy.

Subpart B—Coverage

§ 101–4.200 Application.

Except as provided in §§ 101–4.205 through 101–4.235(a), these Title IX regulations apply to every recipient and to each education program or activity operated by such recipient that receives Federal financial assistance.

§ 101–4.205 Educational institutions and other entities controlled by religious organizations.

(a) *Exemption.* These Title IX regulations do not apply to any operation of an educational institution or other entity that is controlled by a religious organization to the extent that application of these Title IX regulations would not be consistent with the religious tenets of such organization.

(b) *Exemption claims.* An educational institution or other entity that wishes to claim the exemption set forth in paragraph (a) of this section shall do so by submitting in writing to the designated agency official a statement by the highest-ranking official of the institution, identifying the provisions of these Title IX regulations that conflict with a specific tenet of the religious organization.

§ 101–4.210 Military and merchant marine educational institutions.

These Title IX regulations do not apply to an educational institution whose primary purpose is the training of individuals for a military service of the United States or for the merchant marine.

§ 101–4.215 Membership practices of certain organizations.

(a) *Social fraternities and sororities.* These Title IX regulations do not apply to the membership practices of social fraternities and sororities that are exempt from taxation under section 501(a) of the Internal Revenue Code of 1954, 26 U.S.C. 501(a), the active membership of which consists primarily of students in attendance at institutions of higher education.

(b) *YMCA, YWCA, Girl Scouts, Boy Scouts, and Camp Fire Girls.* These Title IX regulations do not apply to the membership practices of the Young Men's Christian Association (YMCA), the Young Women's Christian Association (YWCA), the Girl Scouts, the Boy Scouts, and Camp Fire Girls.

(c) *Voluntary youth service organizations.* These Title IX regulations do not apply to the membership practices of a voluntary youth service organization that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1954, 26 U.S.C. 501(a), and the membership of which has been traditionally limited to members of one sex and principally to persons of less than nineteen years of age.

§ 101–4.220 Admissions.

(a) Admissions to educational institutions prior to June 24, 1973, are not covered by these Title IX regulations.

(b) *Administratively separate units.* For the purposes only of this section, §§ 101–4.225 and 101–4.230, and §§ 101–4.300 through 101–4.310, each administratively separate unit shall be deemed to be an educational institution.

(c) *Application of §§ 101–4.300 through 101–4.310.* Except as provided in paragraphs (d) and (e) of this section, §§ 101–4.300 through 101–4.310 apply to each recipient. A recipient to which §§ 101–4.300 through 101–4.310 apply shall not discriminate on the basis of sex in admission or recruitment in violation of §§ 101–4.300 through 101–4.310.

(d) *Educational institutions.* Except as provided in paragraph (e) of this section as to recipients that are educational institutions, §§ 101–4.300 through 101–4.310 apply only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education.

(e) *Public institutions of undergraduate higher education.* §§ 101–4.300 through

101–4.310 do not apply to any public institution of undergraduate higher education that traditionally and continually from its establishment has had a policy of admitting students of only one sex.

§ 101–4.225 Educational institutions eligible to submit transition plans.

(a) *Application.* This section applies to each educational institution to which §§ 101–4.300 through 101–4.310 apply that:

(1) Admitted students of only one sex as regular students as of June 23, 1972; or

(2) Admitted students of only one sex as regular students as of June 23, 1965, but thereafter admitted, as regular students, students of the sex not admitted prior to June 23, 1965.

(b) *Provision for transition plans.* An educational institution to which this section applies shall not discriminate on the basis of sex in admission or recruitment in violation of §§ 101–4.300 through 101–4.310.

§ 101–4.230 Transition plans.

(a) *Submission of plans.* An institution to which § 101–4.225 applies and that is composed of more than one administratively separate unit may submit either a single transition plan applicable to all such units, or a separate transition plan applicable to each such unit.

(b) *Content of plans.* In order to be approved by the Secretary of Education, a transition plan shall:

(1) State the name, address, and Federal Interagency Committee on Education Code of the educational institution submitting such plan, the administratively separate units to which the plan is applicable, and the name, address, and telephone number of the person to whom questions concerning the plan may be addressed. The person who submits the plan shall be the chief administrator or president of the institution, or another individual legally authorized to bind the institution to all actions set forth in the plan.

(2) State whether the educational institution or administratively separate unit admits students of both sexes as regular students and, if so, when it began to do so.

(3) Identify and describe with respect to the educational institution or administratively separate unit any obstacles to admitting students without discrimination on the basis of sex.

(4) Describe in detail the steps necessary to eliminate as soon as practicable each obstacle so identified and indicate the schedule for taking these steps and the individual directly responsible for their implementation.

(5) Include estimates of the number of students, by sex, expected to apply for, be admitted to, and enter each class during the period covered by the plan.

(c) *Nondiscrimination.* No policy or practice of a recipient to which § 101–4.225 applies shall result in treatment of applicants to or students of such recipient in violation of §§ 101–4.300 through 101–4.310 unless such treatment is necessitated by an obstacle identified in paragraph (b)(3) of this section and a schedule for eliminating that obstacle has been provided as required by paragraph (b)(4) of this section.

(d) *Effects of past exclusion.* To overcome the effects of past exclusion of students on the basis of sex, each educational institution to which § 101–4.225 applies shall include in its transition plan, and shall implement, specific steps designed to encourage individuals of the previously excluded sex to apply for admission to such institution. Such steps shall include instituting recruitment programs that emphasize the institution's commitment to enrolling students of the sex previously excluded.

§ 101–4.235 Statutory amendments.

(a) This section, which applies to all provisions of these Title IX regulations, addresses statutory amendments to Title IX.

(b) These Title IX regulations shall not apply to or preclude:

(1) Any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference;

(2) Any program or activity of a secondary school or educational institution specifically for:

(i) The promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

(ii) The selection of students to attend any such conference;

(3) Father-son or mother-daughter activities at an educational institution or in an education program or activity, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided to students of the other sex;

(4) Any scholarship or other financial assistance awarded by an institution of higher education to an individual because such individual has received such award in a single-sex pageant based upon a combination of factors related to the individual's personal appearance, poise, and talent. The pageant, however, must comply with other nondiscrimination provisions of Federal law.

(c) *Program or activity* or *program* means:

(1) All of the operations of any entity described in paragraphs (c)(1)(i) through (iv) of this section, any part of which is extended Federal financial assistance:

(i)(A) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(ii)(A) A college, university, or other postsecondary institution, or a public system of higher education; or

(B) A local educational agency (as defined in section 8801 of title 20), system of vocational education, or other school system;

(iii)(A) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(*1*) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(*2*) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(iv) Any other entity that is established by two or more of the entities described in paragraphs (c)(1)(i), (ii), or (iii) of this section.

(2)(i) *Program or activity* does not include any operation of an entity that is controlled by a religious organization if the application of 20 U.S.C. 1681 to such operation would not be consistent with the religious tenets of such organization.

(ii) For example, all of the operations of a college, university, or other postsecondary institution, including but not limited to traditional educational operations, faculty and student housing, campus shuttle bus service, campus restaurants, the bookstore, and other commercial activities are part of a ''program or activity'' subject to these Title IX regulations if the college, university, or other institution receives Federal financial assistance.

(d)(1) Nothing in these Title IX regulations shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to an abortion. Medical procedures, benefits, services, and the use of facilities, necessary to save the life of a pregnant woman or to address complications related to an abortion are not subject to this section.

(2) Nothing in this section shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion. Accordingly, subject to paragraph (d)(1) of this section, no person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, employment, or other educational program or activity operated

by a recipient that receives Federal financial assistance because such individual has sought or received, or is seeking, a legal abortion, or any benefit or service related to a legal abortion.

Subpart C—Discrimination on the Basis of Sex in Admission and Recruitment Prohibited

§ 101–4.300 Admission.

(a) *General.* No person shall, on the basis of sex, be denied admission, or be subjected to discrimination in admission, by any recipient to which §§ 101–4.300 through 101–4.310 apply, except as provided in §§ 101–4.225 and 101–4.230.

(b) *Specific prohibitions.* (1) In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which §§ 101–4.300 through 101–4.310 apply shall not:

(i) Give preference to one person over another on the basis of sex, by ranking applicants separately on such basis, or otherwise;

(ii) Apply numerical limitations upon the number or proportion of persons of either sex who may be admitted; or

(iii) Otherwise treat one individual differently from another on the basis of sex.

(2) A recipient shall not administer or operate any test or other criterion for admission that has a disproportionately adverse effect on persons on the basis of sex unless the use of such test or criterion is shown to predict validly success in the education program or activity in question and alternative tests or criteria that do not have such a disproportionately adverse effect are shown to be unavailable.

(c) *Prohibitions relating to marital or parental status.* In determining whether a person satisfies any policy or criterion for admission, or in making any offer of admission, a recipient to which §§ 101–4.300 through 101–4.310 apply:

(1) Shall not apply any rule concerning the actual or potential parental, family, or marital status of a student or applicant that treats persons differently on the basis of sex;

(2) Shall not discriminate against or exclude any person on the basis of pregnancy, childbirth, termination of pregnancy, or recovery therefrom, or establish or follow any rule or practice that so discriminates or excludes;

(3) Subject to § 101–4.235(d), shall treat disabilities related to pregnancy, childbirth, termination of pregnancy, or recovery therefrom in the same manner and under the same policies as any other temporary disability or physical condition; and

(4) Shall not make pre-admission inquiry as to the marital status of an applicant for admission, including whether such applicant is ''Miss'' or ''Mrs.'' A recipient may make pre-admission inquiry as to the sex of an applicant for admission, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by these Title IX regulations.

§ 101–4.305 Preference in admission.

A recipient to which §§ 101–4.300 through 101–4.310 apply shall not give preference to applicants for admission, on the basis of attendance at any educational institution or other school or entity that admits as students only or predominantly members of one sex, if the giving of such preference has the effect of discriminating on the basis of sex in violation of §§ 101–4.300 through 101–4.310.

§ 101–4.310 Recruitment.

(a) *Nondiscriminatory recruitment.* A recipient to which §§ 101–4.300 through 101–4.310 apply shall not discriminate on the basis of sex in the recruitment and admission of students. A recipient may be required to undertake additional recruitment efforts for one sex as remedial action pursuant to § 101–4.110(a), and may choose to undertake such efforts as affirmative action pursuant to § 101–4.110(b).

(b) *Recruitment at certain institutions.* A recipient to which §§ 101–4.300 through 101–4.310 apply shall not recruit primarily or exclusively at educational institutions, schools, or entities that admit as students only or predominantly members of one sex, if such actions have the effect of discriminating on the basis of sex in violation of §§ 101–4.300 through 101–4.310.

Subpart D—Discrimination on the Basis of Sex in Education Programs or Activities Prohibited

§ 101–4.400 Education programs or activities.

(a) *General.* Except as provided elsewhere in these Title IX regulations, no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient that receives Federal financial assistance. Sections 101–4.400 through 101–4.455 do not apply to actions of a recipient in connection with admission of its students to an education program or activity of a recipient to which §§ 101–4.300 through 101–4.310 do not apply, or an entity, not a recipient, to which §§ 101–4.300 through 101–4.310 would not apply if the entity were a recipient.

(b) *Specific prohibitions.* Except as provided in §§ 101–4.400 through 101–4.455, in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex:

(1) Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;

(2) Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;

(3) Deny any person any such aid, benefit, or service;

(4) Subject any person to separate or different rules of behavior, sanctions, or other treatment;

(5) Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state fees and tuition;

(6) Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person that discriminates on the basis of sex in providing any aid, benefit, or service to students or employees;

(7) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

(c) *Assistance administered by a recipient educational institution to study at a foreign institution.* A recipient educational institution may administer or assist in the administration of scholarships, fellowships, or other awards established by foreign or domestic wills, trusts, or similar legal instruments, or by acts of foreign governments and restricted to members of one sex, that are designed to provide opportunities to study abroad, and that are awarded to students who are already matriculating at or who are graduates of the recipient institution; *Provided,* that a recipient educational institution that administers or assists in the administration of such scholarships, fellowships, or other awards that are restricted to members of one sex provides, or otherwise makes available, reasonable opportunities for similar studies for members of the other sex. Such opportunities may be derived from either domestic or foreign sources.

(d) *Aids, benefits or services not provided by recipient.* (1) This paragraph (d) applies to any recipient that requires participation by any applicant, student, or employee in any education program or activity not operated wholly by such recipient, or that facilitates, permits, or considers such participation as part of or equivalent to an education program or activity operated by such recipient, including participation in educational consortia and cooperative employment and student-teaching assignments.

(2) Such recipient:

(i) Shall develop and implement a procedure designed to assure itself that the operator or sponsor of such other education program or activity takes no action affecting any applicant, student, or employee of such recipient that these Title IX regulations would prohibit such recipient from taking; and

(ii) Shall not facilitate, require, permit, or consider such participation if such action occurs.

§ 101–4.405 Housing.

(a) *Generally.* A recipient shall not, on the basis of sex, apply different rules or regulations, impose different fees or requirements, or offer different services or benefits related to housing,

except as provided in this section (including housing provided only to married students).

(b) *Housing provided by recipient.* (1) A recipient may provide separate housing on the basis of sex.

(2) Housing provided by a recipient to students of one sex, when compared to that provided to students of the other sex, shall be as a whole:

(i) Proportionate in quantity to the number of students of that sex applying for such housing; and

(ii) Comparable in quality and cost to the student.

(c) *Other housing.* (1) A recipient shall not, on the basis of sex, administer different policies or practices concerning occupancy by its students of housing other than that provided by such recipient.

(2)(i) A recipient which, through solicitation, listing, approval of housing, or otherwise, assists any agency, organization, or person in making housing available to any of its students, shall take such reasonable action as may be necessary to assure itself that such housing as is provided to students of one sex, when compared to that provided to students of the other sex, is as a whole:

(A) Proportionate in quantity; and

(B) Comparable in quality and cost to the student.

(ii) A recipient may render such assistance to any agency, organization, or person that provides all or part of such housing to students of only one sex.

§ 101–4.410 Comparable facilities.

A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex.

§ 101–4.415 Access to course offerings.

(a) A recipient shall not provide any course or otherwise carry out any of its education program or activity separately on the basis of sex, or require or refuse participation therein by any of its students on such basis, including health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses.

(b)(1) With respect to classes and activities in physical education at the elementary school level, the recipient shall comply fully with this section as expeditiously as possible but in no event later than one year from September 29, 2000. With respect to physical education classes and activities at the secondary and post-secondary levels, the recipient shall comply fully with this section as expeditiously as possible but in no event later than three years from September 29, 2000.

(2) This section does not prohibit grouping of students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.

(3) This section does not prohibit separation of students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.

(4) Where use of a single standard of measuring skill or progress in a physical education class has an adverse effect on members of one sex, the recipient shall use appropriate standards that do not have such effect.

(5) Portions of classes in elementary and secondary schools, or portions of education programs or activities, that deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.

(6) Recipients may make requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex.

§ 101–4.420 Access to schools operated by LEAs.

A recipient that is a local educational agency shall not, on the basis of sex, exclude any person from admission to:

(a) Any institution of vocational education operated by such recipient; or

(b) Any other school or educational unit operated by such recipient, unless such recipient otherwise makes available to such person, pursuant to the same policies and criteria of admission,

courses, services, and facilities comparable to each course, service, and facility offered in or through such schools.

§ 101–4.425 Counseling and use of appraisal and counseling materials.

(a) *Counseling.* A recipient shall not discriminate against any person on the basis of sex in the counseling or guidance of students or applicants for admission.

(b) *Use of appraisal and counseling materials.* A recipient that uses testing or other materials for appraising or counseling students shall not use different materials for students on the basis of their sex or use materials that permit or require different treatment of students on such basis unless such different materials cover the same occupations and interest areas and the use of such different materials is shown to be essential to eliminate sex bias. Recipients shall develop and use internal procedures for ensuring that such materials do not discriminate on the basis of sex. Where the use of a counseling test or other instrument results in a substantially disproportionate number of members of one sex in any particular course of study or classification, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination in the instrument or its application.

(c) *Disproportion in classes.* Where a recipient finds that a particular class contains a substantially disproportionate number of individuals of one sex, the recipient shall take such action as is necessary to assure itself that such disproportion is not the result of discrimination on the basis of sex in counseling or appraisal materials or by counselors.

§ 101–4.430 Financial assistance.

(a) *General.* Except as provided in paragraphs (b) and (c) of this section, in providing financial assistance to any of its students, a recipient shall not:

(1) On the basis of sex, provide different amounts or types of such assistance, limit eligibility for such assistance that is of any particular type or source, apply different criteria, or otherwise discriminate;

(2) Through solicitation, listing, approval, provision of facilities, or other services, assist any foundation, trust, agency, organization, or person that provides assistance to any of such recipient's students in a manner that discriminates on the basis of sex; or

(3) Apply any rule or assist in application of any rule concerning eligibility for such assistance that treats persons of one sex differently from persons of the other sex with regard to marital or parental status.

(b) *Financial aid established by certain legal instruments.* (1) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established pursuant to domestic or foreign wills, trusts, bequests, or similar legal instruments or by acts of a foreign government that require that awards be made to members of a particular sex specified therein; *Provided,* that the overall effect of the award of such sex-restricted scholarships, fellowships, and other forms of financial assistance does not discriminate on the basis of sex.

(2) To ensure nondiscriminatory awards of assistance as required in paragraph (b)(1) of this section, recipients shall develop and use procedures under which:

(i) Students are selected for award of financial assistance on the basis of nondiscriminatory criteria and not on the basis of availability of funds restricted to members of a particular sex;

(ii) An appropriate sex-restricted scholarship, fellowship, or other form of financial assistance is allocated to each student selected under paragraph (b)(2)(i) of this section; and

(iii) No student is denied the award for which he or she was selected under paragraph (b)(2)(i) of this section because of the absence of a scholarship, fellowship, or other form of financial assistance designated for a member of that student's sex.

(c) *Athletic scholarships.* (1) To the extent that a recipient awards athletic scholarships or grants-in-aid, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics.

(2) A recipient may provide separate athletic scholarships or grants-in-aid for members of each sex as part of separate athletic teams for members of each sex to the extent consistent with this paragraph (c) and § 101–4.450.

§ 101–4.435 Employment assistance to students.

(a) *Assistance by recipient in making available outside employment.* A recipient that assists any agency, organization, or person in making employment available to any of its students:

(1) Shall assure itself that such employment is made available without discrimination on the basis of sex; and

(2) Shall not render such services to any agency, organization, or person that discriminates on the basis of sex in its employment practices.

(b) *Employment of students by recipients.* A recipient that employs any of its students shall not do so in a manner that violates §§ 101–4.500 through 101–4.550.

§ 101–4.440 Health and insurance benefits and services.

Subject to § 101–4.235(d), in providing a medical, hospital, accident, or life insurance benefit, service, policy, or plan to any of its students, a recipient shall not discriminate on the basis of sex, or provide such benefit, service, policy, or plan in a manner that would violate §§ 101–4.500 through 101–4.550 if it were provided to employees of the recipient. This section shall not prohibit a recipient from providing any benefit or service that may be used by a different proportion of students of one sex than of the other, including family planning services. However, any recipient that provides full coverage health service shall provide gynecological care.

§ 101–4.445 Marital or parental status.

(a) *Status generally.* A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex.

(b) *Pregnancy and related conditions.* (1) A recipient shall not discriminate against any student, or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the program or activity of the recipient.

(2) A recipient may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation as long as such a certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

(3) A recipient that operates a portion of its education program or activity separately for pregnant students, admittance to which is completely voluntary on the part of the student as provided in paragraph (b)(1) of this section, shall ensure that the separate portion is comparable to that offered to non-pregnant students.

(4) Subject to § 101–4.235(d), a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability with respect to any medical or hospital benefit, service, plan, or policy that such recipient administers, operates, offers, or participates in with respect to students admitted to the recipient's educational program or activity.

(5) In the case of a recipient that does not maintain a leave policy for its students, or in the case of a student who does not otherwise qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom as a justification for a leave of absence for as long a period of time as is deemed medically necessary by the student's physician, at the conclusion of which the student shall be reinstated to the status that she held when the leave began.

§ 101–4.450 Athletics.

(a) *General.* No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person, or otherwise be discriminated

against in any interscholastic, intercollegiate, club, or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.

(b) *Separate teams.* Notwithstanding the requirements of paragraph (a) of this section, a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try out for the team offered unless the sport involved is a contact sport. For the purposes of these Title IX regulations, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.

(c) *Equal opportunity.* (1) A recipient that operates or sponsors interscholastic, intercollegiate, club, or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available, the designated agency official will consider, among other factors:

(i) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;

(ii) The provision of equipment and supplies;

(iii) Scheduling of games and practice time;

(iv) Travel and per diem allowance;

(v) Opportunity to receive coaching and academic tutoring;

(vi) Assignment and compensation of coaches and tutors;

(vii) Provision of locker rooms, practice, and competitive facilities;

(viii) Provision of medical and training facilities and services;

(ix) Provision of housing and dining facilities and services;

(x) Publicity.

(2) For purposes of paragraph (c)(1) of this section, unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if a recipient operates or sponsors separate teams will not constitute noncompliance with this section, but the designated agency official may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

(d) *Adjustment period.* A recipient that operates or sponsors interscholastic, intercollegiate, club, or intramural athletics at the elementary school level shall comply fully with this section as expeditiously as possible but in no event later than one year from September 29, 2000. A recipient that operates or sponsors interscholastic, intercollegiate, club, or intramural athletics at the secondary or postsecondary school level shall comply fully with this section as expeditiously as possible but in no event later than three years from September 29, 2000.

§ 101–4.455 Textbooks and curricular material.

Nothing in these Title IX regulations shall be interpreted as requiring or prohibiting or abridging in any way the use of particular textbooks or curricular materials.

Subpart E—Discrimination on the Basis of Sex in Employment in Education Programs or Activities Prohibited

§ 101–4.500 Employment.

(a) *General.* (1) No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in employment, or recruitment, consideration, or selection therefor, whether full-time or part-time, under any education program or activity operated by a recipient that receives Federal financial assistance.

(2) A recipient shall make all employment decisions in any education program or activity operated by such recipient in a nondiscriminatory manner and shall not limit, segregate, or classify applicants or employees in any way that could adversely affect any applicant's or employee's employment opportunities or status because of sex.

(3) A recipient shall not enter into any contractual or other relationship which directly or indirectly has the effect of subjecting employees or students to discrimination prohibited by §§ 101–4.500 through 101–4.550, including relationships with employment and referral agencies, with labor unions, and with organizations providing or administering fringe benefits to employees of the recipient.

(4) A recipient shall not grant preferences to applicants for employment on the basis of attendance at any educational institution or entity that admits as students only or predominantly members of one sex, if the giving of such preferences has the effect of discriminating on the basis of sex in violation of these Title IX regulations.

(b) *Application.* The provisions of §§ 101–4.500 through 101–4.550 apply to:

(1) Recruitment, advertising, and the process of application for employment;

(2) Hiring, upgrading, promotion, consideration for and award of tenure, demotion, transfer, layoff, termination, application of nepotism policies, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation, and changes in compensation;

(4) Job assignments, classifications, and structure, including position descriptions, lines of progression, and seniority lists;

(5) The terms of any collective bargaining agreement;

(6) Granting and return from leaves of absence, leave for pregnancy, childbirth, false pregnancy, termination of pregnancy, leave for persons of either sex to care for children or dependents, or any other leave;

(7) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(8) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, selection for tuition assistance, selection for sabbaticals and leaves of absence to pursue training;

(9) Employer-sponsored activities, including social or recreational programs; and

(10) Any other term, condition, or privilege of employment.

§ 101–4.505 Employment criteria.

A recipient shall not administer or operate any test or other criterion for any employment opportunity that has a disproportionately adverse effect on persons on the basis of sex unless:

(a) Use of such test or other criterion is shown to predict validly successful performance in the position in question; and

(b) Alternative tests or criteria for such purpose, which do not have such disproportionately adverse effect, are shown to be unavailable.

§ 101–4.510 Recruitment.

(a) *Nondiscriminatory recruitment and hiring.* A recipient shall not discriminate on the basis of sex in the recruitment and hiring of employees. Where a recipient has been found to be presently discriminating on the basis of sex in the recruitment or hiring of employees, or has been found to have so discriminated in the past, the recipient shall recruit members of the sex so discriminated against so as to overcome the effects of such past or present discrimination.

(b) *Recruitment patterns.* A recipient shall not recruit primarily or exclusively at entities that furnish as applicants only or predominantly members of one sex if such actions have the effect of discriminating on the basis of sex in violation of §§ 101–4.500 through 101–4.550.

§ 101–4.515 Compensation.

A recipient shall not make or enforce any policy or practice that, on the basis of sex:

(a) Makes distinctions in rates of pay or other compensation;

(b) Results in the payment of wages to employees of one sex at a rate less than that paid to employees of the opposite sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and that are performed under similar working conditions.

§ 101–4.520 Job classification and structure.

A recipient shall not:

(a) Classify a job as being for males or for females;

(b) Maintain or establish separate lines of progression, seniority lists, career ladders, or tenure systems based on sex; or

(c) Maintain or establish separate lines of progression, seniority systems, career ladders, or tenure systems for similar jobs, position descriptions, or job requirements that classify persons on the basis of sex, unless sex is a bona fide occupational qualification for the positions in question as set forth in § 101–4.550.

§ 101–4.525 Fringe benefits.

(a) *''Fringe benefits'' defined.* For purposes of these Title IX regulations, *fringe benefits* means: Any medical, hospital, accident, life insurance, or retirement benefit, service, policy or plan, any profit-sharing or bonus plan, leave, and any other benefit or service of employment not subject to the provision of § 101–4.515.

(b) *Prohibitions.* A recipient shall not:

(1) Discriminate on the basis of sex with regard to making fringe benefits available to employees or make fringe benefits available to spouses, families, or dependents of employees differently upon the basis of the employee's sex;

(2) Administer, operate, offer, or participate in a fringe benefit plan that does not provide for equal periodic benefits for members of each sex and for equal contributions to the plan by such recipient for members of each sex; or

(3) Administer, operate, offer, or participate in a pension or retirement plan that establishes different optional or compulsory retirement ages based on sex or that otherwise discriminates in benefits on the basis of sex.

§ 101–4.530 Marital or parental status.

(a) *General.* A recipient shall not apply any policy or take any employment action:

(1) Concerning the potential marital, parental, or family status of an employee or applicant for employment that treats persons differently on the basis of sex; or

(2) Which is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.

(b) *Pregnancy.* A recipient shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.

(c) *Pregnancy as a temporary disability.* Subject to § 101–4.235(d), a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, recovery therefrom, and any temporary disability resulting therefrom as any other temporary disability for all job-related purposes, including commencement, duration, and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, and under any fringe benefit offered to employees by virtue of employment.

(d) *Pregnancy leave.* In the case of a recipient that does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom as a justification for a leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status that she held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

§ 101–4.535 Effect of state or local law or other requirements.

(a) *Prohibitory requirements.* The obligation to comply with §§ 101–4.500 through 101–4.550 is not obviated or alleviated by the existence of any State or local law or other requirement that imposes prohibitions or limits upon employment of members of one sex that are not imposed upon members of the other sex.

(b) *Benefits.* A recipient that provides any compensation, service, or benefit to members of one sex pursuant to a State or local law or other requirement shall provide the same compensation,

service, or benefit to members of the other sex.

§ 101–4.540 Advertising.

A recipient shall not in any advertising related to employment indicate preference, limitation, specification, or discrimination based on sex unless sex is a bona fide occupational qualification for the particular job in question.

§ 101–4.545 Pre-employment inquiries.

(a) *Marital status.* A recipient shall not make pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is ''Miss'' or ''Mrs.''

(b) *Sex.* A recipient may make pre-employment inquiry as to the sex of an applicant for employment, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by these Title IX regulations.

§ 101–4.550 Sex as a bona fide occupational qualification.

A recipient may take action otherwise prohibited by §§ 101–4.500 through 101–4.550 provided it is shown that sex is a bona fide occupational qualification for that action, such that consideration of sex with regard to such action is essential to successful operation of the employment function concerned. A recipient shall not take action pursuant to this section that is based upon alleged comparative employment characteristics or stereotyped characterizations of one or the other sex, or upon preference based on sex of the recipient, employees, students, or other persons, but nothing contained in this section shall prevent a recipient from considering an employee's sex in relation to employment in a locker room or toilet facility used only by members of one sex.

Subpart F—Procedures

§ 101–4.600 Notice of covered programs.

Within 60 days of September 29, 2000, each Federal agency that awards Federal financial assistance shall publish in the FEDERAL REGISTER a notice of the programs covered by these Title IX regulations. Each such Federal agency shall periodically republish the notice of covered programs to reflect changes in covered programs. Copies of this notice also shall be made available upon request to the Federal agency's office that enforces Title IX.

§ 101–4.605 Enforcement procedures.

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (''Title VI'') are hereby adopted and applied to these Title IX regulations. These procedures may be found at 41 CFR part 101–6, subpart 101–6.2.

PART 101–5—CENTRALIZED SERVICES IN FEDERAL BUILDINGS AND COMPLEXES

Sec.

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Subpart 101–5.49—Forms, Reports, and Instructions

101–5.4900 Scope of subpart.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 101–5.000 Scope of part.

This part prescribes the methods by which the General Services Administration provides for establishment of centralized services in Federal buildings or complexes occupied by a number of executive agencies.

[56 FR 33873, July 24, 1991]

Subpart 101–5.1—General

SOURCE: 30 FR 4199, Mar. 31, 1965, unless otherwise noted.

§ 101–5.100 Scope of subpart.

This subpart states general policies, guidelines, and procedures for establishing centralized services in multi-occupant Federal buildings.

[42 FR 35853, July 12, 1977]

§ 101–5.101 Applicability.

The regulations in this part apply to all executive agencies which occupy space in or are prospective occupants of multi-occupant Federal buildings located in the United States. In appropriate circumstances, the centralized services provided pursuant to this part are extended to agencies occupying other Federal buildings in the same geographical area. For purposes of this part, reference to Federal buildings may be deemed to include, when appropriate, leased buildings or specific leased space in a commercial building under the control of GSA.

[56 FR 33873, July 24, 1991]

§ 101–5.102 Definitions.

(a) *Centralized services* means those central supporting and administrative services and facilities provided to occupying agencies in Federal buildings or nearby locations in lieu of each agency providing the same services or facilities for its own use. This includes those common administrative services provided by a Cooperative Administrative Support Unit (CASU). It does not include such common building features as cafeterias, blind stands, loading platforms, auditoriums, incinerators, or similar facilities. Excluded are interagency fleet management centers established pursuant to Public Law 766, 83d Congress, and covered by part 101–39 of this chapter.

(b) *Occupying agency* means any Federal agency assigned space in a building or complex for which GSA has oversight of, or responsibility for the functions of operation and maintenance in addition to space assignment.

(c) *Cooperative Administrative Support Unit (CASU)* means an organized mechanism for providing administrative services for agencies in multi-tenant federally occupied buildings.

[56 FR 33873, July 24, 1991]

§ 101–5.103 Policy.

To the extent practicable, GSA will provide or arrange for the provision of centralized services whenever such services insure increased efficiency and economy to the Government without hampering program activities or essential internal administration of the agencies to be served.

§ 101–5.104 Economic feasibility of centralized services.

§ 101–5.104–1 General.

GSA is currently providing various centralized services to Federal agencies in such fields as office and storage space, supplies and materials, communications, records management, transportation services, and printing and reprographics. Other centralized CASU's may be providing supporting services or activities such as health units, use of training devices and facilities, pistol ranges, and central facilities for receipt and dispatch of mail. Consolidation and sharing is frequently feasible with resulting economies in personnel, equipment, and space. Opportunities to effect economies through planned consolidation of such services occur particularly during the design stage of the construction of new Federal buildings, or the renovations to existing buildings. Opportunities may also occur as a result of needs

assessments jointly conducted by local agencies.

[56 FR 33873, July 24, 1991]

§ 101–5.104–2 Basis for determining economic feasibility.

(a) Whenever possible, determination of the economic feasibility of a proposed centralized service shall be based upon standard data on the relationship of the size of the Federal building, the number of occupants, location, and other factors pertinent to the type of centralized service being considered.

(b) In the absence of standard data on which a determination of economic feasibility can be based, or where such data must be supplemented by additional factual information, a formal feasibility study may be made by GSA or a CASU workgroup, in coordination with local agencies to be involved, prior to a final determination to proceed with the furnishing of a centralized service. Generally, a formal feasibility study will be made only if provision of the proposed centralized service would involve the pooling of staff, equipment, and space which occupying agencies otherwise would be required to use in providing the service for themselves. Examples of centralized services which may require formal studies include printing and duplicating plants and similar facilities.

(c) On the basis of experience under the centralized services program, GSA will develop criteria as to cost comparisons, production needs, building population, number of agencies involved, and other appropriate factors for consideration in determining the practicability of establishing various types of centralized services.

[30 FR 4199, Mar. 31, 1965, as amended at 56 FR 33874, July 24, 1991]

§ 101–5.104–3 Data requirements for feasibility studies.

(a) The data requirements for feasibility studies may vary from program to program, but shall be standard within any single program. Such data shall disclose the costs resulting from provisions of the service on a centralized basis as compared to the same service provided separately by each occupying agency, including the costs of personnel assigned to provide the service, comparative space needs, equipment use, and any other pertinent factors.

(b) Wherever feasible and appropriate, data will be secured directly from the prospective occupying agencies, subject to necessary verification procedures. Suitable standard formats and necessary instructions for submission of data will be prescribed in applicable subchapters of chapter 101.

(c) Agencies required to submit data for a feasibility study will be furnished with copies of the prescribed reporting forms and such assistance as may be needed to assure their accurate and timely completion.

[30 FR 4199, Mar. 31, 1965, as amended at 56 FR 33874, July 24, 1991]

§ 101–5.104–4 Scheduling feasibility studies.

The schedule of feasibility studies will be coordinated by GSA with its construction, space management, and buildings management programs. Before initiating the study, the Administrator of General Services, or his authorized designee, will give at least 30 days' notice to the head of each agency that would be served by the proposed centralized facility. Such notice will contain an indication of the cost elements involved and the general procedures to be followed in the study.

§ 101–5.104–5 Designating agency representatives.

The head of each agency receiving a GSA notice regarding a scheduled feasibility study will be requested to designate one or more officials at the location where the study will be made who may consult with authorized GSA representatives. Such information and assistance as is required or pertinent for an adequate review of the feasibility of the proposed centralized service shall be made available to GSA through the designated agency representatives.

§ 101–5.104–6 Conduct of feasibility studies.

An initial meeting of the representatives of prospective occupying agencies will be held to discuss the objectives and detailed procedures to be followed in the conduct of each feasibility

study. Arrangements will be made at this meeting for securing all necessary data in accordance with § 101–5.104–3.

§ 101–5.104–7 Administrator's determination.

(a) The Administrator of General Services will determine, on the basis of the feasibility study, whether provision of a centralized service meets the criteria for increased economy, efficiency, and service, with due regard to the program and internal administrative requirements of the agencies to be served. The Director of the Office of Management and Budget and the head of each agency affected will be advised of the Administrator's determination and of the reasons therefor. Each determination to provide a centralized service shall include a formal report containing an explanation of the advantages to be gained, a comparison of estimated annual costs between the proposed centralized operation and separate agency operations, and a statement of the date the centralized facility will be fully operational.

(b) While a formal appeals procedure is not prescribed, any agency desiring to explain its inability to participate in the use of a centralized service may do so through a letter to the Director of the Office of Management and Budget, with a copy to the Administrator of General Services.

[42 FR 35853, July 12, 1977]

§ 101–5.105 Operation of the centralized facility.

(a) GSA will continually appraise the operation of centralized facilities to insure their continued justification in terms of economy and efficiency. Centralized services provided pursuant to the regulation may be discontinued or curtailed if no actual savings or operating improvements are realized after a minimum operating period of one year. Occupying agencies will be consulted regarding the timing of curtailment or discontinuance of any centralized services and the heads of such agencies notified at least 120 days in advance of each action.

(b) Where mutual agreement is reached, an agency other than GSA may be designated by the Administrator of General Services to administer the centralized service.

(c) Arrangements with regard to financing will conform to the special requirements of each type of centralized service and to existing law. Normally, reimbursement will be made for the use of established services except where the cost is nominal or where reimbursement may not be practicable.

[30 FR 4199, Mar. 31, 1965, as amended at 56 FR 33874, July 24, 1991]

§ 101–5.106 Agency committees.

(a) *Establishment.* An occupying agency committee will be established by GSA if one does not exist, to assist the occupying agency, or such other agency as may be responsible, in the cooperative use of the centralized services, as defined in 101–5.102(a), provided in a Federal building. Generally, such a committee will be established when the problems of administration and coordination necessitate a formal method of consultation and discussion among occupying agencies.

(b) *Membership.* Each occupying agency of a Federal building is entitled to membership on an agency committee. The chairperson of each such committee shall be a GSA employee designated by the appropriate GSA Regional Administrator, except when another agency had been designated to administer the centralized service. In this instance, the chairperson shall be an employee of such other agency as designated by competent authority within that agency.

(c) *Activities.* Agency committees shall be advisory in nature and shall be concerned with the effectiveness of centralized services in the building. Recommendations of an agency committee will be forwarded by the chairman to the appropriate GSA officials for consideration and decision.

(d) *Reports.* A résumé of the minutes of each meeting of an agency committee shall be furnished to each member of the committee and to the appropriate GSA Regional Administrator.

[30 FR 4199, Mar. 31, 1965, as amended at 56 FR 33874, July 24, 1991]

Subpart 101–5.2 [Reserved]

Subpart 101–5.3—Federal Employee Health Services

AUTHORITY: Chapter 865, 60 Stat. 903; 5 U.S.C. 7901.

SOURCE: 30 FR 12883, Oct. 9, 1965, unless otherwise noted.

§ 101–5.300 Scope of subpart.

This subpart 101–5.3 states the objective, guiding principles, criteria, and general procedures in connection with the establishment and operation of Federal employee health services in buildings managed by GSA.

§ 101–5.301 Applicability.

This subpart 101–5.3 is applicable to all Federal agencies which occupy space in or are prospective occupying agencies of a building or group of adjoining buildings managed by GSA.

§ 101–5.302 Objective.

It is the objective of GSA to provide or arrange for appropriate health service programs in all Government-owned and leased buildings, or groups of adjoining buildings, which it manages where the building population warrants, where other Federal medical facilities are not available, and, where the number of the occupying agencies indicating a willingness to participate in such a program on a reimbursable basis makes it financially feasible.

§ 101–5.303 Guiding principles.

The following principles will control the scope of the health services to be provided in keeping with the objective:

(a) Employees who work in groups of 300 or more, counting employees of all departments or agencies who are scheduled to be on duty at one time in the same building or group of buildings in the same locality will constitute the minimum number of employees required to warrant the establishment of a health service of a scope specified in § 101–5.304.

(b) As an exception to paragraph (a) of this section, health services of the scope specified in § 101–5.304 may be provided for employees who work in groups of less than 300 where the employing department or agency determines that working conditions involving unusual health risks warrant such provision.

(c) Treatment and medical care in performance-of-duty cases will be provided to employees as set forth in the Federal Employees' Compensation Act (5 U.S.C. 751 *et seq.*).

(d) Reimbursable costs for providing health services will be based on an operating budget which is a summary of all costs required to operate the health service. The reimbursement cost is prorated to participating agencies by means of a per capital formula computed by dividing the operating budget of the health service by the total number of employees sponsored for service. The size of the Federal population served, the compensation of the employees of the health unit, and other factors of medical economics prevalent in the area are factors which affect the local reimbursement cost. Further, in appropriate cases where more than one health unit is servicing employees housed in the same general locality, costs may be equalized by combining the operating budgets of all such units and dividing the total of the operating budgets by the number of employees sponsored. Special industrial conditions or other abnormal health or accident risk environments may increase the per capita cost.

[30 FR 12883, Oct. 9, 1965, as amended at 35 FR 6651, Apr. 25, 1970]

§ 101–5.304 Type of occupational health services.

The type of occupational health services made available to occupying agencies will be as follows:

(a) Emergency diagnosis and first treatment of injury or illness that become necessary during working hours and that are within the competence of the professional staff and facilities of the health service unit, whether or not such injury was sustained by the employee while in the performance of duty or whether or not such illness was caused by his employment. In cases where the necessary first treatment is outside the competence of the health service staff and facilities, conveyance of the employee to a nearby physician or suitable community medical facility

may be provided at Government expense at the request of, or on behalf of, the employee.

(b) Preemployment examinations of persons selected for appointment.

(c) Such inservice examinations of employees as the participating agency determines to be necessary, such as voluntary employee health maintenance examinations which agencies may request for selected employees. Such examinations may be offered on a limited formula plan to all participating agencies when the resources of the health service staff and facilities will permit. Alternatively, when agencies are required to limit the cost of an occupational health services program, the provision of inservice examinations may be provided to selected employees of individual agencies and reimbursed on an individual basis.

(d) Administration, in the discretion of the responsible health service unit physician, of treatments and medications

(1) Furnished by the employee and prescribed in writing by his personal physician as reasonably necessary to maintain the employee at work, and

(2) Prescribed by a physician providing medical care in performance-of-duty injury or illness cases under the Federal Employees' Compensation Act.

(e) Preventive services within the competence of the professional staff

(1) To appraise and report work environment health hazards as an aid in preventing and controlling health risks;

(2) To provide health education to encourage employees to maintain personal health; and

(3) To provide specific disease screening examinations and immunizations.

(f) In addition, employees may be referred, upon their request, to private physicians, dentists, and other community health resources.

[30 FR 12883, Oct. 9, 1965, as amended at 35 FR 6651, Apr. 25, 1970]

§ 101–5.305 Agency participation.

At the time the space requirements for a building or a group of adjoining buildings are developed by GSA, the prospective occupying agencies will be canvassed by GSA to determine if they wish to participate in the occupational health services program. Each agency desiring to participate in the program will be requested to furnish GSA with a written commitment, signed by an authorized official, that it is prepared to reimburse GSA, or such other agency as is designated pursuant to § 101–5.105(b), on a yearly per capita basis for each of its employees housed in the building or buildings covered by the program.

§ 101–5.306 Economic feasibility.

(a) The studies by GSA which lead to the development of space requirements and the determinations made as the result thereof will constitute the feasibility studies and the Administrator's determination contemplated by § 101–5.104.

(b) Each determination to provide health services will be governed by the principles stated in § 101–5.303 and will be in consonance with the general standards and guidelines furnished Federal agencies by the Public Health Service of the Department of Health, Education, and Welfare.

§ 101–5.307 Public Health Service.

(a) The only authorized contact point for assistance of and consultation with the Public Health Service is the Federal Employee Health Programs, Division of Hospitals, Public Health Service, Washington, DC 20201. Other Federal agencies may be designated by the GSA Regional Administrator, pursuant to § 101–5.105(b) to operate occupational health services. Designated agencies should contact the Public Health Service directly on all matters dealing with the establishment and operation of these services.

(b) Public Health Service should be consulted by the designated agency on such matters as types, amounts, and approximate cost of necessary equipment; the scope of the services to be provided if it is affected by the amount of space and number of building occupants; types and amounts of supplies, materials, medicines, etc., which should be stocked; and the approximate cost of personnel staffing in cases where this method of operation is chosen, etc. PHS should also be asked to develop and monitor standards under

which each health unit would be operated.

Subparts 101–5.4—101–5.48 [Reserved]

Subpart 101–5.49—Forms, Reports, and Instructions

§ 101–5.4900 Scope of subpart.

This subpart contains forms, reports, and related instructions used in connection with the regulations on centralized services in Federal buildings prescribed in this part 101–5.

[30 FR 4359, Apr. 3, 1965]

PART 101–6—MISCELLANEOUS REGULATIONS

Sec.

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Subpart 101–6.2—Nondiscrimination in Programs Receiving Federal Financial Assistance

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101–6.215–2 Forms and instructions.
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101–6.216 Definitions.
101–6.217 Laws authorizing Federal financial assistance for programs to which this subpart applies.

Subpart 101–6.3—Ridesharing

101–6.300 Cross-reference to the Federal Management Regulation (FMR) 41 CFR chapter 102 parts 1 through 220.

Subpart 101–6.4—Official Use of Government Passenger Carriers Between Residence and Place of Employment

101–6.400 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

Subpart 101–6.5—Code of Ethics for Government Service

101–6.500 Scope of subpart.

Subpart 101–6.6—Fire Protection (Firesafety) Engineering

101–6.600 Cross-reference to the Federal Management Regulation (FMR) 41 CFR chapter 102 parts 1 through 220.

Subparts 101–6.7—101–6.9 [Reserved]

Subpart 101–6.10—Federal Advisory Committee Management

101–6.1001 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

Subparts 101–6.11—101–6.20 [Reserved]

Subpart 101–6.21—Intergovernmental Review of General Services Administration Programs and Activities

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Subpart 101–6.49—Illustrations

101–6.4900 Scope of subpart.
101–6.4901 [Reserved]
101–6.4902 Format of certification required for budget submissions of estimates of obligations in excess of $100,000 for acquisitions of real and related personal property.

AUTHORITY: 31 U.S.C. 1344(e)(1); 40 U.S.C. 486(c).

§ 101–6.000 Scope of part.

This part sets forth miscellaneous regulations regarding Federal Property Management Regulations matters which do not come within the scope of any other subchapter of chapter 101.

(5 U.S.C. 5724, and E.O. 11012, 27 FR 2983; 3 CFR, 1959–1963 Comp., p. 591)

[29 FR 15972, Dec. 1, 1964]

Subpart 101–6.1 [Reserved]

Subpart 101–6.2—Nondiscrimination in Programs Receiving Federal Financial Assistance

AUTHORITY: Sec. 602, 78 Stat. 252; 42 U.S.C. 2000d–1.

SOURCE: 29 FR 16287, Dec. 4, 1964, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 101–6 appear at 68 FR 51373, Aug. 26, 2003.

§ 101–6.201 Scope of subpart.

This subpart provides the regulations of the General Services Administration (GSA) under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d—2000d–7) concerning nondiscrimination in federally assisted programs in connection with which Federal financial assistance is extended under laws administered in whole or in part by GSA.

[38 FR 17973, July 5, 1973]

§ 101–6.202 Purpose.

The purpose of this subpart is to effectuate the provisions of title VI of the Civil Rights Act of 1964 (hereinafter referred to as the ''Act'') to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from GSA.

§ 101–6.203 Application of subpart.

(a) Subject to paragraph (b) of this section, this subpart applies to any program for which Federal financial assistance is authorized under a law administered in whole or in part by GSA, including the laws listed in § 101–6.217. It applies to money paid, property transferred, or other Federal financial assistance extended to any such program after the effective date

of this subpart pursuant to an application approved prior to such effective date. This subpart does not apply to (1) Any Federal financial assistance by way of insurance or guaranty contracts, (2) money paid, property transferred, or other assistance extended to any such program before the effective date of this subpart, except to the extent otherwise provided by contract, (3) any assistance to any individual who is the ultimate beneficiary under any such program, or (4) any employment practice, under any such program, of any employer, employment agency, or labor organization, except to the extent described in §101–6.204–2(d). The fact that a statute which authorizes GSA to extend Federal financial assistance to a program or activity is not listed in §101–6.217 shall not mean, if title VI of the Act is otherwise applicable, that such program is not covered. Other statutes now in force or hereinafter enacted may be added to this list by notice published in the FEDERAL REGISTER.

(b) The regulations issued by the following Departments pursuant to title VI of the Act shall be applicable to Federal financial assistance of the kind indicated, and those Departments shall respectively be responsible for determining and enforcing compliance therewith:

(1) Department of Health, Education, and Welfare—donation or transfer of surplus property for purposes of education or public health (§101–6.217 (a)(2) and (b)).

(2) Department of Defense—donation of surplus personal property for purposes of civil defense (§101–6.217(a)(2)).

(3) Department of Transportation—donation of property for public airport purposes (§101–6.217(c)). GSA will, however, be responsible for obtaining such assurances as may be required in applications and in instruments effecting the transfer of property.

(4) Department of the Interior—disposal of surplus real property, including improvements, for use as a public park, public recreational area, or historic monument (§101–6.217(d) (1) and (2)). GSA will, however, be responsible for obtaining such assurances as may be required in applications and in instruments effecting the transfer of property for use as a historic monument.

(5) Department of Housing and Urban Development—disposal of surplus real property for use in the provision of rental or cooperative housing to be occupied by families or individuals of low or moderate income (§101–6.217(q)).

(c) Each Department named in paragraph (b) of this section shall keep GSA advised of all compliance and enforcement actions, including sanctions imposed or removed, taken by it with respect to the types of Federal financial assistance specified in paragraph (b) of this section to which the regulations of such Department apply.

[38 FR 17973, July 5, 1973]

§101–6.204 Discrimination prohibited.

§101–6.204–1 General.

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this subpart applies.

§101–6.204–2 Specific discriminatory actions prohibited.

(a)(1) In connection with any program to which this subpart applies, a recipient may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:

(i) Deny an individual any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(v) Treat an individual differently from others in determining whether he satisfies any admission, enrollment,

quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vi) Deny an individual an opportunity to participate in the program through the provision of services or otherwise, or afford him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (d) of this § 101–6.204–2).

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin.

(3) In determining the site or location of facilities, an applicant or recipient may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this subpart applies, on the ground of race, color, or national origin or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this subpart.

(4) This subpart does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, a program or activity receiving Federal financial assistance, on the ground of race, color, or national origin. Where previous discriminatory practice or usage tends, on the ground of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this subpart applies, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act.

(b) As used in this § 101–6.204–2 the services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any service, financial aid, or other benefit provided in or through a facility provided with the aid of Federal financial assistance.

(c) The enumeration of specific forms of prohibited discrimination in this § 101–6.204–2 does not limit the generality of the pro hibition in § 101–6.204–1.

(d)(1) Where a primary objective of the Federal financial assistance to a program to which this subpart applies is to provide employment, a recipient may not, directly or through contractual or other arrangements, subject an individual to discrimination on the ground of race, color, or national origin in its employment practices under such program (including, but not limited to, recruitment or recruitment advertising; employment; layoff or termination; upgrading, demotion, or transfer; rates of pay or other forms of compensation; selection for training, including apprenticeship; and use of facilities). The requirements applicable to construction employment under any such program shall be those specified in or pursuant to part III of Executive Order 11246 or the corresponding provisions of any Executive order which supersedes it.

(2) Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the ground of race, color, or national origin in the employment practices of the recipient or other persons subject to this subpart tends, on the ground of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits

of, or to subject them to discrimination under any program to which this subpart applies, the provisions of paragraph (d)(1) of this section shall apply to the employment practices of the recipient or other persons subject to this subpart, to the extent necessary to insure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

[29 FR 16287, Dec. 4, 1964, as amended at 38 FR 17973, July 5, 1973]

§ 101–6.204–3 Special benefits.

An individual shall not be deemed subjected to discrimination by reason of his exclusion from benefits limited by Federal law to individuals of a particular race, color, or national origin different from his.

§ 101–6.205 Assurances required.

§ 101–6.205–1 General.

(a) Every application for Federal financial assistance to which this subpart 101–6.2 applies, except an application to which § 101–6.205–2 applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this subpart 101–6.2. In the case of an application for Federal financial assistance to provide real property or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. In the case of personal property, the assurance shall obligate the recipient for the period during which he retains ownership or possession of the property. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application. The responsible GSA official shall specify the form of the foregoing assurances and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(b) In the case of real property, structures or improvements thereon, or interests therein, which is acquired with Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved, but property is improved with Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by GSA to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible GSA official, such a condition and right of reverter is appropriate to the statute under which the real property is obtained and to the nature of the grant and the grantee. In such event, if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the Administrator may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to forebear the exercise of such right to revert title for so long as the lien of such mortgage or other encumberance remains effective.

(c) The assurance required in the case of a transfer of personal property shall

be inserted in the instrument effecting the transfer of the property.

(d) In the case of Federal financial assistance not involving a transfer of property, the assurance required shall be inserted in the agreement executed between the United States and the recipient covering the extension of Federal financial assistance.

[29 FR 16287, Dec. 4, 1964, as amended at 38 FR 17973, July 5, 1973]

§ 101–6.205–2 Continuing Federal financial assistance.

Every application by a State or a State agency for continuing Federal financial assistance to which this subpart applies shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application (a) contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this subpart, and (b) provide or be accompanied by provision for such methods of administration for the program as are found by the responsible GSA official to give reasonable assurance that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to this subpart.

[38 FR 17974, July 5, 1973]

§ 101–6.205–3 Elementary and secondary schools.

The requirements of §§ 101–6.205–1 and 101–6.205–2 with respect to any elementary or secondary school or school system shall be deemed to be satisfied if such school or school system (a) Is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, including any future modification of such order, or (b) submits a plan for the desegregation of such school or school system which the responsible official of the Department of Health, Education, and Welfare determines is adequate to accomplish the purposes of the Act and this subpart within the earliest practicable time, and provides reasonable assurance that it will carry out such plan. In any case of continuing Federal financial assistance such responsible official may reserve the right to redetermine, after such period as may be specified by him, the adequacy of the plan to accomplish the purposes of the Act and this subpart. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such final order, including any future modification of such order.

[38 FR 17974, July 5, 1973]

§ 101–6.205–4 Applicability of assurances.

(a) In the case of any application for Federal financial assistance to an institution of higher education, the assurance required by this § 101–6.205 shall extend to admission practices and to all other practices relating to the treatment of students.

(b) The assurance required with respect to an institution of higher education, hospital, or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students, patients, or clients of the institution or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution.

(c) Where an installation or facility (for example, a public airport, or park or recreation area) is comprised of real property for which application is made, and, in addition, other real property of the applicant, the assurance required under this § 101–6.205 shall be applicable to the entire installation or facility.

[29 FR 16287, Dec. 4, 1964, as amended at 68 FR 51373, Aug. 26, 2003]

§ 101–6.206 Illustrative applications.

The following examples will illustrate the application of the foregoing provisions of this subpart to certain programs for which Federal financial assistance is extended by GSA (in all cases the discrimination prohibited is discrimination on the ground of race,

color, or national origin, prohibited by title VI of the Act and this subpart):

(a) In the programs involving the transfer of surplus property for airport, park or recreation, historic monument, wildlife conservation, or street widening purposes (§ 101–6.217(c), (d), (e), and (h)), the public generally is entitled to the use of the facility and to receive the services provided by the facility and to facilities operated in connection therewith, without segregation or any other discriminatory practices.

(b) In the program involving the loan of machine tools to nonprofit institutions or training schools (§ 101–6.217(o)), discrimination by the recipient in the admission of students or trainees or in the treatment of its students or trainees in any aspect of the educational process is prohibited. In the case of an institution of higher education, the prohibition applies to the entire institution. In the case of elementary or secondary schools, the prohibition applies to all elementary and secondary schools of the recipient school district, consistent with § 101–6.205–3. In this and other illustrations the prohibition of discrimination in the treatment of students or trainees includes the prohibition of discrimination among the students or trainees in the availability or use of any academic, dormitory, eating, recreational, or other facilities of the recipient.

(c) In the programs involving the donation of personal property to public bodies or the American National Red Cross (§ 101–6.217 (f) and (j)), discrimination in the selection or treatment of individuals to receive or receiving the benefits or services of the program is prohibited.

(d) In the program involving the donation of personal property to eleemosynary institutions (§ 101–6.217(*1*)), the assurance will apply to applicants for admission, patients, interns, residents, student nurses, and other trainees, and to the privilege of physicians, dentists, and other professionally qualified persons to practice in the institution, and will apply to the entire institution and to facilities operated in connection therewith.

(e) In the programs involving the allotment of space by GSA to Federal Credit Unions, without charge for rent or services, and the provision of free space and utilities for vending stands operated by blind persons (§ 101–6.217 (i) and (k)), discrimination by segregation or otherwise in providing benefits or services is prohibited.

(f) In the program involving grants to State and local agencies and to nonprofit organizations and institutions for the collecting, describing, preserving, and compiling and publishing of documentary sources significant to the history of the United States (§ 101–6.217(n)), discrimination by the recipient in the selection of students or other participants in the program, and, with respect to educational institutions, in the admission or treatment of students, is prohibited.

(g) In the program involving the transfer of surplus real property for use in the provision of rental or cooperative housing to families or individuals of low or moderate income (§ 101–6.217(q)), discrimination in the selection and assignment of tenants is prohibited.

(h) A recipient may not take action that is calculated to bring about indirectly what this subpart forbids it to accomplish directly.

(i) In some situations even though past discriminatory practices have been abandoned, the consequences of such practices continue to impede the full availability of a benefit. If the efforts required of the applicant or recipient under § 101–6.209–4 to provide information as to the availability of the program or activity and the rights of beneficiaries under this subpart have failed to overcome these consequences, it will become necessary for such applicant or recipient to take additional steps to make the benefits fully available to racial and nationality groups previously subjected to discrimination. This action might take the form, for example, of special arrangements for obtaining referrals or making selections which will ensure that groups previously subjected to discrimination are adequately served.

(j) Even though an applicant or recipient has never used discriminatory policies, the services and benefits of the program or activity it administers may not in fact be equally available to some racial or nationality groups. In

such circumstances, an applicant or recipient may properly give special consideration to race, color, or national origin to make the benefits of its program more widely available to such groups not then being adequately served. For example, where a university is not adequately serving members of a particular racial or nationality group, it may establish special recruitment policies to make its program better known and more readily available to such group, and take other steps to provide that group with more adequate service.

[29 FR 16287, Dec. 4, 1964, as amended at 38 FR 17974, July 5, 1973]

§§ 101–6.207—101–6.208 [Reserved]

§ 101–6.209 Compliance information.

§ 101–6.209–1 Cooperation and assistance.

Each responsible GSA official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this subpart 101–6.2 and shall provide assistance and guidance to recipients to help them comply voluntarily with this subpart.

§ 101–6.209–2 Compliance reports.

Each recipient shall keep such records and submit to the responsible GSA official or his designee timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible GSA official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this subpart 101–6.2. In the case in which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this subpart.

§ 101–6.209–3 Access to sources of information.

Each recipient shall permit access by the responsible GSA official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this subpart. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

§ 101–6.209–4 Information to beneficiaries and participants.

Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this subpart 101–6.2 and its applicability to the program for which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible GSA official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this subpart 101–6.2.

§ 101–6.210 Conduct of investigations.

§ 101–6.210–1 Periodic compliance reviews.

The responsible GSA official or his designee shall from time to time review the practices of recipients to determine whether they are complying with this regulation.

§ 101–6.210–2 Complaints.

Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this subpart 101–6.2 may by himself or by a representative file with the responsible GSA official or his designee a written complaint. A complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible GSA official or his designee.

§ 101–6.210–3 Investigations.

The responsible GSA official or his designee will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to

comply with this subpart 101–6.2. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this subpart occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this subpart.

§ 101–6.210–4 Resolution of matters.

(a) If an investigation pursuant to § 101–6.210–3 indicates a failure to comply with this subpart 101–6.2, the responsible GSA official or his designee will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 101–6.211.

(b) If an investigation does not warrant action pursuant to paragraph (a) of this section the responsible GSA official or his designee will so inform the recipient and the complainant, if any, in writing.

§ 101–6.210–5 Intimidatory or retaliatory acts prohibited.

No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this subpart 101–6.2, or because he has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this subpart. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this subpart, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 101–6.211 Procedure for effecting compliance.

§ 101–6.211–1 General.

If there appears to be a failure or threatened failure to comply with this subpart 101–6.2, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this subpart may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to, (a) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (b) any applicable proceeding under State or local law.

§ 101–6.211–2 Noncompliance with § 101–6.205.

If an applicant fails or refuses to furnish an assurance required under § 101–6.205 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section Federal financial assistance may be refused in accordance with the procedures of § 101–6.211–3. The GSA shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under § 101–6.211–3 except that GSA shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the effective date of this subpart 101–6.2.

§ 101–6.211–3 Termination of or refusal to grant or to continue Federal financial assistance.

No order suspending, terminating or refusing to grant or continue Federal financial assistance shall become effective until (a) the responsible GSA official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (b) there has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this subpart 101–6.2, (c) the action has been approved by the Administrator pursuant to § 101–6.213–5, and (d) the expiration of 30 days after the Administrator has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report

of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

§ 101–6.211–4 Other means authorized by law.

No action to effect compliance by an other means authorized by law shall be taken until (a) the responsible GSA official has determined that compliance cannot be secured by voluntary means, (b) the recipient or other person has been notified of his failure to comply and of the action to be taken to effect compliance, and (c) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days, additional efforts shall be made to persuade the recipient or other person to comply with this subpart and to take such corrective action as may be appropriate.

[38 FR 17974, July 5, 1973]

§ 101–6.212 Hearings.

§ 101–6.212–1 Opportunity for hearing.

Whenever an opportunity for a hearing is required by § 101–6.211–3, reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either:

(a) Fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible GSA official that the matter be scheduled for hearing, or (b) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this section or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and § 101–6.211–3, and consent to the making of a decision on the basis of such information as is available.

(b) [Reserved]

§ 101–6.212–2 Time and place of hearing.

Hearings shall be held, at a time fixed by the responsible GSA official, at the offices of GSA in Washington, DC, unless such official determines that the convenience of the applicant or recipient or of GSA requires that another place be selected. Hearings shall be held before the responsible GSA official or, at his discretion, before a hearing examiner designated in accordance with 5 U.S.C. 3105 or 3344 (section 11 of the Administrative Procedure Act).

[38 FR 17974, July 5, 1973]

§ 101–6.212–3 Right to counsel.

In all proceedings under this § 101–6.212 the applicant or recipient and GSA shall have the right to be represented by counsel.

§ 101–6.212–4 Procedures, evidence, and record.

(a) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554–557 (sections 5–8 of the Administrative Procedure Act) and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in § 101–6.212–1, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both GSA and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(b) Technical rules of evidence shall not apply to hearings conducted pursuant to this subpart 101–6.2, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

[29 FR 16287, Dec. 4, 1964, as amended at 38 FR 17974, July 5, 1973]

§ 101–6.212–5 Consolidated or joint hearings.

In cases in which the same or related facts are asserted to constitute noncompliance with this subpart 101–6.2 with respect to two or more Federal statutes, authorities, or other means by which Federal financial assistance is extended and to which this subpart applies, or noncompliance with this subpart and the regulations of one or more other Federal departments or agencies issued under title VI of the Act, the Administrator may, by agreement with such other departments, or agencies, where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this regulation. Final decisions in such cases, insofar as this subpart is concerned, shall be made in accordance with § 101–6.213.

§ 101–6.213 Decisions and notices.

§ 101–6.213–1 Decision by person other than the responsible GSA official.

If the hearing is held by a hearing examiner such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the responsible GSA official for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient. Where the initial decision is made by the hearing examiner the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the responsible GSA official his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the responsible GSA official may on his own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the responsible GSA official shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible GSA official.

§ 101–6.213–2 Decisions on record or review by the responsible GSA official.

Whenever a record is certified to the responsible GSA official for decision or he reviews the decision of a hearing examiner pursuant to § 101–6.213–1, or whenever the responsible GSA official conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the responsible GSA official shall be given in writing to the applicant or recipient, and to the complainant, if any.

§ 101–6.213–3 Decisions on record where a hearing is waived.

Whenever a hearing is waived pursuant to § 101–6.212 a decision shall be made by the responsible GSA official on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

§ 101–6.213–4 Rulings required.

Each decision of a hearing officer or responsible GSA official shall set forth his ruling on each finding, conclusion,

or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this subpart 101–6.2 with which it is found that the applicant or recipient has failed to comply.

§ 101–6.213–5 Approval by Administrator.

Any final decision of a responsible GSA official (other than the Administrator) which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this subpart 101–6.2 or the Act, shall promptly be transmitted to the Administrator, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

§ 101–6.213–6 Content of orders.

The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, to which this regulation applies, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this subpart 101–6.2, including provisions designed to assure that no Federal financial assistance to which this regulation applies will thereafter be extended to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this subpart, or to have otherwise failed to comply with this subpart, unless and until it corrects its noncompliance and satisfies the responsible GSA official that it will fully comply with this subpart.

§ 101–6.213–7 Post termination proceedings.

(a) An applicant or recipient adversely affected by an order issued under § 101–6.213–6 shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this subpart and provides reasonable assurance that it will fully comply with this subpart. An elementary or secondary school or school system which is unable to file an assurance of compliance with § 101–6.24 shall be restored to full eligibility to receive financial assistance if it files a court order or a plan for desegregation meeting the requirements of § 101–6.205–3 and provides reasonable assurance that it will comply with this court order or plan.

(b) Any applicant or recipient adversely affected by an order entered pursuant to § 101–6.213–6 may at any time request the responsible GSA official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (a) of this section. If the responsible GSA official determines that those requirements have been satisfied, he shall restore such eligibility.

(c) If the responsible GSA official denies any such request, the applicant or recipient may submit a request, in writing, for a hearing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible GSA official. The applicant or recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of paragraph (a) of this section. While proceedings under this section are pending, the sanctions imposed by the order issued under § 101–6.213–6 shall remain in effect.

[38 FR 17975, July 5, 1973]

§ 101–6.214 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 101–6.215 Effect on other regulations; forms and instructions.

§ 101–6.215–1 Effect on other regulations.

All regulations, orders, or like directions heretofore issued by any officer of GSA which imposed requirements designed to prohibit any discrimination against individuals on the ground of race, color, or national origin under any program to which this subpart 101–

6.2 applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant for or recipient of such assistance for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this subpart, except that nothing in this subpart shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this subpart. Nothing in this subpart, however, shall be deemed to supersede any of the following (including future amendments thereof):

(a) Executive Orders 10925, 11114, and 11246, and regulations issued thereunder.

(b) Any other orders, regulations, or instructions, insofar as such orders, regulations, or instructions prohibit discrimination on the ground of race, color, or national origin in any program or situation to which this subpart is inapplicable, or prohibit discrimination on any other ground.

[29 FR 16287, Dec. 4, 1964, as amended at 38 FR 17975, July 5, 1973]

§ 101–6.215–2 Forms and instructions.

Each responsible GSA official shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating this subpart 101–6.2 as applied to programs to which this subpart applies and for which he is responsible.

§ 101–6.215–3 Supervision and coordination.

The Administrator may from time to time assign to officials of other departments or agencies of the Government, with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this subpart (other than responsibility for final decision as provided in § 101–6.213), including the achievement of effective coordination and maximum uniformity within GSA and within the executive branch of the Government in the application of title VI and this subpart to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another Department or Agency acting pursuant to an assignment of responsibility under this section shall have the same effect as though such action had been taken by the responsible GSA official.

[38 FR 17975, July 5, 1973]

§ 101–6.216 Definitions.

As used in this subpart:

(a) The term *General Services Administration* or *GSA* includes each of its operating services and other organizational units.

(b) The term *Administrator* means the Administrator of General Services.

(c) The term *responsible GSA official* with respect to any program receiving Federal financial assistance means the Administrator or other official of GSA who by law or by delegation has the principal responsibility within GSA for the administration of the law extending such assistance.

(d) The term *United States* means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the terms *State* means any one of the foregoing.

(e) The term *Federal financial assistance* includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purposes of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(f) The terms *program or activity* and *program* mean all of the operations of any entity described in paragraphs (f)(1) through (4) of this section, any part of which is extended Federal financial assistance:

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (f)(1), (2), or (3) of this section.

(g) The term *facility* includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

(h) The term *recipient* means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or any other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary.

(i) The term *primary recipient* means any recipient which is authorized or required to extend Federal financial assistance to another recipient.

(j) The term *applicant* means one who submits an application, request, or plan required to be approved by a responsible GSA official, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and the term *application* means such an application, request, or plan.

[29 FR 16287, Dec. 4, 1964, as amended at 68 FR 51373, Aug. 26, 2003; 68 FR 56560, Oct. 1, 2003]

§ 101–6.217 Laws authorizing Federal financial assistance for programs to which this subpart applies.

(a)(1) Donation of surplus personal property to educational activities which are of special interest to the armed services (section 203(j)(2) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(j)(2)).

(2) Donation of surplus personal property for use in any State for purposes of education, public health, or civil defense, or for research for any such purposes (section 203(j) (3) and (4) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(j) (3) and (4)), and the making available to State agencies for surplus property, or the transfer of title to such agencies, of surplus personal property approved for donation for purposes of education, public health, or civil defense, or for research for any such purposes (section 203(n) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(n)).

(b) Disposal of surplus real and related personal property for purposes of education or public health, including research (section 203(k)(1) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(k)(1)).

(c) Donation of property for public airport purposes (section 13(g) of the Surplus Property Act of 1944, 50 U.S.C. App. 1622(g); section 23 of the Airport and Airway Development Act of 1970, Pub. L. 91–258).

(d)(1) Disposal of surplus real property, including improvements, for use as a historic monument (section 13(h) of the Surplus Property Act of 1944, 50 U.S.C. App. 1622(h)).

(2) Disposal of surplus real and related personal property for public park or public recreational purposes (section 203(k)(2) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(k)(2).

(e) Disposal of real property to States for wildlife conservation purposes (Act of May 19, 1948, 16 U.S.C. 667b–d).

(f) Donation of personal property to public bodies (section 202(h) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 483(h)).

(g) Grants of easements by the General Services Administration pursuant to the Act of October 23, 1962, (40 U.S.C. 319–319(c), and grants by the General Services Administration of revocable licenses or permits to use or occupy Federal real property, if the consideration to the Government for such easement, licenses, or permits is less than estimated fair market value.

(h) Conveyance of real property or interests therein by the General Services Administration to States or political subdivisions for street widening purposes pursuant to the Act of July 7, 1960 (40 U.S.C. 345c), if the consideration to the Government is less than estimated fair market value.

(i) Allotment of space by the General Services Administration in Federal buildings to Federal Credit Unions, without charge for rent or services (section 25 of the Federal Credit Union Act, 12 U.S.C. 1770).

(j) Donation of surplus property to the American National Red Cross (section 203(*l*) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(*l*)).

(k) Provision by the General Services Administration of free space and utilities for vending stands operated by blind persons (section 1 of the Randolph-Sheppard Act, 20 U.S.C. 107).

(l) Donation of forfeited distilled spirits, wine, and malt beverages to eleemosynary institutions (26 U.S.C. 5688).

(m) Donation of surplus Federal records (Federal Records Disposal Act of 1943, 44 U.S.C. 366–380).

(n) Grants to State and local agencies and to nonprofit organizations and institutions for the collecting, describing, preserving and compiling, and publishing of documentary sources significant to the history of the United States (section 503 of the Federal Property and Administrative Services Act of 1949, as amended by Pub. L. 88–383).

(o) Loan of machine tools and industrial manufacturing equipment in the national industrial reserve to nonprofit educational institutions or training schools (section 7 of the National Industrial Reserve Act of 1948, 50 U.S.C. 456).

(p) District of Columbia grant-in-aid hospital program (60 Stat. 896, as amended).

(q) Disposal of surplus real property for use in the provision of rental or cooperative housing to be occupied by families or individuals of low or moderate income (section 414 of the Housing and Urban Development Act of 1969, Pub. L. 91–152).

(r) Payments in lieu of taxes on certain real property transferred from the Reconstruction Finance Corporation (Title VII of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 521–524).

(s) Conveyance of certain lands and property to the State of Hawaii without reimbursement (Pub. L. 88–233, 77 Stat. 472).

[29 FR 16287, Dec. 4, 1964, as amended at 38 FR 17975, July 5, 1973]

Subpart 101–6.3—Ridesharing

AUTHORITY: 40 U.S.C. 486(c); Executive Order 12191 dated February 1, 1980; Sec. 205(c), 63 Stat. 390.

SOURCE: 67 FR 76882, Dec. 13, 2002, unless otherwise noted.

§ 101–6.300 Cross-reference to the Federal Management Regulation (FMR) 41 CFR chapter 102 parts 1 through 220.

For information on Federal facility ridesharing, *see* FMR part 102–74 (41 CFR part 102–74).

Subpart 101–6.4—Official Use of Government Passenger Carriers Between Residence and Place of Employment

SOURCE: 65 FR 54966, Sept. 12, 2000, unless otherwise noted.

§ 101–6.400 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For policy concerning official use of Government passenger carriers between residence and place of employment previously contained in this part, see FMR part 5 (41 CFR part 102–5), Home-to-Work Transportation.

Subpart 101–6.5—Code of Ethics for Government Service

§ 101–6.500 Scope of subpart.

(a) In accordance with Public Law 96–303, the requirements of this section shall apply to all executive agencies (as defined by section 105 of title 5, United States Code), the United States Postal Service, and the Postal Rate Commission. The heads of these agencies shall be responsible for ensuring that the requirements of this section are observed and complied with within their respective agencies.

(b) Each agency, as defined in ''(a)'' above, shall display in appropriate areas of buildings in which at least 20 individuals are regularly employed by an agency as civilian employees, copies of the Code of Ethics for Government Service (Code).

(c) For Government-owned or wholly leased buildings subject to the requirements of this section, at least one copy of the Code shall be conspicuously displayed, normally in the lobby of the main entrance to the building. For other buildings subject to the requirements of this section which are owned, leased, or otherwise provided to the Federal Government for the purpose of performing official business, at least one copy of the Code shall be conspicuously displayed within the space occupied by the Government. In all cases, additional copies of the Code may be displayed in other appropriate building locations, such as auditoriums, bulletin boards, cafeterias, locker rooms, reception areas, and other high-traffic areas.

(d) Agencies of the Federal Government shall not pay any costs for the printing, framing, or other preparation of the Code. Agencies may properly pay incidental expenses, such as the cost of hardware, other materials, and labor incurred to display the Code. Display shall be consistent with the decor and architecture of the building space. Installation shall cause no permanent damage to stonework or other surfaces which are difficult to maintain or repair.

(e) Agencies may obtain copies of the Code by submitting a requisition for National Stock Number (NSN) 7690–01–099–8167 in Fedstrip format to the GSA regional office responsible for providing support to the requisitioning agency. Agencies will be charged a nominal fee to cover shipping and handling.

[58 FR 21945, Apr. 28, 1994]

Subpart 101–6.6—Fire Protection (Firesafety) Engineering

AUTHORITY: 40 U.S.C. 486(c).

SOURCE: 67 FR 76882, Dec. 13, 2002, unless otherwise noted.

§ 101–6.600 Cross-reference to the Federal Management Regulation (FMR) 41 CFR chapter 102 parts 1 through 220.

For information on fire protection (firesafety) engineering, *see* FMR part 102–74 (41 CFR part 102–74) and FMR part 102–80 (41 CFR part 102–80).

Subparts 101–6.7—101–6.9 [Reserved]

Subpart 101–6.10—Federal Advisory Committee Management

AUTHORITY: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); sec. 7, 5 U.S.C., App.; and E.O. 12024, 3 CFR, 1977 Comp., p. 158.

SOURCE: 66 FR 37733, July 19, 2001, unless otherwise noted.

§ 101–6.1001 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For Federal advisory committee management information previously contained in this subpart, see FMR part 102–3 (41 CFR part 102–3).

Subparts 101–6.11—101–6.20 [Reserved]

Subpart 101–6.21—Intergovernmental Review of General Services Administration Programs and Activities

AUTHORITY: E.O. 12372, July 14, 1982 (47 FR 30959), as amended Apr. 8, 1983 (48 FR 15887); sec. 401 of the Intergovernmental Cooperation Act of 1968 as amended (31 U.S.C. 6506).

SOURCE: 48 FR 29329, June 24, 1983, unless otherwise noted.

EDITORIAL NOTE: For additional information, see related documents published at 47 FR 57369, Dec. 23, 1982, 48 FR 17101, Apr. 21, 1983, and 48 FR 29096, June 24, 1983.

§ 101–6.2100 Scope of subpart.

This subpart implements Executive Order 12372, ''Intergovernmental Review of Federal Programs'', for Federal financial assistance and direct Federal development programs of the General Services Administration (GSA).

§ 101–6.2101 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' issued July 14, 1982, and amended on April 8, 1983. These regulations also implement applicable provisions of section 401 of the Intergovernmental Cooperation Act of 1968.

(b) These regulations are intended to foster an intergovernmental partnership and a strengthened Federalism by relying on State processes and on State, areawide, regional and local coordination for review of proposed Federal financial assistance and direct Federal development.

(c) These regulations are intended to aid the internal management of GSA, and are not intended to create any right or benefit enforceable at law by a party against GSA or its officers.

§ 101–6.2102 What definitions apply to these regulations?

GSA means the U.S. General Services Administration.

Order means Executive Order 12372, issued July 14, 1982, and amended April 8, 1983, and titled ''Intergovernmental Review of Federal Programs.''

Administrator means the Administrator of General Services or an official or employee of GSA acting for the Administrator under a delegation of authority.

State means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the U.S. Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 101–6.2103 What programs and activities of GSA are subject to these regulations?

The Administrator publishes in the FEDERAL REGISTER a list of GSA's programs and activities that are subject to these regulations.

§ 101–6.2104 What are the Administrator's general responsibilities under the Order?

(a) The Administrator provides opportunities for consultation by elected officials of those State and local governments that would provide the non-Federal funds for, or that would be directly affected by, proposed Federal financial assistance from, or direct Federal development by, GSA.

(b) If a State adopts a process under the Order to review and coordinate proposed Federal financial assistance and direct Federal development, the Administrator, to the extent permitted by law:

(1) Uses the State process to determine official views of State and local elected officials;

(2) Communicates with State and local elected officials as early in a program planning cycle as is reasonably feasible to explain specific plans and actions;

(3) Makes efforts to accommodate State and local elected officials' concerns with proposed Federal financial assistance and direct Federal development that are communicated through the State process;

(4) Allows the States to simplify and consolidate existing federally required State plan submissions;

(5) Where State planning and budgeting systems are sufficient and where

permitted by law, encourages the substitution of State plans for federally required State plans;

(6) Seeks the coordination of views of affected State and local elected officials in one State with those of another State when proposed Federal financial assistance or direct Federal development has an impact on interstate metropolitan urban centers or other interstate areas; and

(7) Supports State and local governments by discouraging the reauthorization or creation of any planning organization which is federally-funded, which has limited purpose, and which is not adequately representative of, or accountable to, State or local elected officials.

§ 101–6.2105 What is the Administrator's obligation with respect to Federal interagency coordination?

The Administrator, to the extent practicable, consults with and seeks advice from all other substantially affected Federal departments and agencies in an effort to assure full coordination between such agencies and GSA regarding programs and activities covered under these regulations.

§ 101–6.2106 What procedures apply to the selection of programs and activities under these regulations?

(a) A State may select any program or activity published in the FEDERAL REGISTER in accordance with § 101–6.2103 of this part for intergovernmental review under these regulations. Each State, before selecting programs and activities, shall consult with local elected officials.

(b) Each State that adopts a process shall notify the Administrator of the GSA programs and activities selected for that process.

(c) A State may notify the Administrator of changes in its selections at any time. For each change, the State shall submit to the Administrator an assurance that the State has consulted with elected local elected officials regarding the change. GSA may establish deadlines by which States are required to inform the Administrator of changes in their program selections.

(d) The Administrator uses a State's process as soon as feasible, depending on individual programs and activities, after the Administrator is notified of its selections.

§ 101–6.2107 How does the Administrator communicate with State and local officials concerning GSA's programs and activities?

(a) [Reserved]

(b) The Administrator provides notice to directly affected State, areawide, regional, and local entities in a State of proposed Federal financial assistance or direct Federal development if:

(1) The State has not adopted a process under the Order; or

(2) The assistance or development involves a program or activity not selected for the State process.

NOTE: This notice may be made by publication in the FEDERAL REGISTER or other appropriate means, which GSA in its discretion deems appropriate.

§ 101–6.2108 How does the Administrator provide States an opportunity to comment on proposed Federal financial assistance and direct Federal development?

(a) Except in unusual circumstances, the Administrator gives State processes or directly affected State, areawide, regional and local officials and entities at least:

(1) [Reserved]

(2) 60 days from the date established by the Administrator to comment on proposed direct Federal development or Federal financial assistance.

(b) This section also applies to comments in cases in which the review, coordination, and communication with GSA have been delegated.

§ 101–6.2109 How does the Administrator receive and respond to comments?

(a) The Administrator follows the procedures in § 101–6.2110 if:

(1) A State office or official is designated to act as a single point of contact between a State process and all Federal agencies, and

(2) That office or official transmits a State process recommendation for a program selected under § 101–6.2106.

(b)(1) The single point of contact is not obligated to transmit comments from State, areawide, regional or local

officials and entities where there is no State process recommendation.

(2) If a State process recommendation is transmitted by a single point of contact, all comments from State, areawide, regional, and local officials and entities that differ from it must also be transmitted.

(c) If a State has not established a process, or is unable to submit a State process recommendation, State, areawide, regional and local officials and entities may submit comments to GSA.

(d) If a program or activity is not selected for a State process, State, areawide, regional and local officials and entities may submit comments to GSA. In addition, if a State process recommendation for a nonselected program or activity is transmitted to GSA by the single point of contact, the Administrator follows the procedures of §101–6.2110 of this part.

(e) The Administrator considers comments which do not constitute a State process recommendation submitted under these regulations, and for which the Administrator is not required to apply the procedures of §101–6.2110 of this part, when such comments are provided by a single point of contact, or directly to GSA by a commenting party.

§101–6.2110 How does the Administrator make efforts to accommodate intergovernmental concerns?

(a) If a State process provides a State process recommendation to GSA through its single point of contact, the Administrator either:

(1) Accepts the recommendation;

(2) Reaches a mutually agreeable solution with the State process; or

(3) Provides the single point of contact with such written explanation of its decision, as the Administrator in his or her discretion deems appropriate. The Administrator may also supplement the written explanation by providing the explanation to the single point of contact by telephone, other telecommunication, or other means.

(b) In any explanation under paragraph (a)(3) of this section, the Administrator informs the single point of contact that:

(1) GSA will not implement its decision for at least ten days after the single point of contact receives the explanation; or

(2) The Administrator has reviewed the decision and determined that, because of unusual circumstances, the waiting period of at least ten days is not feasible.

(c) For purposes of computing the waiting period under paragraph (b)(1) of this section, a single point of contact is presumed to have received written notification 5 days after the date of mailing of such notification.

§101–6.2111 What are the Administrator's obligations in interstate situations?

(a) The Administrator is responsible for:

(1) Identifying proposed Federal financial assistance and direct Federal development that have an impact on interstate areas;

(2) Notifying appropriate officials and entities in States which have adopted a process and which have selected a GSA program or activity;

(3) Making efforts to identify and notify the affected State, areawide, regional, and local officials and entities in those States that have not adopted a process under the Order or have not selected a GSA program or activity; and

(4) Responding pursuant to §101–6.2110 of this part if the Administrator receives a recommendation from a designated areawide agency transmitted by a single point of contact, in cases in which the review, coordination, and communication with GSA have been delegated.

(b) The Administrator uses the procedures in §101–6.2110 if a State process provides a State process recommendation to GSA through a single point of contact.

§101–6.2112 How may a State simplify, consolidate, or substitute federally required State plans?

(a) As used in this section:

(1) *Simplify* means that a State may develop its own format, choose its own submission date, and select the planning period for a State plan.

(2) *Consolidate* means that a State may meet statutory and regulatory requirements by combining two or more

plans into one document and that the State can select the format, submission date, and planning period for the consolidated plan.

(3) *Substitute* means that a State may use a plan or other document that it has developed for its own purposes to meet Federal requirements.

(b) If not inconsistent with law, a State may decide to try to simplify, consolidate, or substitute federally required State plans without prior approval by the Administrator.

(c) The Administrator reviews each State plan that a State has simplified, consolidated, or substituted and accepts the plan only if its contents meet Federal requirements.

§ 101–6.2113 May the Administrator waive any provision of these regulations?

In an emergency, the Administrator may waive any provision of these regulations.

Subparts 101–6.22—101–6.48 [Reserved]

Subpart 101–6.49—Illustrations

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 101–6.4900 Scope of subpart.

This subpart contains illustrations prescribed for use in connection with the subject matter covered in part 101–6.

[37 FR 20542, Sept. 30, 1972]

§ 101–6.4901 [Reserved]

§ 101–6.4902 Format of certification required for budget submissions of estimates of obligations in excess of $100,000 for acquisitions of real and related personal property.

NOTE: The illustration in § 101–6.4902 is filed as part of the original document.

[37 FR 20542, Sept. 30, 1972]

PART 101–8—NONDISCRIMINATION IN PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subparts 101–8.1—101–8.2 [Reserved]

Subpart 101–8.3—Discrimination Prohibited on the Basis of Handicap

Sec.

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101–8.724 Exhaustion of administrative remedies.
101–8.725 Alternate funds disbursal.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 47 FR 25337, June 11, 1982, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 101–8 appear at 68 FR 51374, Aug. 26, 2003.

Subparts 101–8.1—101–8.2 [Reserved]

Subpart 101–8.3—Discrimination Prohibited on the Basis of Handicap

§ 101–8.300 Purpose and applicability.

(a) The purpose of this subpart is to implement section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

(b) This subpart applies to each recipient or subrecipient of Federal assistance from GSA and to each program or activity that receives assistance.

§ 101–8.301 Definitions.

(a) *Section 504* means section 504 of the Rehabilitation Act of 1973, Public Law 93–112, as amended by the Rehabilitation Act Amendments of 1974, Public Law 93–516, 29 U.S.C. 794.

(b) *Handicapped person* means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairments, or is regarded as having such an impairment.

(c) As used in paragraph (b) of this section, the phrase:

(1) *Physical or mental impairment* means:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term ''physical or mental impairment'' includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness and drug addiction and alcoholism, when current use of drugs and/or alcohol is not detrimental to or interferes with the employee's performance, nor constitutes a direct threat to property or safety of others.

(2) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means:

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraphs (c)(1) (i) and (ii) of this section, but is treated by a recipient as having such an impairment.

(d) *Qualified handicapped person* means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question;

(2) With respect to public preschool, elementary, secondary, or adult education services, a handicapped person:

(i) Of an age during which nonhandicapped persons are provided such services;

(ii) Of any age during which it is mandatory under state law to provide such services to handicapped persons; or

(iii) To whom a state is required to provide a free appropriate public education under section 612 of the Education for All Handicapped Children Act of 1975, Public Law 94–142.

(3) With respect to postsecondary and vocational education services, a handicapped person who meets the academic and technical standards requisite to admission or participation in the recipient's education program or activity; and

(4) With respect to other services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(e) *Handicap* means condition or characteristic that renders a person a handicapped person as defined in paragraph (b) of this section.

(f) The term *program or activity* means all of the operations of any entity described in paragraphs (f)(1) through (4) of this section, any part of which is extended Federal financial assistance:

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (f)(1), (2), or (3) of this section.

The definitions set forth in §101–6.216, to the extent not inconsistent with this subpart, are made applicable to and incorporated into this subpart.

[47 FR 25337, June 11, 1982, as amended at 68 FR 51374, Aug. 26, 2003]

§101–8.302 General prohibitions.

No qualified handicapped persons shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal assistance from GSA.

§101–8.303 Specific prohibitions.

(a) A recipient, in providing any aid, benefit, or service, may not directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(1) Deny a qualified person the opportunity to participate in or benefit from the aid, benefit, or service;

(2) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(3) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided others;

(4) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless the action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(5) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or services to beneficiaries of the recipient's program or activity;

(6) Deny a qualified handicapped person the opportunity to participate as a member of planning committees, advisory boards, or other groups; or

(7) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(b) For purposes of this subpart, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and nonhandicapped persons, but must afford handicapped persons equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement in the most integrated setting appropriate to the person's needs.

(c) Despite the existence of permissible separate or different aid, benefits, or services, a recipient may not deny a qualified handicapped person the opportunity to participate in aid, benefits, or services that are not separate or different.

(d) A recipient may not, directly or through contractual or other arrangements, use criteria or methods of administration that:

(1) Have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap;

(2) Have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program or activity with respect to handicapped persons; or

(3) Perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(e) In determining the site of a facility, an applicant for assistance or a recipient may not make selections that:

(1) Have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives Federal assistance from GSA; or

(2) Have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(f) As used in this section, the aid, benefit, or service provided under a program or activity receiving Federal assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased, or rented, or otherwise acquired, in whole or in part, with Federal assistance.

(g) The exclusion of nonhandicapped persons from aid, benefits, or services limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from aid, benefits, or services limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this subpart.

(h) Recipients shall take appropriate steps to ensure that communications with the donees, applicants, employees, and handicapped persons participating in federally assisted programs or activities or receiving aid, benefits, or services are available to persons with impaired vision and hearing. Examples of communications methods include: Telecommunication devices for the deaf (TDD's), other telephonic devices, provision of braille materials, readers, and qualified sign language interpreters.

(i) The enumeration of specific forms of prohibited discrimination in this section does not limit the generality of the prohibition in § 101–8.302 of this subpart.

§ 101–8.304 Effect of State or local law or other requirements and effect of employment opportunities.

(a) The obligation to comply with this subpart is not obviated or alleviated by the existence of any State or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this subpart is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than for nonhandicapped persons.

§ 101–8.305 Employment practices prohibited.

(a) No qualified handicapped person shall, on the basis of handicap, be subjected to employment discrimination under any program or activity to which this subpart applies.

(b) A recipient shall make all decisions concerning employment under any program or activity to which this subpart applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(c) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, labor unions, organizations providing or administering fringe benefits to employees of the recipient, and organizations providing training and apprenticeships.

(d) The provisions of this subpart apply to:

(1) Recruitment, advertising, and processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick or otherwise;

(6) Fringe benefits available by virtue of employment, whether administered by the recipient or not;

(7) Selection and provision of financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer-sponsored activities, including those that are social or recreational; and

(9) Any other term, condition, or privilege of employment.

(e) A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

§ 101–8.306 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or metal limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program or activity.

(b) Reasonable accommodation may include:

(1) Making facilities used by employees readily accessible to and usable by handicapped persons; and

(2) Job restructuring; part-time or modified work schedules; acquisition or modification of equipment or devices, such as telecommunications devices or other telephonic devices for hearing impaired persons; provision of reader or qualified sign language interpreters; and other similar actions. These actions are to be taken either upon request of the handicapped employee or, if not so requested, upon the recipient's own initiative, after consultation with and approval by the handicapped person.

(c) In determining, under paragraph (a) of this section, whether an accommodation would impose an undue hardship on the operation of a recipient's program or activity, factors to be considered include:

(1) The overall size of the recipient's program or activity with respect to number of employees, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's work force; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny an employment opportunity to a qualified handicapped employee or applicant if

the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

§ 101–8.307 Employment criteria.

(a) A recipient may not use an employment test or other selection criterion that screens out or tends to screen out handicapped persons unless the test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question.

(b) A recipient shall ensure that employment tests are adapted for use by persons who have handicaps that impair sensory, manual, or speaking skills except where those skills are the factors that the test purports to measure.

§ 101–8.308 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a preemployment medical examination or may not make preemployment inquiries of an applicant as to whether the applicant is a handicapped person or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiries into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination, or is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity, or when a recipient is taking affirmative action under section 503 of the Rehabilitation Act of 1973, as amended, the recipient may invite applicants for employment to indicate whether, and to what extent, they are handicapped provided that:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally, if no written questionnaire is used, that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this subpart.

(c) This section does not prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty provided that all entering employees are subjected to the examination regardless of handicap or absence of handicap and results of the examination are used only in accordance with the requirements of this subpart.

(d) Information obtained in accordance with this section concerning the medical condition or history of the applicant shall be collected and maintained on separate forms that are to be accorded confidentiality as medical records, except that:

(1) Supervisors and managers may be informed of restrictions on the work or duties of handicapped persons and of necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(3) Government officials investigating compliance with section 504 of the Rehabilitation Act of 1973, as amended, shall be provided relevant information upon request.

§ 101–8.309 Accessibility.

(a) *General.* No handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity that receives Federal assistance from GSA.

(b) *Accessibility.* A recipient shall operate any program or activity to which this subpart applies so that when each part is viewed in its entirety it is readily accessible to and usable by handicapped persons. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

(c) *Methods.* A recipient may comply with the requirement of paragraph (a)

of this section through such means as acquisition or redesign of equipment, such as telecommunications devices or other telephonic devices for the hearing impaired; reassignment of classes or other services to alternate sites which have accessible buildings; assignment of aides to beneficiaries, such as readers for the blind or qualified sign language interpreters for the hearing impaired when appropriate; home visits; delivery of health, welfare, or other social services at alternate accessible sites; alterations of existing facilities and construction of new facilities in conformance with the requirements of §101–8.310; or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that serve handicapped persons in the most integrated setting appropriate.

(d) *Small service providers.* If a recipient with fewer than 15 employees finds, after consultation with a handicapped person seeking its services, that there is no available method of complying with paragraph (a) of this section other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible at no additional cost to the handicapped person.

(e) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within 60 days of the effective date of this subpart, except that where structural changes in facilities are necessary, the changes are to be made as expeditiously as possible, but in no event later than 3 years after the effective date of this subpart.

(f) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirements of paragraph (a) of this section, a recipient shall develop, within 6 months of the effective date of this subpart, a transition plan setting forth the steps necessary to complete the changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, and the plan must meet with the approval of the Director of Civil Rights, GSA. A copy of the transition plan shall be made available for public inspection. At a minimum, the plan shall:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility to and usability by handicapped persons of its program or activity;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full accessibility under paragraph (a) of this section and, if the time period or the transition plan is longer than 1 year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(g) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information concerning the existence and location of services, activities, and facilities that are accessible to, and usable by, handicapped persons.

§101–8.310 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in a manner that the facility or part of the facility is readily accessible to, and usable by, handicapped persons, if the construction began after the effective date of this subpart.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this subpart in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in a manner that the altered portion of the facility is readily accessible to and usable by handicapped persons.

(c) *GSA Accessibility Standard.* Design, construction, or alteration of facilities shall be in conformance with the ''GSA Accessibility Standard,'' PBS (PCD): DG6, October 14, 1980. A copy of the standard can be obtained through the Business Service Centers, General Services Administration, National Capital Region, 7th and D Streets, SW., Washington, DC 20407 or Regional Business Service Centers, Region 1, John W. McCormack, Post Office and Courthouse, Boston, Massachusetts 02109; Region 2, 26 Federal Plaza, New York, New York 10007; Region 3, Ninth and Market Streets, Philadelphia, Pennsylvania 19107; Region 4, 75 Spring Street, SW., Atlanta, Georgia 30303; Region 5, 230 South Dearborn, Chicago, Illinois 60604; Region 6, 1500 East Bannister Road, Kansas City, Missouri 64131; Region 7, 819 Taylor Street, Fort Worth, Texas 76102; Region 8, Building 41, Denver Federal Center, Denver, Colorado 80225; Region 9, 525 Market Street, San Francisco, California 94105; Region 10, GSA Center, Auburn, Washington 98002.

In cases of practical difficulty, unnecessary hardship, or extreme differences, exceptions may be granted from the literal requirements of the above-mentioned standard, as defined in §§ 101–19.604 and 101–19.605 (''Exceptions'' and ''Waiver or modification of standards''), but only when it is clearly evident that equal facilitation and protection are thereby secured.

§ 101–8.311 Historic Preservation Programs.

(a) *Definitions.* For purposes of this section:

(1) *Historic Preservation Programs* are those that receive Federal financial assistance that has preservation of historic properties as a primary purpose.

(2) *Historic properties* means those properties that are listed or eligible for listing in the National Register of Historic Places.

(3) *Substantial impairment* means a permanent alteration that results in a significant loss of the integrity of finished materials, design quality or special character.

(b) *Obligation*—(1) *Accessibility.* A recipient shall operate any program or activity involving Historic Preservation Programs so that when each part is viewed in its entirety it is readily accessible to and usable by handicapped persons.

This paragraph does not necessarily require a recipient to make each of its existing historic properties or every part of an historic property accessible to and usable by handicapped persons. Methods of achieving accessibility include:

(i) Making physical alterations which enable handicapped persons to have access to otherwise inaccessible areas or features of historic properties;

(ii) Using audio-visual materials and devices to depict otherwise inaccessible areas or features of historic properties;

(iii) Assigning persons to guide handicapped persons into or through otherwise inaccessible portions of historic properties;

(iv) Adopting other innovative methods to achieve accessibility.

Because the primary benefit of an Historic Preservation Program is the experience of the historic property itself, in taking steps to achieve accessibility, recipients shall give priority to those means which make the historic property, or portions thereof, physically accessible to handicapped individuals.

(2) *Waiver of accessibility standards.* Where accessibility cannot be achieved without causing a substantial impairment of significant historic features, the Administrator may grant a waiver of the accessibility requirement. In determining whether accessibility can be achieved without causing a substantial impairment, the Administrator shall consider the following factors:

(i) Scale of property, reflecting its ability to absorb alterations;

(ii) Use of the property, whether primarily for public or private purpose;

(iii) Importance of the historic features of the property to the conduct of the program or activity; and

(iv) Cost of alterations in comparison to the increase in accessibility.

The Administrator shall periodically review any waiver granted under this section and may withdraw it if technological advances or other changes so warrant.

(c) *Advisory Council comments.* Where the property is federally owned or where Federal funds may be used for

alterations, the comments of the Advisory Council on Historic Preservation shall be obtained when required by section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), and 36 CFR part 800, prior to effectuation of structural alterations.

[47 FR 25337, June 11, 1982, as amended at 68 FR 51374, Aug. 26, 2003]

§ 101–8.312 Procedures.

The procedural provisions of title VI of the Civil Rights Act of 1964 are adopted and stated in §§ 101–6.205–101–6.215 and apply to this subpart. (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

§ 101–8.313 Self-evaluation.

(a) *Procedures.* Each recipient shall, within one year of the effective date of this part:

(1) Whenever possible, evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices and the effects thereof that do not or may not meet the requirements of this part;

(2) Modify any policies and practices which do not or may not meet the requirements of this part; and

(3) Take appropriate remedial steps to eliminate the effects of discrimination which resulted or may have resulted from adherence to these questionable policies and practices.

(b) *Availability of self-evaluation and related materials.* Recipients shall maintain on file, for at least three years following its completion, the evaluation required under paragraph (a) of this section, and shall provide to the Director, upon request, a description of any modifications made under paragraph (a)(2) of this section and of any remedial steps taken under paragraph (a)(3) of this section.

Subparts 101–8.4—101–8.6 [Reserved]

Subpart 101–8.7—Discrimination Prohibited on the Basis of Age

AUTHORITY: 42 U.S.C. 6101 *et seq.*

SOURCE: 50 FR 23412, June 4, 1985, unless otherwise noted.

§ 101–8.700 Purpose of the Age Discrimination Act of 1975.

The Age Discrimination Act of 1975, as amended, prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance.

§ 101–8.701 Scope of General Services Administration's age discrimination regulation.

This regulation sets out General Services Administration's (GSA) policies and procedures under the Age Discrimination Act of 1975, as amended, in accordance with 45 CFR part 90. The Act and the Federal regulation permits Federally assisted programs or activities to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and its implementing regulations.

§ 101–8.702 Applicability.

(a) The regulation applies to each GSA recipient and to each program or activity operated by the recipient.

(b) The regulations does not apply to:

(1) An age distinction contained in that part of Federal, State, local statute or ordinance adopted by an elected, general purpose legislative body that:

(i) Provides any benefits or assistance to persons based on age;

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practice of any employer, employment agency, labor organization or any labor-management apprenticeship training program, except for any program or activity receiving Federal financial assistance for public service employment under the Comprehensive Employment and Training Act (CETA) (29 U.S.C. 801 *et seq.*).

§ 101–8.703 Definitions of terms.

(a) As used in these regulations, the term: *Act* means the Age Discrimination Act of 1975, as amended (title III of Pub. L. 94–135).

(b) *Action* means any act, activity, policy, rule, standard, or method of administration.

(c) *Age* means how old a person is, or the number of years from the date of a person's birth.

(d) *Age distinction* means any action using age or an age-related term.

(e) *Age-related term* means a word or words that imply a particular age or range or ages (for example, *children, adult, older person,* but not *student*).

(f) *Agency* means a Federal department or agency empowered to extend Federal financial assistance.

(g) Agency Responsible Officials:

(1) *Administrator* means the Administrator of General Services.

(2) *Director, Office of Civil Rights* means the individual responsible for managing the agency's nondiscrimination Federal financial assistance policy, or his or her designee.

(h) *Federal financial assistance* means (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the services of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purposes of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(i) *GSA* means the United States General Services Administration.

(j) *Primary recipient* means any recipient which is authorized or required to extend Federal financial assistance to another recipient.

(k) *Program or activity* means all of the operations of any entity described in paragraphs (k)(1) through (4) of this section, any part of which is extended Federal financial assistance:

(1)(i) A department, agency, special purpose district, or other instrumentality of a state or of a local government;

(ii) The entity of such state and local government that distributes such assistance and each such department or agency (and each other state or local government entity) to which the assistance is extended, in the case of assistance to a state or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (k)(1), (2), or (3) of this section.

(l) *Recipient* means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or any other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary.

[50 FR 23412, June 4, 1985, as amended at 68 FR 51375, Aug. 26, 2003]

§ 101–8.704 Rules against age discrimination.

The rules stated in this section are limited by the exceptions contained in § 101–8.706 of this regulation

(a) *General rule.* No person in the United States may on the basis of age, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any program or

activity receiving Federal financial assistance from GSA.

(b) *Specific rules.* A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual licensing, or other arrangement, use age distinctions or take any other actions that have the effect on the basis of age, of:

(1) Excluding individuals from participating in, denying them the benefits of, or subjecting them to discrimination under a program or activity receiving Federal financial assistance; or

(2) Denying or limiting individual opportunity to participate in any program or activity receiving Federal financial assistance.

(c) The forms of age discrimination listed in paragraph (b) of this section are not necessarily a complete list.

§ 101–8.705 Definition of normal operation and statutory objective.

The terms *normal operation* and *statutory objective* are defined as follows:

(a) *Normal operation* means the operation of a program or activity without significant changes that would inhibit meeting objectives.

(b) *Statutory objective* means any purpose of a program or activity expressly stated in any Federal, State, or local statute or ordinance adopted by an elected, general purpose legislative body.

§ 101–8.706 Exceptions to the rules against age discrimination.

§ 101–8.706–1 Normal operation or statutory objective of any program or activity.

A recipient is permitted to take an action, otherwise prohibited, if the action reasonably takes into account age as a factor necessary to the normal operation or achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor if:

(a) Age is used as a measure or approximation of one or more other characteristics; and

(b) The other characteristic must be measured or approximated for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and

(c) The other characteristic can be reasonably measured or approximated by the use of age; and

(d) The other characteristic is impractical to measure directly on an individual basis.

§ 101–8.706–2 Reasonable factors other than age.

(a) A recipient is permitted to take an action, otherwise prohibited by § 101–8.706–1, which is based on something other than age, even though the action may have a disproportionate effect on persons of different ages.

(b) An action may be based on a factor other than age only if the factor bears a direct and substantial correlation to the normal operation of the program or activity or to the achievement of a statutory objective.

§ 101–8.707 Burden of proof.

The burden of proving that an age distinction or other action falls within the exceptions outlined in § 101–8.706 is the recipient's.

§ 101–8.708 Affirmative action by recipient.

Even in the absence of a finding of age discrimination, a recipient may take affirmative action to overcome the effects resulting in limited participation in the recipient's program or activity.

§ 101–8.709 Special benefits for children and the elderly.

If a recipient's program or activity provides special benefits to the elderly or to children, such use of age distinctions is presumed to be necessary to the normal operation of the program or activity, notwithstanding the provisions of § 101–8.705.

§ 101–8.710 Age distinctions contained in General Services Administration regulation.

Any age distinctions contained in a rule or regulation issued by GSA are presumed to be necessary to the achievement of a statutory objective of the program or activity to which the rule or regulation applies. The GSA regulation 41 CFR 101–44.207(a) (3) through (27), describes specific Federal

financial assistance which provides assistance to all age groups. However, the Child Care Center Program servicing children through age 14, and ''Programs for Older Individuals'', are the only two types of Federal financial assistance where age distinctions are provided.

§ 101–8.711 General responsibilities.

Each recipient of Federal financial assistance from GSA is responsible for ensuring that its programs or activities comply with the Act and this regulation and must take steps to eliminate violations of the Act. A recipient is also responsible for maintaining records, providing information, and affording GSA access to its records to the extent GSA finds necessary to determine whether the recipient is complying with the Act and this regulation.

§ 101–8.712 Notice to subrecipients and beneficiaries.

(a) If a primary recipient passes on Federal financial assistance from GSA to subrecipients, the primary recipient provides to subrecipients, written notice of their obligations under the Act and this regulation.

(b) Each recipient makes necessary information about the Act and this regulation available to its beneficiaries to inform them about the protections against discrimination provided by the Act and this regulation.

§ 101–8.713 Assurance of compliance and recipient assessment of age distinctions.

(a) Each recipient of Federal financial assistance from GSA signs a written assurance as specified by GSA that it intends to comply with the Act and this regulation.

(b) Recipient assessment of age distinctions.

(1) As part of a compliance review under § 101–8.715 or complaint investigation under § 101.8.718, GSA may require a recipient employing the equivalent of 15 or more employees to complete a written self-evaluation of any age distinction imposed in its program or activity receiving Federal financial assistance from GSA to assess the recipient's compliance with the Act.

(2) If an assessment indicates a violation of the Act and the GSA regulation, the recipient takes corrective action.

§ 101–8.714 Information requirements.

Each recipient must:

(a) Keep records in a form and containing information that GSA determines necessary to ensure that the recipient is complying with the Act and this regulation.

(b) Provide to GSA upon request, information and reports that GSA determines necessary to find out whether the recipient is complying with the Act and this regulation.

(c) Permit reasonable access by GSA to books, records, accounts, facilities, and other sources of information to the extent GSA finds it necessary to find out whether the recipient is complying with the Act and this regulation. GSA adopts HHS policy regarding the kinds of data and information recipients are expected to keep (45 CFR 90.34). This policy is parallel to compliance information sections in the title VI, title IX, and section 504 implementation regulations. While recognizing the need for enough data to assess recipient compliance, GSA is committed to lessening the data gathering burden on recipients. GSA further recognizes that there is no established body of knowledge or experience to guide the assessment of age discrimination. This regulation, therefore, does not impose specific data requirements upon recipients, rather, it allows GSA to be flexible in deciding what kinds of data should be kept by recipients, based on what kinds of data prove useful as GSA gains experience with the Age Discrimination Act, and age discrimination issues become clearer.

(d) In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 59–511), the reporting and record keeping provisions included in this regulation will be submitted, for approval, to the Office of Management and Budget (OMB). No data collection or record keeping requirement will be imposed on recipients or donees without the required OMB approval number.

§ 101–8.715 Compliance reviews.

(a) GSA may conduct compliance reviews and use similar procedures to investigate and correct violations of the Act and this regulation. GSA may conduct the reviews even in the absence of a complaint against a recipient. The reviews may be as comprehensive as necessary to determine whether a violation of the Act and this regulation has occurred.

(b) If a compliance review indicates a violation of the Act or this regulation, GSA attempts to achieve voluntary compliance with the Act. If compliance cannot be achieved, GSA arranges for enforcement as described in § 101–8.720.

§ 101–8.716 Complaints.

(a) Any person, individually or as a member of a class (defined at § 101–8.703(e)) or on behalf of others, may file a complaint with GSA alleging discrimination prohibited by the Act or this regulation based on an action occurring after July 1, 1979. A complainant must file a complaint within 80 days from the date the complainant first has knowledge of the alleged act of discrimination. However, for good cause shown, GSA may extend this time limit.

(b) GSA considers the date a complaint is filed to be the date upon which the complaint is sufficient to be processed.

(c) GSA attempts to facilitate the filing of complaints if possible, including taking the following measures:

(1) Accepting as a sufficient complaint, any written statement that identifies the parties involved and the date the complainant first had knowledge of the alleged violation, describes the action or practice complained of, and is signed by the complainant;

(2) Freely permitting a complainant to add information to the complaint to meet the requirements of a sufficient complaint;

(3) Notifying the complainant and the recipient (or their representative) of their right to contact GSA for information and assistance regarding the complaint resolution process.

(d) GSA returns to the complainant any complaint outside the jurisdiction of this regulation, and states the reason(s) why it is outside the jurisdiction of the regulation.

§ 101–8.717 Mediation.

(a) GSA promptly refers to the mediation agency designated by the Secretary, HHS, all sufficient complaints that:

(1) Fall within the jurisdiction of the Act and this regulation, unless the age distinction complained of is clearly within an exception; and

(2) Contain the information needed for further processing.

(b) Both the complainant and the recipient must participate in the mediation process to the extent necessary to reach an agreement or make an informed judgement that an agreement is not possible. Both parties need not meet with the mediator at the same time.

(c) If the complainant and the recipient agree, the mediator will prepare a written statement of the agreement and have the complainant and the recipient sign it. The mediator must send a copy of the agreement to GSA. GSA takes no further action on the complaint unless the complainant or the recipient fails to comply with the agreement.

(d) The mediator must protect the confidentiality of all information obtained in the course of the mediation. No mediator may testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the mediation agency.

(e) The mediation proceeds for a maximum of 60 calendar days after a complaint is filed with GSA. Mediation ends if:

(1) 60 calendar days elapse from the time the complaint is filed; or

(2) Before the end of the 60 calendar-day period an agreement is reached; or

(3) Before the end of that 60 calendar-day period, the mediator finds that an agreement cannot be reached.

NOTE: The 60 calendar day period may be extended by the mediator, with the concurrence of GSA, for not more than 30 calendar days if the mediator determines that agreement is likely to be reached during the extension period.

(f) The mediator must return unresolved complaints to GSA.

§ 101–8.718 Investigation.

(a) *Informal investigation.* GSA investigates complaints that are unresolved after mediation or are reopened because of a violation of a mediation agreement. As part of the initial investigation, GSA uses informal factfinding methods, including joint or separate discussions with the complainant and the recipient, to establish the fact and, if possible, settle the complaint on terms that are mutually agreeable to the parties. GSA may seek the assistance of any involved State agency. GSA puts any agreement in writing and has it signed by the parties and an authorized official designated by the Administrator or the Director, Office of Organization and Personnel. The settlement may not affect the operation of any other enforcement efforts of GSA, including compliance reviews and investigation of other complaints that may involve the recipient. The settlement is not a finding of discrimination against a recipient.

(b) *Formal investigation.* If GSA cannot resolve the complaint through informal investigation, it begins to develop formal findings through further investigation of the complaint. If the investigation indicates a violation of these regulations, GSA attempts to obtain voluntary compliance. If GSA cannot obtain voluntary compliance, it begins enforcement as described in § 101–8.720.

§ 101–8.719 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who:

(a) Attempts to assert a right protected by the Act of this regulation; or

(b) Cooperates in any mediation, investigation, hearing, conciliation, and enforcement process.

§ 101–8.720 Compliance procedure.

(a) GSA may enforce the Act and these regulations through:

(1) Termination of a recipient's Federal financial assistance from GSA under the program or activity involved where the recipient has violated the Act or this regulation. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge.

(2) Any other means authorized by law including, but not limited to:

(i) Referral to the Department of Justice for proceeding to enforce any rights of the United States or obligations of the recipients created by the Act or this regulation, or

(ii) Use of any requirement of or referral to any Federal, State, or local government agency that has the effect of correcting a violation of the Act or this regulation.

(b) GSA limits any termination to the particular recipient and program or activity or part of such program or activity GSA finds in violation of this regulation. GSA does not base any part of a termination on a finding with respect to any program or activity of the recipient that does not receive Federal financial assistance from GSA.

(c) GSA takes no action under paragraph (a) until:

(1) The administrator advises the recipient of its failure to comply with the Act and this regulation and determines that voluntary compliance cannot be obtained, and

(2) 30 calendar days elapse after the Administrator sends a written report of the grounds of the action to the committees of Congress having legislative jurisdiction over the program or activity involved. The Administrator files a report if any action is taken under paragraph (a) of this section .

(d) GSA may also defer granting new Federal financial assistance from GSA to a recipient when a hearing under § 101–8.721 is initiated.

(1) New Federal financial assistance from GSA includes all assistance for which GSA requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New Federal financial assistance from GSA does not include assistance approved before the beginning of a hearing.

(2) GSA does not begin a deferral until the recipient receives notice of an opportunity for a hearing under § 101–8.721. GSA does not continue a deferral

for more than 60 calendar days unless a hearing begins within that time or the time for beginning the hearing is extended by mutual consent of the recipient and the Administrator. GSA does not continue a deferral for more than 30 calendar days after the close of the hearing, unless the hearing results in a finding against the recipient.

(3) GSA limits any deferral to the particular recipient and program or activity or part of such program or activity GSA finds in violation of these regulations. GSA does not base any part of a deferral on a finding with respect to any program or activity of the recipient which does not, and would not, receive Federal financial assistance from GSA.

§ 101–8.721 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required, reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action; and either fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible GSA official that the matter be scheduled for hearing or advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing for which a data has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act, and consent to the making of a decision on the basis of such information as may be filed as the record.

(b) *Time and place of hearing.* Hearings shall be held at GSA in Washington, D.C., at a time fixed by the Director, Office of Civil Rights (OCR), unless he or she determines that the convenience of the applicant or recipient or of GSA requires that another place be selected. Hearings shall be held before a hearing examiner designated in accordance with 5 U.S.C. 3105 and 3344 (section 11 of the Administrative Procedure Act).

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and GSA shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted in conformity with sections 5–8 of the Administrative Procedure Act, and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both GSA and the applicant or recipient shall be entitled to introduce all relevent evidence on the issues as stated in the notice for hearing or as determined by the Officer conducting the hearing at the outset of or during the hearings. Any person (other than a Government employee considered to be on official business) who, having been invited or requested to appear and testify as a witness on the Government's behalf, attends at a time and place scheduled for a hearing provided for by this part, may be reimbursed for his travel and actual expenses of attendance in an amount not to exceed the amount payable under the standardized travel regulations to a Government employee traveling on official business.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to

examination by the parties and opportunity shall be given to refute facts and arguments advances on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated of Joint Hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this regulation with respect to two or more Federal statutes, authorities, or other means by which Federal financial assistance is extended and to which this part applies, or noncompliance with this part, and the regulations of one or more other Federal departments or agencies issued under title VI of the Act, the responsible GSA official may, by agreement with such other departments or agencies where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedures not inconsistent with this part. Final decisions in such cases, insofar as this regulation is concerned, shall be made in accordance with §101–8.722.

§101–8.722 Decisions and notices.

(a) *Decisions by hearing examiners.* After a hearing is held by a hearing examiner such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the Agency designated reviewing authority for final decision. A copy of such initial decision or certification shall be mailed to the applicant or recipient and to the complainant, if any. Where the initial decision referred to in this paragraph or in paragraph (c) of this section is made by the hearing examiner, the applicant or recipient or the counsel for GSA may, within the period provided for in the rules of procedure issued by GSA official, file with the reviewing authority exceptions to the initial decision, with his or her reasons therefore. Upon the filing of such exceptions the reviewing authority shall review the initial decision and issue a decision including the reasons therefor. In the absence of exceptions the initial decision shall constitute the final decision, subject to the provisions of paragraph (e) of this section.

(b) *Decisions on record or review by the reviewing authority.* Whenever a record is certified to the reviewing authority for decision or it reviews the decision of a hearing examiner pursuant to paragraph (a) or (c) of this section, the applicant or recipient shall be given reasonable opportunity to file with it briefs or other written statements of its contentions, and a copy of the final decision of the reviewing authority shall be given in writing to the applicant or recipient and to the complainant, if any.

(c) *Decisions on record where a hearing is waived.* Whenever a hearing is waived pursuant to §101–8.721(a) the reviewing authority shall make its final decision on the record or refer the matter to a hearing examiner for an initial decision to be made on the record. A copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of a hearing examiner or reviewing authority shall set forth a ruling on each findings, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Review in certain cases by the Administrator.* If the Administrator has not personally made the final decision referred to in paragraph (a), (b), or (c) of this section, a recipient or applicant or the counsel for GSA may request the Administrator to review a decision of the Reviewing Authority in accordance with rules of procedure issued by the responsible GSA official. Such review is not a matter of right and shall be granted only where the Administrator determines there are special and important reasons therefor. The Administrator may grant or deny such request, in whole or in part. He or she may also review such a decision in accordance with rules of procedure issued by the responsible GSA official. In the absence of a review under this paragraph, a final decision referred to in paragraphs (a), (b), (c) of this section shall become the final decision of GSA when

the Administrator transmits it as such to Congressional committees with the report required under section 602 of the Act. Failure of an applicant or recipient to file an exception with the Reviewing Authority or to request review under this paragraph shall not be deemed a failure to exhaust administrative remedies for the purpose of obtaining judicial review.

(f) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, to which this regulation applies, and may contain such terms, conditions and other provisions as are consistent with and will effectuate the purposes of the Act and this regulation, including provisions designed to assure that no Federal financial assistance to which this regulation applies will thereafter be extended under such law or laws to the applicant or recipient determined by such decision to be in default in its performance of an assurance given by it pursuant to this regulation, or to have otherwise failed to comply with this regulation unless and until it corrects its noncompliance and satisfies the responsible GSA official that it will fully comply with this regulation.

(g) *Post-termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (f) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this part and provides reasonable assurance that is will fully comply with this part.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (f) of this section may at any time request the responsible GSA official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (g)(1) of this section. If the responsible GSA official determines that those requirements have been satisfied, he or she shall restore such eligibility.

(3) If the responsible GSA official denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible GSA official. The applicant or recipient will be restored to such eligibility if it proves at such hearing that it satisfied the requirements of paragraph (g)(1) of this section. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (f) of this section shall remain in effect.

§ 101–8.723 Remedial action by recipient.

If GSA finds a recipient discriminated on the basis of age, the recipient must take any remedial action that GSA may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that discriminated, GSA may require both recipients to take remedial action.

§ 101–8.724 Exhaustion of administrative remedies.

(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 calendar days elapse after the complainant files the complaint and GSA makes no finding with regard to the complaint; or

(2) GSA Issues a finding in favor of the recipient.

(b) If GSA fails to make a finding within 180 days or issues a finding in favor of the recipient, GSA must:

(1) Promptly advise the complainant of this fact;

(2) Advise the complainant of his or her right to bring civil action for injunctive relief; and

(3) Inform the complainant:

(i) That the complainant may bring civil action only in a United States district court for the district in which the recipient is located or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be

awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint;

(iii) That before commencing the action the complainant must give 30 calendar days notice by registered mail to the Secretary, HHS, The Administrator, the Attorney General of the United States, and the recipient;

(iv) That the notice must state the alleged violation of the Act, the relief requested, the court in which the complainant is bringing the action, and whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That the complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

§ 101–8.725 Alternate funds disbursal.

If GSA withholds Federal financial assistance from a recipient under this regulation, the Administrator may disburse the assistance to an alternate recipient; any public or nonprofit private organization; or agency or State or political subdivision of the State. The Administrator requires any alternate recipient to demonstrate:

(a) The ability to comply with this regulation; and

(b) The ability to achieve the goals of the Federal Statutes authorizing the Federal financial assistance.

PART 101–9—FEDERAL MAIL MANAGEMENT

AUTHORITY: Sec. 2, Pub. L. 94–575, as amended, 44 U.S.C. 2904; 40 U.S.C. 486(c); Sec. 205(c), 63 Stat. 390.

SOURCE: 67 FR 38897, June 6, 2002, unless otherwise noted.

§ 101–9.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For Federal mail management information previously contained in this part, see FMR part 192 (41 CFR part 102–192).

SUBCHAPTER B—MANAGEMENT AND USE OF INFORMATION AND RECORDS

PART 101–11—FEDERAL RECORDS AND STANDARD AND OPTIONAL FORMS

AUTHORITY: 40 U.S.C. 486(c).

SOURCE: 66 FR 48358, Sept. 20, 2001, unless otherwise noted.

§ 101–11.0 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 1 through 220).

For information on records and standard and optional forms, see FMR parts 102–193 and 102–194 (41 CFR parts 102–193 and 102–194).

[70 FR 3132, Jan. 19, 2005]

SUBCHAPTER C—DEFENSE MATERIALS

PARTS 101–14—101–15 [RESERVED]

SUBCHAPTER D—PUBLIC BUILDINGS AND SPACE

PART 101–16 [RESERVED]

PART 101–17—ASSIGNMENT AND UTILIZATION OF SPACE

AUTHORITY: 40 U.S.C. 285, 304c, 601 *et seq.*, 490 note; E.O. 12072, 43 FR 36869, 3 CFR, 1978 Comp., p. 213.

SOURCE: 66 FR 5358, Jan. 18, 2001, unless otherwise noted.

§ 101–17.0 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For information on assignment and utilization of space, see FMR part 102–79 (41 CFR part 102–79).

PART 101–18—ACQUISITION OF REAL PROPERTY

AUTHORITY: E.O. 12072, Sec. 1–201(b), 43 FR 36869.

SOURCE: 67 FR 76883, Dec. 13, 2002, unless otherwise noted.

§ 101–18.0 Cross-reference to the Federal Management Regulation (FMR) 41 CFR chapter 102 parts 1 through 220).

For information on acquisition of real property, *see* FMR part 102–73 (41 CFR part 102–73).

PART 101–19—CONSTRUCTION AND ALTERATION OF PUBLIC BUILDINGS

AUTHORITY: 40 U.S.C. 486(c); 40 U.S.C. 490 (The Federal Property and Administrative Services Act of 1949, as amended, Sec. 205(c) and 210, 63 Stat. 377); and 40 U.S.C. 601–619 (The Public Buildings Act of 1959, as amended); Pub. L. 92–313.

SOURCE: 67 FR 76883, Dec. 13, 2002, unless otherwise noted.

§ 101–19.0 Cross-reference to the Federal Management Regulation (FMR) 41 CFR chapter 102 parts 1 through 220).

For information on construction and alteration of public buildings, *see* FMR parts 102–74 (41 CFR part 102–74) and 102–76 (41 CFR part 102–76).

PART 101–20—MANAGEMENT OF BUILDINGS AND GROUNDS

AUTHORITY: 40 U.S.C. 486(c); The Federal Property and Administrative Services Act of 1949, as amended, Sec. 205(c), 63 Stat. 390.

SOURCE: 67 FR 76883, Dec. 13, 2002, unless otherwise noted.

§ 101–20.0 Cross-reference to the Federal Management Regulation (FMR) 41 CFR chapter 102 parts 1 through 220).

For information on management of buildings and grounds, *see* FMR part 102–74 (41 CFR part 102–74).

PART 101–21—FEDERAL BUILDINGS FUND

AUTHORITY: 40 U.S.C. 486(c); 40 U.S.C. 490(j) (The Federal Property and Administrative Services Act of 1949, as amended, Sec. 205(c) and 210(j), 63 Stat. 390 and 86 Stat. 219; (40 U.S.C. 486(c) and 40 U.S.C. 490(j), respectively).

SOURCE: 66 FR 23169, May 8, 2001, unless otherwise noted.

§ 101–21.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220.)

For information previously contained in this part, see FMR part 85 (41 CFR part 102–85).

APPENDIX TO SUBCHAPTER D—TEMPORARY REGULATIONS FEDERAL PROPERTY MANAGEMENT REGULATIONS; INTERIM RULE D–1

PART 101–17—ASSIGNMENT AND UTILIZATION OF SPACE

§ 101–17.0 Cross-reference to the Federal Management Regulation (FMR) 41 CFR chapter 102 parts 1 through 220).

For information on location of space, *see* FMR part 102–83 (41 CFR part 102–83).

[67 FR 76883, Dec. 13, 2002]

SUBCHAPTER E—SUPPLY AND PROCUREMENT

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AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 101–25.000 Scope of subchapter.

This subchapter provides policies and guidelines pertaining to the general area of supply management designed to support the logistical programs of the Federal Government. It consists of parts 101–25 through 101–34 and provides

for applicability of coverage within each of these several parts.

[29 FR 13256, Sept. 24, 1964]

§ 101–25.001 Scope of part.

This part provides policies and guidelines pertaining to subject matter in the general area of supply management which is not appropriate for coverage in other parts of this subchapter E.

[29 FR 13256, Sept. 24, 1964]

Subpart 101–25.1—General Policies

SOURCE: 29 FR 13256, Sept. 24, 1964, unless otherwise noted.

§ 101–25.100 Use of Government personal property and nonpersonal services.

Except in emergencies, Government personal property and nonpersonal services shall be used only for those purposes for which they were obtained or contracted for or other officially designated purposes. Emergency conditions are those threatening loss of life and property. As used in this section *nonpersonal services* means those contractual services, other than personal and professional services (as defined in 40 U.S.C. 472). This includes property and services on interagency loan as well as property leased by agencies. Agency heads shall ensure that the provisions of this §101–25.100 are enforced to restrict the use of Government property/services to officially designated activities.

[40 FR 29818, July 16, 1975]

§ 101–25.101 Criteria for determining method of supply.

§ 101–25.101–1 General.

(a) This §101–25.101 prescribes general criteria governing selection of the appropriate methods of supply to be utilized in meeting the planned requirements of the Government. It is directly applicable to executive agencies, and other Federal agencies are requested to observe these criteria in conducting their supply operations.

(b) As used in this §101–25.101, the term *use point* means a storeroom or other redistribution point where supplies, materials, or equipment representing more than a 30-day supply are maintained primarily for issue directly to consumers within the local area, as distinguished from storage points where supplies and equipment are issued to redistribution points.

§ 101–25.101–2 Supply through storage and issue.

The following criteria shall govern in determining whether an item can be most advantageously supplied through storage and issue to use points:

(a) The item shall be physically adaptable to storage and issue and of such a character that it is feasible to forecast overall requirements of the use points served with reasonable accuracy;

(b) Rate of use and frequency of ordering at use points shall be sufficient to warrant storage and issue;

(c) The rate of deterioration or obsolescence shall be sufficiently low to avoid unnecessary loss; and

(d) Conditions exist where any of the following factors require supply through storage and issue (except that dangerous commodities of high weight and density, or commodities highly susceptible to damage normally should not be considered for supply through storage and issue unless one or more of such factors are determined to be of overriding importance)—

(1) Where price advantage through bulk buying is sufficient to render storage and issue more economical, all costs, both direct and indirect, considered.

(2) Where close inspection or testing is necessary to secure quality, or where repetitive inspection and test of small lots are prohibitive from the standpoint of cost or potential urgency of need.

(3) Where advance purchase and storage are necessitated by long procurement leadtime.

(4) Where an item is of special manufacture or design and is not readily available from commercial sources.

(5) Where an adequate industry distribution system does not exist to assure availability at use point.

(6) Where volume purchases are necessary to secure timely deliveries and advantageous prices.

(7) Where market conditions are such that supply through storage and issue is required to assure adequate supply.

(8) Where stocking of supplies and equipment necessary for implementation of emergency plans is required for an indefinite period.

§ 101–25.101–3 Supply through consolidated purchase for direct delivery to use points.

The following criteria shall govern in determining whether an item can be most advantageously supplied through consolidated purchase for direct delivery to use points:

(a) The items shall be equipment or supply items of such a character that it is feasible to forecast requirements for delivery to specific use points; and

(b) Conditions exist where any of the following factors requires consolidated purchasing of such items for direct delivery to use points—

(1) Where greatest price advantage, both direct and indirect costs considered, is obtainable through large definite quantity purchasing.

(2) Where an item is of special manufacture or design and is not readily available from commercial sources.

(3) Where market conditions are such that central procurement is required to assure adequate supply.

(4) Where contracts for production quantities are necessary to secure timely deliveries and advantageous prices.

(5) Where the quantity is large enough to assure lowest transportation costs or, conversely, where transportation costs for small quantity redistribution are so excessive that it is not feasible to store and issue the items.

§ 101–25.101–4 Supply through indefinite quantity requirement contracts.

The following criteria shall govern in determining whether an item can be most advantageously supplied through the medium of indefinite quantity requirement contracts covering specific periods and providing for delivery to use points as needs arise:

(a) The item shall be such a character that—

(1) Handling on a storage and issue basis is not economically sound, under the criteria prescribed in § 101–25.101–2;

(2) Rate of use and frequency of ordering at use points is estimated to be sufficient to warrant the making of indefinite quantity requirement contracts;

(3) It is either not feasible to forecast definite requirements for delivery to specific use points (as in the case of new items initially being introduced into a supply system), or no advantage accrues doing so; and

(b) Industry distribution facilities are adequate properly to serve the use points involved; and

(c) Conditions exist where any of the following factors requires the maintaining of indefinite quantity requirements contracts—

(1) Advantage to the Government is greater than would be secured by definite quantity procurements by individual offices or agencies (the determining consideration being one of overall economy to the Government, rather than one of direct comparison of unit prices of individual items obtainable through other methods of supply); or no known procurement economies would be effected but the requirements of offices of agencies can best be served by indefinite quantity requirements contracts.

(2) Acute competitive bidding problems exist because of highly technical matters which can best be met on a centralized contracting basis.

(3) The item is proprietary or so complex in design, function, or operation as to be noncompetitive and procurement can best be performed on a centralized contracting basis.

§ 101–25.101–5 Supply through local purchase.

The following criteria shall govern in determining whether an item should be supplied through local purchase:

(a) Urgency of need requires local purchase to assure prompt delivery;

(b) The items are perishable or subject to rapid deterioration which will not permit delay incident to shipment from distant points;

(c) The local purchase is within applicable limitation established by the agency head; or

(d) Local purchase will produce the greatest economy to the Government.

§ 101–25.102 Exchange or sale of personal property for replacement purposes.

Policies and methods governing executive agencies in exercising the authority granted under section 201(c) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481(c)), are prescribed in part 101–46.

[31 FR 4997, Mar. 26, 1966]

§ 101–25.103 Promotional materials, trading stamps, or bonus goods.

§ 101–25.103–1 General.

Federal agencies in a position to receive promotional materials, trading stamps, or bonus goods shall establish internal procedures for the receipt and disposition of these gratuities in accordance with § 101–25.103. The procedures shall provide for a minimum of administrative and accounting controls.

[48 FR 48232, Oct. 18, 1983]

§ 101–25.103–2 [Reserved]

§ 101–25.103–3 Trading stamps or bonus goods received from contractors.

When contracts contain a price reduction clause, any method (such as trading stamps or bonus goods) by which the price of a commodity or service is effectively reduced shall constitute a price reduction. Temporary or promotional price reductions are to be made available to contracting officers under the same terms and conditions as to other customers. Procuring activities, however, rather than accept trading stamps and bonus goods, shall attempt to deduct the cost of such items from the contract price. If obtaining such a price reduction is not possible, the contracting officer shall document the contract file to that effect and dispose of the items as provided in § 101–25.103.4.

[48 FR 48232, Oct. 18, 1983]

§ 101–25.103–4 Disposition of promotional materials, trading stamps, or bonus goods.

(a) Agencies shall, through the lowest appropriate activity, arrange for transfer of promotional materials, trading stamps, or bonus goods, without reimbursement in accordance with internal agency procedures to a nearby Federal hospital or similar institution operated, managed, or supervised by the Department of Defense (DOD) or the Veterans Administration (VA) when:

(1) The contract does not contain a price reduction clause, or

(2) The contractor refuses to grant a price reduction, and

(3) It is deemed practical and in the best interest of the Government to accept such promotional items as a price reduction, and

(4) The procuring or receiving agency has no practical use for the promotional items.

(b) Before transferring promotional materials, trading stamps, or bonus goods to the above Federal institutions, it must be determined that the proposed recipient is prepared to receive and use such items. If these items cannot be used by the receiving agency or a medical facility, they should be disposed of in accordance with 41 CFR 101–43, 44 and 45.

[48 FR 48232, Oct. 18, 1983]

§ 101–25.104 Acquisition of office furniture and office machines.

Each executive agency shall make a determination as to whether the requirements of the agency can be met through the utilization of already owned items prior to the acquisition of new furniture or office machines. The acquisition of new items shall be limited to those requirements which are considered absolutely essential and shall not include upgrading to improve appearance, office decor, or status, or to satisfy the desire for the latest design or more expensive lines.

(a) Generally acquisition of additional furniture or office machines from any source will be authorized only under the following circumstances, limited to the least expensive lines which will meet the requirement (see § 101–26.408 of this chapter with respect to items such as typewriters under Federal Supply Schedule contracts), and the justification for the action shall be fully documented in the agency file:

(1) For essential requirements arising from quantitative increases in onboard employment which constitute the total requirement of any agency or major component thereof (e.g. bureau, service, office).

(2) For essential requirements arising from a need not related to onboard employment increases but which are determined necessary to avoid impairment of program efficiency.

(b) Each agency shall restrict replacement of furniture or office machines either to usable excess, rehabilitated, or the least expensive new lines available which will meet the requirement under the following circumstances, authority for which will meet the requirement under the following circumstances, authority for which shall be fully documented in the agency file:

(1) Where the agency determines that the item is not economically repairable.

(2) Where reductions in office space occupancy are accomplished through use of more convenient or smaller size furniture and the space economies thus achieved offset the cost of the furniture to be acquired.

[30 FR 5479, Apr. 16, 1965, as amended at 42 FR 1031, Jan. 5, 1977]

§ 101–25.104–1 Redistribution, repair, or rehabilitation.

Prior to the purchase of new office furniture and office machines, agencies shall fulfill needs insofar as practicable through redistribution, repair, or rehabilitation of already owned furniture and office machines. In furtherance of the use of rehabilitated furniture and office machines, agencies shall review inventories on a continuing basis to ascertain those items which can be economically rehabilitated and institute programs for their orderly repair and rehabilitation. All such items which are not required for immediate needs shall be reported as excess.

[42 FR 1031, Jan. 5, 1977]

§ 101–25.105 [Reserved]

§ 101–25.106 Servicing of office machines.

(a) The determination as to whether office machines are to be serviced by use of annual maintenance contracts or per-call arrangements shall be made in each case after comparison of the relative cost affecting specific types of equipment in a particular location and consideration of the factors set forth in paragraph (b) of this section.

(b) Prior to making the determination required by paragraph (a) of this section, consideration shall be given to:

(1) Standard of performance required;

(2) Degree of reliability needed;

(3) Environmental factors; i.e., dusty surroundings or other unfavorable conditions;

(4) Proximity to available repair facilities;

(5) Past experience with service facility; i.e., reputation, performance record, quality of work, etc.;

(6) Daily use (heavy or light) and operator's care of machine;

(7) Age and performance record of machine;

(8) Machine inventory in relation to operating needs; i.e., availability of reserve machine in case of breakdown;

(9) Number of machines; including overall frequency of repairs required;

(10) Security restrictions, if any; and

(11) Other pertinent factors.

[31 FR 14260, Nov. 4, 1966]

§ 101–25.107 Guidelines for requisitioning and proper use of consumable or low cost items.

Consumable and low value items in inventory (cupboard stocks are not considered inventory) are subject to accounting and inventory record controls in accordance with applicable provisions of law and the principles and standards prescribed by the General Accounting Office, 2 GAO 12.5. Normally, however, the systems of control for such property cease at the time of issuance from a warehouse or storeroom to the consumer.

(a) The guidelines set forth in this § 101–25.107 are considered minimum to assure proper use of consumable or low cost items by individuals, subsequent to issue from accountable records and termination of formal accountability. Consumable items, for the purpose of this section, are considered to include those items actually consumed in use (e.g., pads and pencils) and those items

required in performance of duties but for which, primarily by reason of the low value involved, no formal accountability is maintained after issue, and are generally referred to as ''expendable.''

(b) Approval of requisitions for replenishment of cupboard storeroom stocks should be restricted to officials at a responsible supervisory level to ensure that supply requirements are justified on the basis of essentiality and quantity. Where requisitions are not required, such as in obtaining items from GSA customer supply centers, informal ''shopping lists'' should be approved at the same level.

(c) Adequate safeguards and controls should be established to assure that issues of expendable supplies are made for official use only. In appropriate situations, this will include identification of individuals to whom expendable supplies have been issued. Experience has indicated, also, that certain items of expendables should not be displayed either at seasonal periods of the year or on a permanent basis.

(d) The items listed below have from experience proven to be personally attractive and particularly susceptible to being used for other than official duties. Agencies should give special attention to these and any other consumable or low cost items when issues are excessive when compared with normal program needs.

Attache cases, Ball point pens and refills, Brief cases, Binders, Carbon paper, Dictionaries, Felt tip markers, Felt tip pens and refills, File folders, Letterex, Letter openers, Pads (paper), Paper clips, Pencils, Pencil sharpeners, Portfolios (leather, plastic, and writing pads), Rubber bands, Rulers, Scissors, Spray paint and lacquer, Staplers, Staples, Staple removers, Tape dispensers, Transparent tape, Typewriter ribbons.

[32 FR 4413, Mar. 23, 1967, as amended at 42 FR 1031, Jan. 5, 1977; 51 FR 13498, Apr. 21, 1986]

§ 101–25.108 Multiyear subscriptions for publications.

Subscriptions for periodicals, newspapers, and other publications for which it is known in advance that a continuing requirement exists should be for multiple years rather than for a single year where such method is advantageous for the purpose of economy or otherwise. Where various bureaus or offices in the same agency are subscribing to the same publication, consideration shall be given to consolidating these requirements, to the extent practical, on an agency-wide basis and on a multiyear basis. Payment covering issues to be delivered during the entire subscription period may be made in advance from currently available appropriations (31 U.S.C. 530a).

[33 FR 17140, Nov. 19, 1968]

§ 101–25.109 Laboratory and research equipment.

(a) This section prescribes controls for use by Federal agencies in managing laboratory and research equipment in Federal laboratories. Agencies may establish such additional controls as are appropriate to increase the use of already-owned equipment instead of procuring similar equipment.

(b) The term *Federal laboratory,* as used in this section, means any laboratory or laboratory facility in any Government-owned or -leased building which is equipped and/or used for scientific research, testing, or analysis, except clinical laboratories operating in direct support of Federal health care programs. To the extent practicable, agencies should observe the provisions of this section with regard to commercial laboratories and laboratory facilities which operate under contract with the Government and use Government-furnished equipment.

[43 FR 29004, July 5, 1978]

§ 101–25.109–1 Identification of idle equipment.

(a) The provisions of this § 101–25.109–1 apply to all Federal laboratories regardless of size.

(b) Inspection tours of Federal laboratories shall be conducted on a scheduled basis, annually, if feasible, but no less than every 2 years, for the purpose of identifying idle and unneeded laboratory and research equipment. Following each tour, a report of findings shall be prepared by the inspection team and, as determined by the agency head or his designee,

submitted to the head of the laboratory or to a higher agency official having laboratories management responsibility. Equipment identified by the inspection team as idle or unneeded shall be reassigned as needed within the laboratory, placed in an equipment pool, or declared excess and made available to other agencies in accordance with part 101–43.

(c) Laboratory inspection teams shall be comprised of senior program management, property management, and scientific personnel who are familiar with the plans and programs of the laboratory(ies) and who have a knowledge of laboratory and research equipment utilization. As determined by the agency head or his designee, members of an inspection team shall be appointed by either the head of the laboratory or a higher agency official having laboratories management responsibility.

(d) The agency head or his designee shall ensure compliance by responsible personnel with the requirements of this §101–25.109–1 and shall require that periodic independent reviews of walk-through procedures employed in Federal laboratories under his control be conducted to determine their effectiveness and to effect modifications as appropriate.

[43 FR 29004, July 5, 1978]

§101–25.109–2 Equipment pools.

(a) The provisions of this §101–25.109–2 apply to Federal laboratories which occupy an area of 10,000 square feet or more and employ 25 or more technical or scientific personnel.

(b) Equipment pools shall be established in Federal laboratories so that laboratory and research equipment can be shared or allocated on a temporary basis to laboratory activities and individuals whose average use does not warrant the assignment of the equipment on a permanent basis. In determining the number and location of equipment pools, consideration shall be given to economy of operation, mobility of equipment, accessibility to users, frequency of use of the equipment, and impact on research programs. Pooling operations should begin expeditiously, within 120 days, if feasible, following decisions regarding the number and location of pools. If it is determined that an equipment pool would not be practical or economical or for any other reason is not needed at a particular laboratory, a written report supporting that determination shall be submitted to the agency head or his designee. Federal laboratories which do not meet the size and staffing criteria in §101–25.109–2(a) should also establish equipment pools whenever feasible; however, these facilities need not submit written reports regarding determinations not to establish pools.

(c) Where the establishment of a physical pool would be economically unfeasible due to excessive transportation and handling costs, limited personnel resources, or limited space, pooling may be accomplished by means of equipment listings. Consideration should be given to the establishment of a laboratory advisory committee consisting of technical and management personnel to determine the types of equipment to be shared or pooled and to identify equipment that is no longer required.

(1) Equipment pools may also be used to fill requests for temporary replacements while permanently assigned equipment is being repaired or to provide equipment for new laboratories pending acquisition of permanent equipment.

(2) Although specific pieces of laboratory equipment may not be available for assignment to equipment pools, they may be available for sharing or loan. Information concerning the availability of this equipment can be maintained at a central location such as the equipment pools.

(d) Unless determined unnecessary by the agency head or his designee, each Federal laboratory operating equipment pools shall prepare and submit to the agency head or his designee an annual report concerning the use and effectiveness of equipment pooling.

(e) The agency head or his designee shall ensure compliance by responsible personnel with the provisions of this §101–25.109–2 and shall require that periodic independent reviews of equipment pool operations in Federal laboratories under his control be conducted to determine their effectiveness

and to effect modifications as appropriate.

[43 FR 29004, July 5, 1978]

§ 101–25.110 Tire identification/registration program.

The regulations issued by the Department of Transportation in 49 CFR part 574, Tire Identification and Recordkeeping, require that tire manufacturers maintain or have maintained for them the name and address of tire purchasers, the identification number of each tire sold, and the name and address of the tire seller (or other means by which the manufacturer can identify the tire seller). In addition, distributors and dealers are required to furnish such data to manufacturers in connection with purchases made directly from them. GSA provides support to the Federal Government for tires, and therefore has prescribed the following procedures for tires purchased from or through GSA supply sources.

[53 FR 11848, Apr. 11, 1988]

§ 101–25.110–1 [Reserved]

§ 101–25.110–2 Tires obtained through Federal Supply Schedules or regional term contracts.

When tire manufacturers ship tires direct against orders placed under Federal Supply Schedules, the tire manufacturer will record the name and address of the purchaser and the identification numbers of the tires involved.

[53 FR 11848, Apr. 11, 1988]

§ 101–25.110–3 Tires accompanying new motor vehicles.

The tire identifications and recordkeeping regulations issued by the Department of Transportation require each motor vehicle manufacturer or his designee to maintain a record of tires on or in each vehicle shipped by him together with the name and address of the first purchaser.

[37 FR 7794, Apr. 20, 1972]

§ 101–25.110–4 Recordkeeping responsibilities.

The effectiveness of the tire identification and recordkeeping regulations depends on the active support and cooperation of all agencies to ensure that tires subject to a recall program are not to continue in service thereby endangering the lives of the occupants of the vehicle. Therefore, agencies should establish procedures for promptly identifying and locating all tires whether in storage or on vehicles so that advice from GSA, the tire manufacturer, or the vehicle manufacturer may be acted upon expeditiously.

[53 FR 11848, Apr. 11, 1988]

§ 101–25.111 Environmental impact policy.

(a) From time to time, Congress enacts legislation pertaining to the protection and enhancement of the Nation's environment; e.g., the National Environmental Policy Act of 1969 (42 U.S.C. 4321). The objective of such legislation is, among other things, the improvement of the relationship between people and their environment and the lessening of hazards affecting their health and safety. It is the policy of the General Services Administration to appropriately implement the various provisions of these Acts of Congress as fully as statutory authority permits in support of the national policy.

(b) With respect to the procurement, management, and disposal of personal property, the implementation of national environmental policy is provided through amendments to the regulations of GSA, changes to Federal specifications and standards documents, as appropriate, and other actions as may be required when expediency is of prime importance. Further, the Federal regulatory agencies have imposed restrictions applicable to the procurement, use, and disposal of items supplied through the Federal supply system that are known to contain components or possess qualities that have an adverse impact on the environment or that result in creating unsafe or unhealthy working conditions. Each agency, therefore, shall take action as necessary to ensure that the objectives and directives of the National Environmental Policy Act, other environmental statutes, and applicable regulations are met; especially the directive that environmental concerns, effects, and values shall be given appropriate

consideration with economic and technical issues in decisionmaking. Action should include a continuing review of the FEDERAL REGISTER and issuances promulgated by the Federal regulatory agencies for guidance applicable to the procurement, use, and disposal of items that are known to contain components or to possess qualities that have an adverse impact on the environment or that result in creating unsafe or unhealthy working conditions.

[39 FR 24505, July 3, 1974]

§ 101–25.112 Energy conservation policy.

(a) Agency officials responsible for procurement, management, and disposal of personal property and nonpersonal services shall ensure that pertinent procurement and property management documents reflect the policy set forth in paragraph (b) of this section, which has been established pursuant to Public Law 94–163, Energy Policy and Conservation Act.

(b) With respect to the procurement or lease of personal property or nonpersonal services, which in operation consume energy or contribute to the conservation of energy, executive agencies shall promote energy conservation and energy efficiency by being responsive to the energy efficiency and/or conservation standards or goals prescribed by the U.S. Government.

[43 FR 8800, Mar. 3, 1978]

§ 101–25.113 [Reserved]

§ 101–25.114 Supply management surveys and assistance.

Under the provisions of 40 U.S.C. 487, the General Services Administration will perform surveys and/or reviews of Government property and property management practices of executive agencies. These surveys or reviews will be conducted by the Federal Supply Service in connection with regular surveys and studies of agency supply management practices or when providing assistance in the development of agency property accounting systems. Written reports of findings and recommendations will be provided to agency heads.

[45 FR 41947, June 23, 1980]

Subpart 101–25.2—Interagency Purchase Assignments

SOURCE: 29 FR 15991, Dec. 1, 1964, unless otherwise noted.

§ 101–25.201 General.

(a) This subpart prescribes the basic policy for interagency purchase assignments within the executive branch of the Government. It is directly applicable to executive agencies and concerns other Federal agencies in their purchasing from, through, or under contracts made by executive agencies.

(b) The term *purchase assignment* as used in this subpart shall normally be considered to include performance of the following functions:

(1) Arranging with requiring agencies for phased submission of requirements and procurement requisitions.

(2) Soliciting and analyzing bids and negotiating, awarding, and executing contracts.

(3) General contract administration.

(4) Arranging for inspection and delivery.

(5) Promotion of a maximum practicable degree of standardization in specifications and establishment of Federal Specifications, when possible, in accordance with applicable regulations.

(c) Notice of purchase assignments and applicable delegations of authority, made under the provisions of this subpart 101–25.2, shall be furnished to the General Accounting Office by GSA.

§ 101–25.202 Factors to be used to determine assignment of purchase responsibility.

With their consent or upon direction of the President, executive agencies will be designated and authorized by the Administrator of General Services exclusively, or with specified limited exceptions, to make purchases and contracts on a continuing basis for items or item groups of articles and services for the executive branch of the Government, after due consideration of the following factors, weighted as appropriate:

(a) Current or potential predominant use or consumption by a given agency.

(b) Availability of funds to carry out the assignment on a Government-wide basis or with limited exceptions.

(c) Specialized personnel, or the nucleus of such personnel, regularly employed by the agency, such as scientific, research, and operating technicians, especially qualified or experienced in specification writing, buying, inspecting, testing, using, installing, or operating a particular item or group of items.

(d) Custodianship and operation of special facilities such as research and testing laboratories and inspection or testing stations and devices.

(e) Actual or potential qualifications and experience of agency purchasing and contracting officials and their operating units with due regard to adequacy of staff.

(f) Past experience of the agency in performing services to other agencies on an informal or joint cooperative basis.

(g) Relations of the agency with the industry involved.

(h) Physical proximity of the agency purchasing office or offices to the requirement-compiling elements of the principal using agencies.

(i) Physical location of the agency purchasing office or offices in relation to market areas.

(j) Physical proximity of the agency purchasing offices in relation to engineering or design offices, in the interest of speed in processing modifications in design and specifications, and also reviewing bids for specifications compliance.

(k) Relative interest of agency heads in receiving the purchase assignment and specific requests of agency heads to do the buying of a given item or group of items on a Government-wide basis.

§ 101–25.203 Centralized purchases by GSA.

GSA will exclusively, or with specified limited exceptions, make purchases and contracts on a continuing basis for articles and services for the executive branch of the Government in the interest of lower prices, improved quality, and service or standardization when:

(a) The item or item groups of articles and services are items of ''common-use'' which are defined as items of standard commercial production or items covered by Federal Specifications commonly used by both civilian and military activities, or by two or more civilian activities, and not requiring such substantial alterations to adapt them to military or other particular application as to render inclusion in a centralized purchasing program impracticable; or

(b) A number of agencies, representing the majority users according to dollar volume, request GSA to make purchases and contracts exclusively for a given item or item groups of articles and services even though not ''common-use'' items as defined in §101–25.203(a); and

(c) GSA is best equipped to do the buying based upon the factors listed in §101–25.202, or must of necessity act as the central purchasing office when other agencies more appropriately suited to make central purchases do not do so and are not so directed by the President; and

(d) The head of another executive agency has not been delegated authority by the Administrator of General Services exclusively, or with specified limited exceptions, to make purchases and contracts for prescribed items or item groups of articles and services for the executive branch of the Government in accordance with §§101–25.202 and 101–25.204.

(e) GSA has issued appropriate regulations, or a Federal Supply Schedule, specifically designating the item or item groups of articles or services that fall within paragraphs (a), (b), and (c) of this §101–25.203 that are thereafter to be purchased exclusively for all executive agencies, or with specified limited exceptions, by GSA.

§ 101–25.204 Centralized purchases by designated executive agencies under authority delegated by the Administrator of General Services.

Designated executive agencies will exclusively, or with specified limited exceptions, make purchases and contracts on a continuing basis for items or item groups of articles and services

for the executive branch of the Government in the interest of lower prices, improved quality, and service or standardization when:

(a) The Administrator of General Services has determined, based upon the factors listed in §101–25.202, that a selected executive agency is best equipped to perform certain purchasing and contracting functions, and the Administrator of General Services has issued appropriate regulations designating the categories of articles or services complying with paragraphs (a), (b), and (c) of §101–25.203 that are to be purchased exclusively by the named executive agency under authority delegated by the Administrator of General Services; and

(b) The head of the designated executive agency has issued appropriate instructions, or a Federal Supply Schedule, under authority as delegated by and in the form approved by the Administrator, specifically designating the item or item groups of articles or services that are thereafter to be purchased exclusively for all executive agencies, or with specified limited exceptions, by the designated executive agency.

§101–25.205 Arrangement for performance of purchasing functions other than centralized.

(a) Upon request, GSA will make purchases and contracts for any of the items or item groups of articles or services authorized to be purchased independently by executive agencies. GSA will also arrange, on a basis mutually agreeable, with any executive agency to perform its purchase and contracting functions on a continuing basis, if requested in writing to do so by the agency head, provided the arrangements agreed upon will result in lowered cost or improved service either to the individual agency or to the Government as a whole.

(b) In those instances where lowered cost or improved service, either to an individual agency or to the Government as a whole will result, GSA will arrange, on a basis mutually agreeable to the agencies involved, to assign all or a portion of the purchase and contracting functions of one executive agency to another executive agency on a continuing basis.

§101–25.206 Independent purchases by executive agencies.

Items or groups of items of articles or services may be purchased independently by executive agencies, in accordance with regulations of GSA otherwise applicable, when:

(a) Not otherwise prescribed in current regulations, or included in mandatory Federal Supply Schedules, issued by GSA or by another executive agency designated by the Administrator of General Services.

(b) For emergency requirements when time does not permit purchasing through the authorized central purchasing agency. A record shall be maintained of such transactions and be made available to the responsible central purchasing agency upon request.

(c) By consultation between GSA and agencies concerned, it is determined that interagency purchase assignment would adversely affect the national security or military operations.

(d) The purchases cannot be publicly disclosed in the interest of national security.

Subpart 101–25.3—Use Standards

§101–25.301 General.

(a) This subpart prescribes minimum use standards for certain Government-owned personal property which shall be applied by all executive agencies. Additional criteria above these minimum standards shall be established by each executive agency, limiting its property to the minimum requirements necessary for the efficient functioning of the particular office concerned. This subpart does not apply to automatic data processing equipment (ADPE) which is covered in the Federal Information Resources Management Regulation (FIRMR) (41 CFR Chapter 201).

(b) Additional use standards should be established by all executive agencies for other Government-owned property under their control whenever use standards will effect economy and efficiency in the use of such property.

(c) All items of property, determined to be excess to the needs of an agency as a result of the application of use

standards, shall be promptly reported in accordance with part 101–43.

[29 FR 15993, Dec. 1, 1964, as amended at 61 FR 14978, Apr. 4, 1996]

§ 101–25.302 Office furniture, furnishings, and equipment.

(a) Each executive agency shall establish criteria for the use of office furniture, furnishings, and equipment. Such criteria shall be in consonance with the provisions of §101–25.104 pertaining to office furniture and office machines and shall be limited to the minimum essential requirements as established by the agency head for authorized functions and programs which will, beyond a reasonable doubt, be in operation within the following 6 months.

(b) In developing such criteria, a distinction shall be made between the requirements of organizational elements concerned with purely administrative functions, and those of a technical, scientific, or specialized nature.

(c) Items of office equipment, used only occasionally, should be pooled within an agency and made available to activities of the agency when and as necessary.

[29 FR 15993, Dec. 1, 1964, as amended at 42 FR 1031, Jan. 5, 1977]

§ 101–25.302–1 [Reserved]

§ 101–25.302–2 Filing cabinets.

Executive agencies shall make every effort to effect maximum use of filing cabinets and to limit the purchase of new equipment. Filing cabinets should be replaced only in accordance with the standards in subpart 101–25.4. Maximum utilization of equipment should be obtained by:

(a) Disposing of all records that have been authorized for disposition by the Congress or, where such authorization has not been obtained, through the preparation and obtaining of authorized disposal schedules with the assistance of the National Archives and Records Administration.

(b) Removing office supplies, publications, and other nonrecord material from filing cabinets to more suitable storage equipment, except where the quantity of such material is small (as a rule, less than half a cabinet).

(c) Transferring to Federal Records Centers or approved agency records centers (to the extent that facilities are made available) inactive records not needed in daily business but not yet ready for disposal, when filing equipment can be released by such action.

(d) Shifting less active files, not transferable to approved records centers, to fiberboard storage boxes, using filing cabinets only when files are constantly used.

(e) Using filing cabinets with locks only when required by special needs that cannot be satisfied less expensively.

(f) Using letter-size filing cabinets instead of legal-size whenever possible.

(g) Using 5-drawer filing cabinets whenever available in lieu of 4-drawer cabinets.

[29 FR 15993, Dec. 1, 1964, as amended at 53 FR 11848, Apr. 11, 1988; 61 FR 14978, Apr. 4, 1996]

§§ 101–25.302–3—101–25.302–4 [Reserved]

§ 101–25.302–5 Carpeting.

(a) Carpeting is authorized for use where it can be justified over other types of floor covering on the basis of cost, safety, insulation, acoustical control, the degree of interior decoration required, or the need to maintain an environment commensurate with the purpose for which the space is allocated.

(b) In connection with new construction or alteration of space, if it is known that the area will eventually require carpeting, then resilient floor covering should be omitted and the carpeting installed initially.

[43 FR 18673, May 2, 1978, as amended at 49 FR 48546, Dec. 13, 1984]

§ 101–25.302–6 [Reserved]

§ 101–25.302–7 Draperies.

Draperies are authorized for use where justified over other types of window coverings on the basis of cost, insulation, acoustical control, or maintenance of an environment commensurate with the purpose for which the space is allocated. Determining whether the use of draperies is justified is a

responsibility of the agency occupying the building or space involved after consultation with the agency operating or managing the building. Authorized draperies shall be of non-combustible or flame-resistant fabric as required in § 101–20.105–1.

[61 FR 14978, Apr. 4, 1996]

Subpart 101–25.4—Replacement Standards

§ 101–25.401 General.

This subpart prescribes minimum replacement standards to be used by executive agencies desiring to replace specified types of items indicated in this subpart. Executive agencies shall retain items which are in usable workable condition even though the standard permits replacement, provided the item can continue to be used or operated without excessive maintenance cost or substantial reduction in trade-in value.

[29 FR 15994, Dec. 1, 1964]

§ 101–25.402 Motor vehicles.

Replacement of motor vehicles shall be in accordance with the standards prescribed in § 101–38.402.

[53 FR 11848, Apr. 11, 1988]

§ 101–25.403 [Reserved]

§ 101–25.404 Furniture.

Furniture (office, household and quarters, and institutional) shall not be replaced unless the estimated cost of repair or rehabilitation (based on GSA term contracts), including any transportation expense, exceeds at least 75 percent of the cost of a new item of the same type and class (based on prices as shown in the current edition of the GSA Supply Catalog, applicable Federal Supply Schedules, or the lowest available market price). An exception is authorized in those unusual situations in which rehabilitation of the furniture at 75 percent or less of the cost of a new item would not extend its useful life for a period compatible with the cost of rehabilitation as determined by the agency head or his designee.

[38 FR 28566, Oct. 15, 1973]

§ 101–25.404–1 Limitation.

Nothwithstanding the provisions in § 101–25.404, agencies shall limit acquisition of new office furniture to essential requirements as provided in § 101–25.104. Replacement of correspondence filing cabinets will be governed by the provisions of § 101–26.308.

[61 FR 14978, Apr. 4, 1996]

§ 101–25.405 Materials handling equipment.

(a) Materials handling equipment will not be replaced unless the estimated cost of necessary one-time repair or reconditioning of each piece of equipment exceeds, at lowest available cost, the applicable percentage of acquisition cost as shown in column 3 of the following table. Equipment eligible for replacement under the criteria established by this standard may be repaired provided the expected economical life is extended commensurate with the expenditure required. Prior to incurring repair costs for equipment eligible for replacement, consideration should be given to the continuing availability of repair parts.

(1) Years in use shall be determined in accordance with the following:

(i) An operating month is considered equal to 100 operating hours. For materials handling equipment in storage, one month in storage equals 50 hours of operation.

(ii) The number of years in use is determined by dividing the number of operating months by 12. The fractional years in use resulting from this computation will be rounded to the nearest full year.

Column 1—Type of unit	Column 2—Expected years of economical use	Column 3—Maximum allowable "one-time repair limits" as percentage of acquisition costs (years in use)														
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
GASOLINE																
Fork truck (2000 pounds to 6000 pounds)	8	50	45	40	30	25	20	15	10	....	....	....	....	....	....	....
Fork truck (over 6000 pounds)	10	50	45	40	35	30	25	20	15	10	10	....	....	....	....	....
Tractor	8	50	45	40	30	25	20	15	10	....	....	....	....	....	....	....
Crane	12	50	50	45	45	40	40	35	30	25	20	15	10	....	....	....
Platform truck	8	50	45	40	30	25	20	15	10	....	....	....	....	....	....	....
Straddle truck	15	50	50	50	45	45	45	40	40	35	35	30	25	20	15	10
ELECTRIC																
Fork truck (2000 pounds to 6000 pounds)	15	50	50	50	45	45	45	40	40	35	35	30	25	20	15	10
Tractor	15	50	50	50	45	45	45	40	40	35	35	30	25	20	15	10
Crane	15	50	50	50	45	45	45	40	40	35	35	30	25	20	15	10
Platform truck	15	50	50	50	45	45	45	40	40	35	35	30	25	20	15	10
Pallet truck	15	50	50	50	45	45	45	40	40	35	35	30	25	20	15	10

(2) In using the maximum allowable one-time repair limits in column 3 of the table, costs such as parts, labor, and transportation incident to the repairs, are to be included in computing one-time repair costs. However, operating expenses such as fuels and lubricants, replacement tires and batteries, and antifreeze will not be included in the one-time repair cost estimate.

(b) Notwithstanding the limitations prescribed in §101–25.405(a), materials handling equipment may be replaced under the following conditions provided a written justification supporting such replacement is approved by the agency head or an authorized designee. The justification shall be retained in the agency files.

(1) When the cumulative repair costs on a piece of equipment appears to be excessive as indicated by repair records. However, because an item of equipment accrues repair costs equal to the acquisition cost, it is not necessarily indicative of the current condition of the equipment. For example, a substantial repair expenditure included in the cumulative cost may actually have resulted in restoring the equipment to as good as new condition. While cumulative repair costs suggest an area for investigation, they should not be used as the principal ingredient in the repair/replacement decision making process.

(2) When repair parts are not available causing excessive equipment out-of-service time.

(3) When the equipment lacks essential features required in a particular task which is of a continuing nature and other suitable equipment is not readily available.

[32 FR 12400, Aug. 25, 1967]

Subpart 101–25.5—Purchase or Lease Determinations

§101–25.500 Cross-reference to the Federal Acquisition Regulation (FAR) (48 CFR chapter 1, parts 1–99).

For guidance see Federal Acquisition Regulation Subpart 7.4 (48 CFR Subpart 7.4).

[64 FR 34734, June 29, 1999]

Subparts 101–25.6—101–25.49 [Reserved]

PART 101–26—PROCUREMENT SOURCES AND PROGRAM

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AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 101–26.000 Scope of part.

This part prescribes policies and procedures which govern the procurement of personal property and nonpersonal services by Federal agencies from or through GSA supply sources as established by law or other competent authority. The specific subparts or sections covering the subject matter involved prescribe the extent to which the sources of supply are to be used by Government agencies. Certain civilian and military commissaries and nonappropriated fund activities are also eligible to use GSA supply sources for their own use, not for resale, unless otherwise authorized by the individual Federal agency and concurred in by GSA. Policy and procedures pertaining to purchasing of property or contracting for services from commercial sources, without recourse to established GSA supply sources, are provided in the Federal Acquisition Regulation (FAR) (48 CFR chapter 1).

[56 FR 12455, Mar. 26, 1991]

Subpart 101–26.1—General

§ 101–26.100 Scope of subpart.

This subpart provides policy guidance of a general nature concerning procurement of lowest cost items obtainable from GSA supply sources; availability from GSA of special buying services in addition to the specified GSA procurement sources; criteria for placing end-of-year purchase documents with GSA and for insuring that end-of-year requisitions placed with GSA obligate the applicable fiscal year appropriation; and justification requirements to support negotiated procurement by GSA for other agencies.

[36 FR 17423, Aug. 31, 1971]

§ 101–26.100–1 Procurement of lowest cost items.

GSA provides lines of similar items to meet particular end-use requirements under the GSA stock program, special order program (SOP) established source, and the Federal Supply Schedule program. Although these similar items may differ in terms of price, quality, and essential characteristics, they often can serve the same functional end-use procurement needs of the various ordering agencies. Therefore, in submitting requisitions or placing delivery orders for similar items obtainable from GSA sources, agencies shall utilize the source from which the lowest cost item can be obtained which will adequately serve the functional end-use purpose.

[56 FR 12455, Mar. 26, 1991]

§ 101–26.100–2 Request for waivers.

Waiver requests, when required by § 101–26.102–1 (special order program established source items), § 101–26.301 (GSA stock items) or § 101–26.401–3(b) (Federal Supply Schedule items), shall be submitted to the Commissioner, Federal Supply Service (F), General Services Administration, Washington, DC 20406. Waiver requests will be approved if considered justified. Approval of a waiver request does not constitute authority for a sole source procurement. Depending on the basis for the waiver request, each request shall contain the following information:

(a) Waiver requests based on determination that the GSA item is not of the requisite quality or will not serve the required functional end-use purpose of the agency requesting the waiver shall include the following information with each request:

(1) A complete description of the type of item needed to satisfy the requirement. Descriptive literature such as cuts, illustrations, drawings, and brochures which show the characteristics or construction of the type of item or an explanation of the operation should be furnished whenever possible.

(2) The item description and the stock number (NSN if possible) of the GSA item being compared. Inadequacies of the GSA items in performing the required functions.

(3) The quantity required. (If demand is recurrent, nonrecurrent, or unpredictable, so state.)

(4) The name and telephone number of the person to be contacted when questions arise concerning the request.

(5) Other pertinent data, when applicable.

(b) Waiver request based on determination that the GSA item can be purchased locally at a lower price shall include the following information with each request. However, the price alone of an item without other substantive consideration will not be considered sufficient justification to approve a waiver request.

(1) A complete description of the type of item needed to satisfy the requirement.

(2) The quantity required. (If demand is recurrent, nonrecurrent, or unpredictable, so state.)

(3) The destination of item to be delivered.

(4) The name and address of source.

(5) A price comparison with the GSA item, including the NSN of the GSA item. Cost comparisons shall include the agency administrative cost to effect the local purchase.

(6) The name and telephone number of the person to be contacted when questions arise concerning the request.

(7) Other pertinent data, when applicable.

(c) When the item is a Standard or optional form available from GSA stock, the provisions of § 101–26.302 apply.

(d) Agencies shall not initiate action to procure similar items from non-GSA sources until a request for a waiver has been requested from and approved by GSA. The fact that action to procure a similar item has been initiated will not influence GSA action on a request for waiver.

(e) Waivers are not required for items or services procured in accordance with the policy set forth in § 101–26.100–1 relating to the acquisition of the lowest cost item from GSA sources, § 101–26.401–4(f) relating to the purchase of products that are available at prices lower than the prices of identical products provided by multiple award Federal Supply Schedule contracts, or when an urgent requirement exists in

accordance with FAR 6.302–2 (48 CFR 6.302–2).

[56 FR 12455, Mar. 26, 1991]

§ 101–26.100–3 Warranties.

Through its procurement sources and programs GSA provides for certain types of items and services which are covered by warranties. Such warranties allow ordering activities additional time after acceptance within which to assert a right to correct certain deficiencies in supplies or services furnished. The additional time period and the specific corrective actions for which the contractor is responsible are usually stated in the warranty. Items and services subject to warranties are normally identified by a warranty marking or notice. Such marking or notice will state that a warranty exists, its extent of coverage, its duration, and whom to notify concerning defects. Using activities shall take the following actions when items or services (except for automotive vehicles and components which are subject to the provisions of § 101–26.501–6) covered by warranty provisions are found to be defective during the warranty period.

(a) Activities shall attempt to resolve all complaints where a warranty is involved. If the contractor replaces the item or corrects the deficiency, a Standard Form (SF) 368, Product Quality Deficiency Report, in duplicate, shall be sent to the GSA Discrepancy Reports Center (6FR), 1500 East Bannister Road, Kansas City, MO 64131–3088. The resolution of the case should be clearly stated in the text of the SF 368. This information will be maintained as a quality history file for use in future procurements.

(b) If the contractor refuses to correct, or fails to replace, a defective item or an aspect of service under the warranty, an SF 368, in duplicate, along with copies of all pertinent correspondence, shall be submitted to the contracting officer in the appropriate GSA commodity center for necessary action. The address of the contracting officer is contained in the contract/purchase order, except for schedule items where the address is shown in the Federal Supply Schedule.

[56 FR 12456, Mar. 26, 1991]

§ 101–26.101 Utilization of long supply and excess personal property.

To the fullest extent practicable, agencies shall utilize inventories in long supply, as prescribed in subpart 101–27.3, and excess personal property, as prescribed in part 101–43, as a first source of supply in fulfilling their requirements.

[34 FR 200, Jan. 7, 1969]

§ 101–26.102 Special buying services.

§ 101–26.102–1 General.

The special buying services of GSA are performed through the GSA special order program (SOP). The SOP allows an agency to obtain items not included in either the GSA stock or Federal Supply Schedule program. All executive agencies within the United States (including Hawaii and Alaska), in order to maximize the use of the Government's centralized supply system, shall request SOP items by submitting requisitions for GSA centrally managed items to GSA. GSA will process all requisitions for SOP items, regardless of total line item value, from activities electing to purchase from GSA. If an agency determines that alternative sources are more favorable, procurement from other sources is authorized: Provided, that the dollar thresholds and criteria outlined in § 101–26.301(b)(1) through (3) are followed.

[56 FR 12456, Mar. 26, 1991]

§ 101–26.102–2 Utilization by military agencies.

Military activities shall utilize the buying services of GSA when:

(a) GSA has agreed with the Secretary of Defense, or with the Secretary of a military department in connection with the requirements of that department, to perform such buying services; and

(b) The items involved are not properly obtainable from GSA stock or Federal Supply Schedules.

[29 FR 15610, Nov. 20, 1964, as amended at 36 FR 17423, Aug. 31, 1971]

§ 101–26.102–3 Procurement leadtime.

When GSA performs the purchasing services for other agencies or activities as contemplated by this § 101–26.102–3,

calculation of the delivery dates required for the items involved must be based on the procurement leadtimes illustrated in the GSA publication, FEDSTRIP Operating Guide. These leadtimes are based on the normal time required after receipt of agency requisitions by GSA to effect delivery to destinations within the 50 States.

(a) Time required to obtain any additional essential information from the requisitioning office for use in issuing a solicitation for bids or offers is not included in the leadtimes.

(b) If unusually large quantities or complex items are required, leadtime adjustments should be made to reflect the specific requirement. As an example, standard furniture items can usually be delivered in less than 90 days after receipt of the requisition. However, for large quantity or complex orders requiring a definite quantity procurement, delivery times may range from 4 to 6 months. Footnotes relating to classes where this is a frequent occurrence are shown in the procurement leadtime table illustrated in the FEDSTRIP Operating Guide.

(c) The procurement leadtime table illustrated in the FEDSTRIP Operating Guide does not apply to public exigency or other high priority requisitions; however, it should be used as a guide to establish realistic required delivery dates for such requisitions.

[32 FR 17939, Dec. 15, 1967, as amended at 40 FR 41093, Sept. 5, 1975; 57 FR 3949, Feb. 3, 1992]

§ 101–26.102–4 Payment to GSA contractors.

Policies and procedures covering payment to GSA contractors for supplies and services furnished by GSA to Government agencies are in subpart 101–2.1.

[47 FR 8779, Mar. 2, 1982]

§ 101–26.103 Establishing essentiality of requirements.

§ 101–26.103–1 Policy for personal property.

To obtain maximum benefit from Government funds available for procurement of personal property, each executive agency shall:

(a) Insure that personal property currently on hand is being utilized to the fullest extent practical and provide supporting justification prior to effecting new procurement for similar type property. (When the proposed procurement is for similar items from non-GSA sources, the provisions of § 101–26.100–2 apply.)

(b) Procure the minimum quantity and quality of property which is required to support the mission of the agency and to satisfy the function for which the property is required.

(c) Limit procurement of different varieties, types, sizes, colors, etc., of required items to those essential in satisfying the functional end-use purpose. To this end the quantity, quality, and variety of personal property required to adequately perform the end-use function should be determined prior to initiation of procurement processes.

[36 FR 17423, Aug. 31, 1971]

§ 101–26.103–2 Restriction on personal convenience items.

Government funds may be expended for pictures, objects of art, plants, or flowers (both artificial and real), or any other similar type items when such items are included in a plan for the decoration of Federal buildings approved by the agency responsible for the design and construction. Determinations as to the need for purchasing such items for use in space assigned to any agency are judgments reserved to the agency. Determinations with respect to public space such as corridors and lobbies are reserved to the agency responsible for operation of the building. Except as otherwise authorized by law, Government funds shall not be expended for pictures, objects of art, plants, flowers (both artificial and real), or any other similar type items intended solely for the personal convenience or to satisfy the personal desire of an official or employee. These items fall into the category of ''luxury items'' since they do not contribute to the fulfillment of missions normally assigned to Federal agencies.

[36 FR 17423, Aug. 31, 1971]

§ 101–26.104 End-of-year submission of requisitions for action by GSA.

(a) Purchase documents for supplies or services submitted to GSA at or near the close of a fiscal year shall reflect actual agency requirements and shall not be used as a means of exhausting appropriation balances.

(b) Under the FEDSTRIP/MILSTRIP systems, the requisitions submitted to GSA are not required to reflect the applicable appropriation or fiscal year funds to be charged. The fund code entry on the requisition simply indicates to the supply source (GSA) that funds are available to pay the charge, thereby providing authority for the release of material and subsequent billing. Requisitions received by GSA in purchase authority format are normally converted to FEDSTRIP/MILSTRIP documentation so that processing can be accomplished expeditiously through a uniform system based on the use of automated equipment. Accordingly, primary responsibility rests with the ordering activity for ensuring that requisitions intended to be chargeable to appropriations expiring the last day of the fiscal year are submitted in sufficient time for GSA to consummate the necessary action before the end of the fiscal year. Requisitions submitted on or before the last day of the fiscal year may be chargeable to appropriations expiring on that date provided the ordering agency is required by law or GSA regulation to use GSA supply sources. When the ordering agency is not required to use GSA sources, requisitions for GSA stock items may be recorded as obligations provided the items are intended to meet a bona fide need of the fiscal year in which the need arises or to replace stock used in that fiscal year; requests for other than GSA stock items are to be recorded as obligations at the time GSA awards a contract for the required items. In the latter case, GSA procurement leadtimes illustrated in the GSA publication, FEDSTRIP Operating Guide, should be used as a guide for timely submission of these requisitions. The leadtimes referred to relate to the number of days between submission of a requisition and actual delivery of the items involved. While this may furnish some guidance to requisitioners, there is no direct relationship between those leadtimes and the time it takes for GSA to make an award of a contract.

(c) End-of-year submission of requisitions which require GSA to award a contract not later than the last day of the fiscal year in order to obligate the appropriation or funds of the ordering agency will be annotated to indicate that GSA procurement of the requested items must be accomplished not later than the last day of the fiscal year in which the requisitions are submitted. For example, a FEDSTRIP/MILSTRIP requisition should be prepared to include Document Identifier Code A0E or A05 and reflect the annotation in the ''Remarks'' block. With this information GSA will attempt to complete procurement action before the end of the fiscal year. When a requistion is received too late to permit GSA to complete procurement action before the end of the fiscal year, the requisitioning activity will be so notified and requested to furnish instructions regarding the action to be taken. Based on these instructions, procurement action will be taken or the requisition will be canceled and returned to the ordering activity.

[33 FR 19013, Dec. 20, 1968, as amended at 40 FR 41093, Sept. 5, 1975; 57 FR 3949, Feb. 3, 1992]

§ 101–26.105 Justification to support negotiated procurement by GSA for other agencies.

When a requisition submitted by an agency to GSA requires procurement without providing for full and open competition, the agency submitting the requisition will be so notified and required to furnish specific information to assist GSA in preparing the required written justification. The GSA contracting officer will defer procurement action pending receipt of the requested information. If the requisitioning agency has prior knowledge that a requisition will require procurement without providing for full and open competition (e.g., sole source acquisition), sufficient information shall be included with the requisition to allow GSA to justify the procurement. Specifically, the information must include the following:

(a) The specific needs to be satisfied in terms of identified tasks or work processes;

(b) The requirements that generate the specific needs;

(c) The characteristics of the designated item that enable it to satisfy the specific needs, if a specific source(s) is requested;

(d) The identification of other items evaluated and, for each, a statement of the characteristics (or lack thereof) which preclude their satisfying the specific needs, if a specific source(s) is requested;

(e) The citation of the applicable law, if any, authorizing other than full and open competition (see FAR 6.302 (48 CFR 6.302); and

(f) Any required certifications, pursuant to FAR 6.303–2(b) (48 CFR 6.303–2(b)), that supporting data is complete and accurate.

[56 FR 12456, Mar. 26, 1991]

§ 101–26.106 Consolidation of requirements.

Full consideration shall be given to the consolidation of individual small volume requirements to enable the Government to benefit from lower prices normally obtainable through definite quantity contracts for larger volume procurements. This policy pertains to procurement from commercial sources either directly or through an intermediary agency and does not apply to GSA stock items or small volume requirements normally obtained from GSA customer supply centers. When it is practical, each agency shall establish procedures that will permit planned requirements consolidation on an agencywide basis. When it is impractical to plan requirements on an agencywide consolidated basis, the requirements consolidation effort may be limited to a bureau, to other agency segments, or to a program, if such limited consolidation will provide significant price advantages when procurement is effected on a volume basis. Requisitions for item requirements exceeding maximum order limitations in Federal Supply Schedule contracts shall be submitted to GSA in accordance with the applicable instructions in the respective schedules. Special buying services desired by agencies for procurement of other consolidated item requirements shall be requested from GSA in accordance with § 101–26.102.

[51 FR 13498, Apr. 21, 1986]

§ 101–26.107 Priorities for use of supply sources.

(a) Executive agencies shall satisfy requirements for supplies and services from or through the sources and publications listed below in descending order of priority:

(1) *Supplies.* (i) Agency inventories;

(ii) Excess for other agencies (see part 101–43 and 48 CFR subpart 8.1);

(iii) Federal Prison Industries, Inc. (UNICOR) (see § 101–26.702 and 48 CFR subpart 8.6);

(iv) Procurement lists of products available from the Committee for Purchase From People Who Are Blind or Severely Disabled (see § 101.26.701 and 48 CFR subpart 8.7);

(v) Central supply sources, such as the stock, special order, or customer supply center programs of the General Services Administration (GSA) (see subpart 101–26.3, § 101–26.102, and subpart 101–28.3), the Defense Logistics Agency (see subpart 101–26.6), the Department of Veterans Affairs (see § 101–26.704), and military inventory control points (see § 101–26.606);

(vi) Mandatory Federal Supply Schedules (see subpart 101–26.4 and 48 CFR subpart 8.4);

(vii) Optional use Federal Supply Schedules (see subpart 101–26.4 and 48 CFR subpart 8.4); and

(viii) Commercial sources (including educational and nonprofit institutions).

(2) *Services.* (i) Procurement lists of services available from the Committee for Purchase From People Who Are Blind or Severely Disabled (see § 101–26.701 and 48 CFR subpart 8.7);

(ii) Mandatory Federal Supply Schedules (see subpart 101–26.4 and 48 CFR subpart 8.4);

(iii) Optional use Federal Supply Schedules (see subpart 101–26.4 and 48 CFR subpart 8.4); and

(iv) Federal Prison Industries, Inc. (UNICOR) (see § 101–26.702 and 48 CFR subpart 8.6) or other commercial sources (including educational and nonprofit institutions).

(b) Sources other than those listed in paragraph (a) of this section may be used as prescribed in §101–26.301 and in an unusual and compelling urgency as prescribed in §101–25.101–5 and 48 CFR 6.302–2.

[58 FR 41367, Aug. 5, 1993]

Subpart 101–26.2—Federal Requisitioning System

§101–26.200 Scope of subpart.

This subpart prescribes a uniform requisitioning and issue system for use in obtaining supplies and equipment from GSA, Department of Defense, and Veterans Administration sources.

[43 FR 19852, May 9, 1978]

§101–26.201 General.

This requisitioning and issue system is identified as the Federal Standard Requisitioning and Issue Procedures (FEDSTRIP) and is similar to and compatible with the Military Standard Requisitioning and Issue Procedures (MILSTRIP). The FEDSTRIP system provides GSA and other supply sources the means to automate the processing of requisitions. Detailed instructions required to implement FEDSTRIP are contained in the GSA Handbook, FEDSTRIP Operating Guide (FPMR 101–26.2), which is issued and maintained by the Commissioner, Federal Supply Service, GSA.

[43 FR 19852, May 9, 1978]

§101–26.202 Applicability.

The FEDSTRIP system shall be used by civilian agencies to requisition any item from GSA or to requisition any specifically authorized item from Department of Defense (DOD). Requisitions to the Veterans Administration (VA) should be submitted on punched cards in FEDSTRIP format or typed on Standard Form 147, Order for Supplies or Services.

[43 FR 19853, May 9, 1978]

§101–26.203 Activity address codes.

To obtain items through the FEDSTRIP system, each ordering activity is required to have an activity address code. The FEDSTRIP Operating Guide (FPMR 101–26.2) contains instructions to civilian agencies on requesting activity address codes. Once assigned, an activity address code allows an activity to order supplies under the FEDSTRIP system. Because there is a potential for abuse in the use of these codes, agencies shall establish stringent internal controls to ensure that the codes are used only by authorized personnel. It is imperative that all requests for activity address codes or deletions or address changes flow through a central contact point in the agency headquarters or regions where the need, purpose, and validity of the request can be verified. Agencies should send GSA the addresses of the contact points (mailing address: General Services Administration (FSR), Washington, DC 20406). GSA will only honor requests from the established points within the agency. GSA will periodically send a listing of current activity address codes and addresses to contact points for review.

[45 FR 71565, Oct. 29, 1980]

§§101–26.204—101–26.205 [Reserved]

§101–26.206 GSA assistance.

Agency field activities should direct their questions regarding FEDSTRIP to the Federal Supply Service at each GSA regional office. The addresses of GSA regional offices are listed in each of the volumes of the GSA Supply Catalog. Agency headquarters activities requiring assistance may contact General Services Administration (FSR), Washington, DC 20406.

[45 FR 71565, Oct. 29, 1980]

Subpart 101–26.3—Procurement of GSA Stock Items

§101–26.300 Scope of subpart.

This subpart prescribes policy and procedures governing the procurement by agencies of items of supply stocked by GSA, including reporting and obtaining adjustments for overages, shortages, and damages and the issue of used, repaired, and rehabilitated items in serviceable condition.

[35 FR 12721, Aug. 11, 1970]

§ 101–26.301 Applicability.

All executive agencies within the United States (including Hawaii and Alaska), in order to maximize the use of the Government's centralized supply system, shall requisition GSA stock items in accordance with the following:

(a) When the requirement is for Standard and optional forms, an item produced by the Federal Prison Industries, Inc. (FPI), or an item listed in the procurement list published by the Committee for Purchase from the Blind and Other Severely Handicapped (NIB-NISH), the dollar thresholds and language indicated in paragraph (b) of this section are not applicable and acquisition of such items continues to be as set forth in the applicable sections of the Federal Acquisition Regulation, Federal Property Management Regulations and other appropriate regulations. In order to identify FPI/NIB-NISH items stocked by GSA, they are marked with an asterisk in the GSA Supply Catalog NSN index,

(b) GSA will process all requisitions for stock items, regardless of total line item value, from activities electing to purchase from GSA. If an agency determines that alternative sources are more favorable, the following guidelines shall apply. However, the price alone of an item without other substantive consideration will not be considered as sufficient justification to use alternative sources. (These guidelines also apply to the procurement of special order program (SOP) established source, see § 101–26.102–1.)

(1) When the total value of the line item requirement is less than $100, procurement from other sources is authorized.

(2) When the total value of the line item requirement is $100 or more, but less than $5,000, procurement from other sources is authorized: provided, that a written justification shall be prepared and placed in the purchase file stating that such action is judged to be in the best interest of the Government in terms of the combination of quality, timeliness, and cost that best meets the requirement. Cost comparisons shall include the agency administrative cost to effect a local purchase.

(3) For total line item requirements of $5,000 and over, agencies shall submit a requisition to GSA unless a waiver has been approved by GSA. Request for waivers shall be submitted in accordance with § 101–26.100–2.

(c) Agencies shall not divide requisitions to avoid higher threshold documentation requirements.

(d) In authorizing procurements in accordance with paragraph (b)(2) of this section, agencies shall reimburse GSA for any cost arising out of breach of a GSA contract, where sufficient justification is not documented in their procurement files.

[56 FR 12457, Mar. 26, 1991]

§ 101–26.301–1 Similar items.

(a) Agencies required to requisition, exclusively, items listed in the GSA Supply Catalog shall utilize such items in lieu of procuring similar items from other sources when the GSA items will adequately serve the required functional end-use purpose.

(b) When an agency determines that items available from GSA stock will not serve the required functional end-use purpose of the item proposed to be procured, a request to waive the requirement to use this source shall be submitted to GSA for consideration in accordance with the provisions of § 101–26.100–2.

[36 FR 17424, Aug. 31, 1971, as amended at 38 FR 28566, Oct. 15, 1973]

§ 101–26.301–2 Issue of used, repaired, and rehabilitated items in serviceable condition.

Stock items returned to GSA under the provisions of subpart 101–27.5 will be reissued to all requisitioning activities without distinction between new, used, repaired, or rehabilitated items in serviceable condition. Requisitioning agencies will be billed for these items at the current GSA selling price.

[38 FR 28566, Oct. 15, 1973]

§ 101–26.302 Standard and optional forms.

Agencies shall obtain Standard and optional forms by requisitioning them from GSA (FSS) unless the forms have been approved by GSA (KMPS) to be stocked and distributed by the promulgating agency or to be reproduced locally. Assistance or information on the

forms management program may be obtained by contacting GSA (KMPS), Washington, DC 20405. (See part 201–45, subpart 201–45.5 of this chapter.)

(a) For purposes of economy, existing stocks are depleted prior to issuance of revisions unless the promulgating agency determines previous editions unusable and obsolete.

(b) Forms or form assemblies which deviate from the standard and optional forms listed in the GSA Supply Catalog have restricted use and are not stocked. Agencies requiring such forms shall prepare and transmit a Standard Form 1, Printing and Binding Requisition, or Standard Form 1–C, Printing and Binding Requisition for Specialty Items, to the General Services Administration, Federal Supply Service (FCNI), Washington, DC 20406, for review and submission to GPO. Prior approval of GSA (KMPS) is required whenever the content or construction of a form is altered or modified. Requests for such exceptions may be obtained by submission of a SF 152, Requests for Clearance of a Standard or Optional Form or Exception, to GSA (KMPS), with appropriate justification.

(c) Certain standard forms are serially numbered and are to be accounted for to prevent possible fraudulent use. The General Accounting Office (GAO) requires accurate accountability records to be maintained for such items by applicable agencies. GSA forwards a receipt verification card with each shipment of accountable forms. The receiving agency is responsible for verifying receipt of the serially numbered forms in the shipment by returning the card to the address preprinted on the card. See §101–41.308 of this chapter for information governing agency control and disposition of unused U.S. Government Bills of Lading (GBL's).

(d) Standard and optional forms which are excess to the needs of an agency shall be reported to GSA in the same manner as other excess personal property pursuant to part 101–43 of this chapter. Obsolete forms shall be disposed of under the provisions of part 101–45 of this chapter.

[56 FR 12457, Mar. 26, 1991]

§101–26.303 Out-of-stock items.

Generally, it is more advantageous to agencies if GSA backorders requisitions for out-of-stock items rather than cancels requisitions. Unless notified by agencies not to backorder a requisition, through FEDSTRIP advice codes 2C or 2J, a back order will be established. The agency will be notified of the estimated date that shipment will be made. Upon receipt of the status transaction, the agency shall determine if the estimated shipping date will meet its needs and, as appropriate: (a) Accept the back order, (b) request a suitable substitute item, or (c) request cancellation in accordance with §101–26.309.

[43 FR 22210, May 24, 1978]

§101–26.304 Substitution policy.

In supplying items requisitioned from GSA stock, GSA may substitute items with similar characteristics. Substitute items may be issued from new stock or from returned stock that is in serviceable condition (condition code A) as described in §101–27.503–1. A notice of intent to substitute will be provided to the ordering activity only if the characteristics of the substitute item differ substantially from the characteristics of the item requisitioned. Ordering activities may prevent substitution by entering advice code 2B (do not substitute) or 2J (do not substitute or backorder) in cc 65–66 of requisitions.

[45 FR 27764, Apr. 24, 1980]

§101–26.305 Submission of orders to GSA.

(a) Orders shall be submitted in accordance with the instructions in the FEDSTRIP Operating Guide (FPMR 101–26.2).

(b) Orders in other than FEDSTRIP format shall be submitted:

(1) In original only when for shipment to destinations in the United States, including Hawaii but excluding Alaska.

(2) In accordance with applicable GSA/agency agreements when for shipment to Alaska or for export to destinations outside the United States.

(c) Sufficient funds should be reserved by the requisitioner to cover expenses incurred by GSA in export packing, marking, documentation, etc. GSA will assess a surcharge on all material ordered and delivered to customers in certain overseas areas. The surcharge is a percentage factor of the value of the material shipped. Information on the specific areas and the current percentage of surcharge is included in the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101–26.8). The surcharge is a percentage factor of the value of the material shipped. Information on the current percentage of surcharge may be obtained from the GSA regional office to which orders are submitted.

[30 FR 13826, Oct. 30, 1965, as amended at 42 FR 58748, Nov. 11, 1977; 42 FR 61597, Dec. 6, 1977]

§ 101–26.306 Planned requisitioning for GSA stock items.

In preparing requisitions for GSA stock items, agencies shall follow schedules or cyclical plans for replenishment of stocks so as to reduce the number of repetitive requisitions required while adjusting ordering frequency to comply with the economic order quantity principle. (See § 101–27.102.)

[43 FR 22211, May 24, 1978]

§ 101–26.307 Processing overages, shortages, and damages.

(a) Transportation-type discrepancies shall be processed in accordance with the instructions in subpart 101–40.7 when the discrepancies are the fault of the carrier and occur while the shipments are in the possession of:

(1) International ocean or air carriers, regardless of who pays the transportation charges, except when shipment is on a through Government bill of lading (TGBL) or is made through the Defense Transportation System (DTS) (Discrepancies in shipments on a TGBL or which occur while in the DTS shall be reported as prescribed in subpart 101–26.8.); or

(2) Carriers within the continental United States, when other than GSA or DOD pays the transportation charges.

(b) Reporting discrepancies or deficiencies in material or shipments and processing requests for or documenting adjustments in billings from or directed by GSA activities shall be in accordance with the provisions of subpart 101–26.8.

[41 FR 56320, Dec. 28, 1976]

§ 101–26.308 Obtaining filing cabinets.

Each agency head, after taking actions prescribed in § 101–25.302–2, shall determine agency requirements for filing cabinets. When additional filing cabinets are required, requisitions shall be submitted in FEDSTRIP format to the GSA region supporting the geographic area in which the requisitioning agency is located.

[43 FR 22211, May 24, 1978]

§ 101–26.309 Cancellation of orders for GSA stock items.

When an agency determines that material ordered from GSA is not required, GSA will accept requests for cancellation as long as the items ordered have not been shipped. However, since processing cancellations is costly and interferes with normal order processing, agencies are cautioned to use discretion in requesting cancellation of low dollar value orders. Cancellation of orders may be accomplished by agencies through written, telegraphic, or telephonic communication with the GSA regional office to which the order was sent. However, telephonic communication should be used whenever feasible to forestall shipment of material and subsequent billing by GSA. If material has been shipped, GSA will advise that cancellation cannot be effected and agency requests for return for credit will be processed under the provisions of §§ 101–26.310 and 101–26.311.

[32 FR 11163, Aug. 1, 1967]

§ 101–26.310 Ordering errors.

In accordance with the provisions of this § 101–26.310, GSA may authorize agencies to return for credit material that has been ordered in error by the agency. Material shipped in error by GSA is subject to the provisions of the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101–26.8).

Credit for material ordered in error will be based on the selling price billed the agency at the time shipment was made to the agency, with the adjustment reflected in current or future billings. Material shall not be returned until appropriate documentation is received from GSA.

(a) The return of material by an agency, to correct ordering errors, may be authorized and later accepted by GSA: *Provided,*

(1) The value of the material exceeds $25 per line item based on the selling price billed the customer.

(2) Authorization to return is requested from the GSA Discrepancy Reports Center (6FRB), 1500 East Bannister Road, Kansas City, MO 64131 within 45 calendar days (60 calendar days for overseas points) after receipt of shipment. Requests should always contain a complete explanation of reason(s) for return of the material. Exceptions may be granted on a case-by-case basis when GSA is in need of the material and extenuating circumstances precluded earlier submission of the request.

(3) Each item is in ''like-new'' condition and is identified by a stock number in the current edition of the GSA Supply Catalog.

(4) Each item is identified with a specific purchase order or requisition number.

(5) The condition of the material is acceptable on inspection by GSA. When it is not acceptable, disposition, without credit, will be made by GSA. However, when the condition is attributable to carrier negligence, subsequent credit allowed by GSA will be reduced by the amount to be paid the agency by the carrier for damages incurred.

(6) The merchandise to be returned will not adversely affect the GSA nationwide inventory situation.

(7) The return transportation costs are not excessive in relation to the cost of the material.

(b) Transportation costs on material specifically authorized for return by a GSA regional office will be paid by the customer activity. Claims against carriers for discrepancies in shipment will also be the responsibility of the customer activity in accordance with the provisions of subpart 101–40.7. When appropriate, GSA will prepare initial documentation to support claim actions.

[35 FR 181, Jan. 6, 1970, as amended at 38 FR 28567, Oct. 15, 1973; 42 FR 58748, Nov. 11, 1977; 50 FR 42021, Oct. 17, 1985]

§ 101–26.311 Frustrated shipments.

(a) At the request of the ordering agency, GSA may authorize diversion or return for credit of any shipment consigned to an overseas destination which, while en route, cannot be continued onward for any reason and for which the consignee or requisitioning agency cannot provide diversion instructions:

Provided, The frustration occurs at a water or air terminal and title to the material has not passed from the Government. Frustrated shipments located outside the United States are the responsibility of the consignee or ordering agency. However, GSA will assist the agency whenever possible in disposing of the material when it cannot be utilized by the overseas control area of the agency, e.g., oversea command or AID area.

(b) Requests to GSA for disposition instructions shall be directed to the GSA office which made the shipment. Data provided by the agency shall include the original requisition document number, purchase order number (if any), supplementary addresses, and present location of the frustrated shipment. In addition, the agency should furnish the Government bill of lading number or commercial bill of lading reference, and the carrier's freight or waybill number.

(c) GSA may direct disposition of such material through any of the means listed below. Disposition instructions will include a determination by GSA as to the responsibility for payment of transportation costs.

(1) Shipment of material to another consignee.

(2) Temporary storage pending further instructions.

(3) Return to GSA stock.

(4) Disposal by agency.

(5) Disposition through other means if deemed to be in the best interest of the Government.

(d) GSA will provide required documentation to accomplish the desired action and will, if appropriate, initiate necessary adjustments in billing.

(e) Frustrated shipments involving other than GSA stock items will be treated in a manner similar to that prescribed in this §101–26.311 on a case by case basis.

[30 FR 11138, Aug. 28, 1965, as amended at 35 FR 12721, Aug. 11, 1970; 42 FR 58748, Nov. 11, 1977]

Subpart 101–26.4—Federal Supply Schedules [Reserved]

Subpart 101–26.5—GSA Procurement Programs

§101–26.500 Scope and applicability of subpart.

(a) This subpart prescribes policies and procedures relating to GSA procurement programs other than the GSA stock and the Federal supply schedule programs. Also excluded are the policies and procedures relating to the procurement of automatic data processing equipment and services set forth in part 101–36.

(b) The policies and procedures in this subpart 101–26.5 are applicable to executive agencies except as otherwise specifically indicated. Federal agencies other than executive agencies may participate in these programs and are encouraged to do so.

[43 FR 32767, July 28, 1978]

§101–26.501 Purchase of new motor vehicles.

(a) It shall be the policy to procure commercially available motor vehicles, unless other vehicles are specifically required.

(b) New sedans, station wagons, and light trucks (other than those to be used for law enforcement or where other than standard vehicles are required) shall be procured as follows: Sedans, class IB-subcompact or II-compact; station wagons, class I-subcompact or class II compact vehicles, as described in Federal standard No. 122; and light trucks as defined in Federal standard Nos. 292 and 307. (Federal standard Nos. 122, 292, and 307 as used in this section mean the latest editions.)

Requisitions submitted to GSA for motor vehicles shall be in conformance with the requirements of subpart 101–38.1.

(1) Standard passenger vehicles as defined in Federal standard No. 122 are considered to be completely equipped for ordinary operation and are subject to the maximum statutory price limitation.

(2) Items (vehicles) included in Federal standard No. 122 other than those listed as standard (basic units) are considered to be equipped with additional systems and equipment for passenger vehicles.

(c) Requisitions submitted to GSA for the acquisition of new passenger vehicles and light trucks under 8500 GVWR (gross vehicle weight rating) shall be in conformance with Pub. L. 94–163 and Executive Order 12375.

(d) New trucks and buses shall be requisitioned in accordance with the provisions of this §101–26.501 and the following:

(1) Light trucks shall be in accordance with Federal standard Nos. 292 and 307; and

(2) Medium and heavy trucks and buses, when not procured from standardized buying programs, shall be in accordance with the latest editions of Federal standard No. 794, Federal specification Nos. KKK-T-2107, 2108, 2109, 2110, 2111, and Federal specification No. KKK-B-1579. Standardized buying programs shall be based on these specifications as appropriate.

(e) Selection of additional systems or equipment in new vehicles shall be made by the requiring agency and shall be based on the need to provide for overall safety, efficiency, economy, and suitability of the vehicle for the purposes intended pursuant to §101–38.104–2.

(1) The essentiality of such systems or equipment shall be weighed against the economic factors involved, the potential benefits to be derived therefrom, and the impact on the fuel consumption characteristics of the vehicle.

(2) Additional systems or equipment requested to be purchased by GSA will be construed to have been determined

essential for the effective operation of the vehicle involved by the agency head or a designee. When systems or equipment other than those listed in Federal standards are requested, these systems or equipment shall be considered and treated as deviations under § 101–26.501–4(b).

[57 FR 47777, Oct. 20, 1992]

§ 101–26.501–1 General.

Except as provided for the Department of Defense (DOD) in paragraph (a) of this section, each executive agency shall submit to GSA for procurement its orders for purchase in the United States of all new passenger motor vehicles (FSC 2310), trucks or truck tractors (FSC 2320), trailers (FSC 2330) van type (with payload of not less than 5,000 nor more than 50,000 pounds), and firetrucks and firefighting trailers (FSC 4210). Specifically included are sedans, station wagons, carryalls, ambulances, buses, and trucks, including trucks with specialized mounted equipment, truck chassis with special purpose bodies, and all van-type trailers (with payload of not less than 5,000 nor more than 50,000 pounds).

(a) DOD shall submit to GSA for procurement its orders for purchase in the United States for all non-tactical vehicles including, but not limited to, commercial-type passenger motor vehicles (FSC 2310), including buses, and trucks and truck tractors (FSC 2320).

(b) When it is determined by the ordering activity that requirements for passenger motor vehicles and trucks indicate the need for procurement by buying activities other than GSA, a request for waiver justifying the procurement shall be submitted in writing to the General Services Administration (FCA), Washington, DC 20406. GSA will notify agencies in writing whether a waiver has been granted. Justification may be based on the urgency of need or the fact that the vehicle has unique characteristics, such as special purpose body or equipment, requiring the agency personnel to closely supervise installation of the equipment by the contractor; e.g., when a medical van is to be equipped with Government- or contractor-supplied equipment. Requests for procurement through sources other than GSA will be handled on an individual basis provided full justification is submitted therefore.

(c) When it is determined by GSA that procurement of an individual agency requirement by GSA would offer no advantage over local purchase of the item, GSA may grant the ordering activity authority for local purchase. When such a determination is made, the order will be returned to the ordering agency with written authority for local purchase.

[38 FR 2176, Jan. 22, 1973, as amended at 43 FR 32767, July 28, 1978; 47 FR 41362, Sept. 20, 1982; 52 FR 29523, Aug. 10, 1987; 57 FR 47777, Oct. 20, 1992]

§ 101–26.501–2 Standardized buying programs.

Wherever practical, requirements for motor vehicles will be satisfied under existing standardized buying programs (Indefinite Quantity, Requirements, Federal Supply Schedule contracts). Agencies not familiar with these programs, or seeking additional information about them, are encouraged to contact the GSA Automotive Commodity Center prior to submitting their orders.

(a) Requirements contracts are in place or anticipated to be in place for the following types of standard motor vehicles:

(1) Medium and heavy trucks:

(i) 4×2 and 6×4 cab-chassis, stake, van, dump, and truck-tractor; 19,000 to 60,000 pounds GVWR.

(ii) 4×4 and 6×4 cab-chassis, stake, dump, and truck-tractor; 26,000 to 52,000 pounds GVWR.

(iii) 1,200 and 2,000 gallon fuel servicing vehicles; and 2,000 gallon aircraft refueler.

(2) Ambulances (in accordance with Federal Specification No. KKK-A-1822): Type I, modular body on cab-chassis; Type II, van body with raised roof; Type III, modular body on van cutaway chassis.

(3) Buses and mini-buses, including school buses:

(i) 32 to 44 adult passenger; 48 to 66 school age passenger.

(ii) 12 to 28 adult passenger; 24 to 42 school age passenger.

(4) Sedans and station wagons (based on standardized, consolidated requirements).

(5) Certain types of light trucks (e.g., conventional carryall, maintenance telephone utility); requirements contracts are established to cover as many types of light trucks as feasible.

(b) Federal Supply Schedule contracts are available to cover certain special purpose motor vehicles, such as firefighting trucks, waste disposal trucks, and construction equipment.

[57 FR 47777, Oct. 20, 1992]

§ 101–26.501–3 Consolidated purchase program.

(a) Except as noted in § 101–26.501(a) and where motor vehicle requirements can not be satisfied under the standardized buying programs described in § 101–26.501–2, GSA will continue to make consolidated procurements of all motor vehicle types each year to achieve maximum benefits and economies, as follows:

(1) Family buys—Large annual consolidated buys for sedans, station wagons, and standard light trucks, purchased in the aggregate by group to the extent practical. These procurements are designed to obtain the best market prices available and are normally definite quantity type with maximum option potential. It is anticipated that resulting contracts will remain in place from approximately mid-November to approximately May 1 (or end of model year closeout).

(2) Two (2) volume procurements each year for light trucks of the types covered by Federal standard Nos. 292 and 307, but not covered by standardized buying programs or family buys, as previously described. Requisitions to be included under these two procurements should reach the GSA Automotive Commodity Center by June 15 and December 1 respectively.

(3) Up to three (3) consolidated procurements for medium and heavy trucks and buses of the types covered by Federal standard No. 794, Federal specification Nos. KKK-T-2107, 2108, 2109, 2110, 2111, and Federal specification No. KKK-B-1579.

(b) Requirements not covered by Federal standards 122, 292, 307, or 794 shall conform with the provisions of § 101–26.501–4.

[57 FR 47777, Oct. 20, 1992]

§ 101–26.501–4 Submission of orders.

Orders for all motor vehicles shall be submitted on GSA Form 1781, Motor Vehicle Requisition, or DD Form 448, Military Interdepartmental Purchase Request (MIPR), to the General Services Administration, Automotive Commodity Center (FCA), Washington, DC 20406, and shall contain required FEDSTRIP data for mechanized processing. The Department of Defense shall ensure that appropriate MILSTRIP data are entered on DD Form 448.

(a) Requisitions covering vehicle types not included in Federal standard Nos. 122, 292, 307, or 794, in a military specification, or in an agency specification on file with GSA, shall contain complete descriptions of the vehicles required, the intended use of the vehicles, and terrain in which the vehicles will be used.

(b) Requisitions for vehicles within the category of Federal standard Nos. 122, 292, 307, or 794, but for which deviations from such standards are required, unless already waived by the Director, Automotive Commodity Center (FCA), Federal Supply Service, GSA, Washington, DC 20406, shall include with the requisition a justification supporting each deviation from the standards and shall contain a statement of the intended use of the vehicles, including a description of the terrain in which the vehicles will be used. Prior approval of deviations shall be indicated on the requisitions by citing the waiver authorization number.

(c) GSA Form 1781, Motor Vehicle Requisition, has been specifically designed for agency use to expedite ordering of all vehicles. Agencies are requested to use GSA Form 1781 as a single-line-item requisition for nonstandard as well as standard vehicles. When ordering standard vehicles, the appropriate standard item number for such vehicles equipped to meet specific operational needs may be selected from the applicable table in the Federal standards. Additional systems and equipment may be added by inserting in the ''Option Codes'' portion of the form the appropriate code for the selected items from the table of options

in the standard. When ordering nonstandard vehicles or options, the instructions on the reverse of GSA Form 1781, properly completed, will satisfy the requirements regarding the submission of requisitions as set forth in paragraph (a) of this section.

(d) Each requisition shall indicate the appropriation fund code to be charged and must bear the original signature of an officer authorized to obligate cited funds.

(e) Separate requisitions shall be submitted for each vehicle type and consignee.

[57 FR 47778, Oct. 20, 1992]

§ 101–26.501–5 Procurement time schedules.

(a) Requisitions covering vehicle types included in Federal standard Nos. 122, 292, 307, 794, Federal specification Nos. KKK-T-2107, 2108, 2109, 2110, 2111, and Federal specification No. KKK-B-1579 will be procured either under a standardized buying program, as described in §101–26.501–2, or a consolidated purchase program, as described in §101–26.501–3, unless a statement is included justifying the need for delivery other than the delivery times indicated in this section. Requisitions containing a statement of justification will be handled on an emergency basis in accordance with §101–26.501–5(b).

(b) *Emergency requirements.* Emergency requirements will receive special handling only when the requisitions are accompanied by adequate justification for individual purchase action. Every effort will be made to meet the delivery date specified in the requisition.

(c) *Delivery time.* Delivery times for motor vehicle requirements will range widely depending on method of purchase.

(1) *Existing contracts.* Delivery times for motor vehicle requirements submitted and placed against existing in-place contracts (family buy option, requirements contract or Federal Supply Schedule contract) will range from 60 to 150 days from date of purchase order.

(2) *Volume consolidated procurements.* Delivery times for motor vehicle requirements submitted for volume consolidated purchases will range from 210 to 330 days after solicitation consolidation date. Included in delivery time estimates are 90 to 105 days required for soliciting and receiving offers, 30 to 60 days for evaluation and award of contracts, 90 to 180 days from date of award for delivery of vehicles to destination (dealer or consignee, as applicable).

(3) For buses, ambulances, and other special duty vehicles which can not be procured under the standardized buying programs or consolidated purchase programs described in §§101–26.501–2 and 101–26.501–3, 240 to 270 days from date of award are usually required to effect delivery. However, special purpose vehicles with unique characteristics, such as certain types of firetrucks, may require longer delivery. In such instances, every effort will be made by GSA to facilitate deliveries and keep the requisitioning agencies informed of any unauthorized delay.

[57 FR 47778, Oct. 20, 1992]

§ 101–26.501–6 Forms used in connection with delivery of vehicles.

(a) *GSA Form 1398, GSA Purchased Vehicle.* This form is used by the contractor to indicate that preshipment inspection and servicing of each vehicle has been performed. The contractor is required to complete GSA Form 1398 (illustrated at §101–26.4902–1398) and affix it, preferably, to the lock face or door frame of the right front door after the final inspection. The form should be left in place during the warranty period to permit prompt identification of vehicles requiring dealer repairs pursuant to the warranty.

(b) *Standard Form 368, Quality Deficiency Report (Category II).* GSA is constantly striving to improve customer service and the quality of motor vehicles for which it contracts. To inform contractors of the deficiencies noted during the life of the vehicles, Standard Form 368 shall be prepared by the consignee and sent to GSA describing details of vehicle deficiency and action taken for correction. Procedures for documenting and reporting quality deficiencies are set forth in the GSA Publication ''Discrepancies or Deficiencies in GSA or DOD Shipments, Material or Billings.'' Agencies are urged to report all deficiencies to GSA irrespective of satisfactory corrective action taken by

the manufacturer's authorized dealer. If the dealer refuses to take corrective action on any vehicle within its warranty period, the report shall so state and include an explanation of circumstances. Standard Form 368 shall also be used to report all noncompliance with specifications or other requirements of the purchase order.

(c) *Instructions to Consignee Receiving New Motor Vehicles Purchased by General Services Administration.* This information is printed on the reverse of the consignee copy of the delivery order. Personnel responsible for receipt and operation of Government motor vehicles should be familiar with the instructions and information contained in the document entitled ''Instructions to Consignee Receiving New Motor Vehicles Purchased by General Services Administration.''

[41 FR 34631, Aug. 16, 1976, as amended at 43 FR 32768, July 28, 1978; 52 FR 29524, Aug. 10, 1987; 57 FR 47778, Oct. 20, 1992]

§ 101–26.501–7 Sale of vehicles.

GSA will not solicit trade-in bids when purchasing new motor vehicles for replacement purposes because experience has shown that suppliers (manufacturers) are unwilling to accept used vehicles in part payment for new ones. Accordingly, used vehicles that are being replaced will be disposed of by sale as set forth in Part 101–46.

[57 FR 47779, Oct. 20, 1992]

§ 101–26.501–8 [Reserved]

§ 101–26.501–9 Centralized motor vehicle leasing program.

GSA has a centralized leasing program to provide an additional source of motor vehicle support to all Federal agencies. This program relieves Federal agencies that use it from both the time constraints and administrative costs associated with independently entering into lease contracts. The centralized leasing program covers subcompact, compact, and midsize sedans, station wagons, and certain types of light trucks (pickups and vans). Participation in the centralized leasing program is mandatory on all executive agencies of the Federal Government (excluding the Department of Defense and the U.S. Postal Service) within the 48 contiguous States and Washington, DC. However, agencies must obtain GSA authorization to lease in accordance with § 101–39.205 prior to using these established mandatory use contracts. For further information on existing contracts, including vehicles covered, rates, and terms and conditions of the contract(s), contact General Services Administration (FCA), Washington, DC 20406.

[52 FR 29525, Aug. 10, 1987]

§ 101–26.502 U.S. Government National Credit Card.

A waiver has been issued by the Government Printing Office to GSA for the procurement of the printing of Standard Form 149, U.S. Government National Credit Card.

[60 FR 19674, Apr. 20, 1995]

§ 101–26.503 Multiple award schedule purchases made by GSA supply distribution facilities.

GSA supply distribution facilities are responsible for quickly and economically providing customers with frequently needed common-use items. Stocking a variety of commercial, high-demand items purchased from FSS multiple award schedules is an important way in which GSA supply distribution facilities meet this responsibility.

[60 FR 19675, Apr. 20, 1995]

§ 101–26.504 [Reserved]

§ 101–26.505 Office and household furniture and furnishings.

Requirements for new office and household furniture and furnishings as described in this § 101–26.505 shall be satisfied from GSA stock or Federal Supply Schedule contracts to the extent that agencies are required to use these sources. Requirements for items not obtainable from these sources may be satisfied by any Federal agency through GSA special buying services upon agency request pursuant to the provisions of § 101–26.102. Before initiating a procurement action for new items, items on hand should be redistributed, repaired, or rehabilitated, as feasible, pursuant to § 101–26.101

[43 FR 22211, May 24, 1978]

§ 101–26.505–1 Description of office and household furniture.

(a) Office furniture is equipment normally associated with occupancy or use in such areas as offices, conference and reception rooms, institutional waiting rooms, lobbies, and libraries. Such equipment includes desks, tables, credenzas, bookcases, coatracks, telephone cabinets, filing sections and cabinets, office safes, security cabinets, chairs, and davenports.

(b) Household furniture is equipment normally associated with occupancy or use in areas such as housekeeping and nonhousekeeping quarters, reception rooms, and lobbies. Such equipment includes davenports, chairs, tables, buffets, china cabinets, beds, wardrobes, and chests.

[33 FR 14959, Oct. 5, 1968]

§ 101–26.505–2 Description of office and household furnishings.

(a) Office furnishings are articles which supplement office furniture and augment the utility of the space assigned. These articles include lamps, desk trays, smoking stands, waste receptacles, carpets, and rugs.

(b) Household furnishings are articles which supplement household furniture and add to the comfort or utility of the space assigned. Such articles include lamps, mirrors, carpets, rugs, and plastic shower and window curtains.

[33 FR 14959, Oct. 5, 1968]

§ 101–26.505–3 Requests to procure similar items from sources other than GSA supply sources.

When an agency required to obtain items of office and household furniture and furnishings from GSA stock or Federal Supply Schedule contracts determines that items available from these sources will not serve the required functional end use, requests to procure similar items from other than GSA sources shall be submitted for consideration in accordance with § 101–26.100–2.

[41 FR 34632, Aug. 16, 1976]

§§ 101–26.505–4—101–26.505–6 [Reserved]

§ 101–26.505–7 GSA assistance in selection of furniture and furnishings.

The Customer Service Representative in each GSA regional office will, upon request, furnish agencies with information on the types, styles, finishes, coverings, and colors of office and household furniture and furnishings available through the GSA purchase program. (See § 101–26.506.)

[43 FR 22211, May 24, 1978]

§ 101–26.506 Interior planning and design services.

In addition to the assistance provided in the selection of furniture and furnishings as specified in § 101–26.505–7, the GSA Public Buildings Service, through facilities located in each region, will assist Federal activities within the United States, the Commonwealth of Puerto Rico, and the Virgin Islands in various phases of interior planning and design. These services will be provided either directly or through commercial sources. (For services involving space layout, see § 101–17.400.)

[41 FR 42953, Sept. 29, 1976]

§ 101–26.506–1 Types of service.

GSA interior planning and design services consist of data gathering and organizational analysis; development of a space requirements program; softline space plans; development of an interior design program (to include finish materials, furniture and furnishing specifications, and procurement data); and complete floor plans for telephones, electrical outlets, partitions, furniture, and equipment. The items specified for procurement will be selected from approved GSA sources of supply.

[41 FR 42953, Sept. 29, 1976]

§ 101–26.506–2 Limitations.

(a) When furniture and furnishings requirements have been developed in connection with interior planning and design services furnished by GSA, the requesting agency shall determine that such requirements are in consonance

with the criteria for acquisition of furniture and furnishings as provided in §§ 101–25.302 and 101–25.404.

(b) Furniture and furnishings to be obtained in connection with interior planning and design services furnished by GSA shall be acquired, to the extent available, from GSA stock or through Federal Supply Schedules in accordance with the provisions of §§ 101–26.301 and 101–26.401.

[31 FR 9797, July 20, 1966, as amended at 43 FR 22211, May 24, 1978]

§ 101–26.506–3 Submission of requests.

Requests for interior planning and design services shall be submitted on Standard Form 81, Request for Space (illustrated at § 101–17.4901–81), and forwarded to PBS in the GSA regional office serving the geographic area of the requesting agency. Requests shall include the following information:

(a) Type of space in terms of its use;

(b) Location;

(c) Floor plans, if available;

(d) Occupancy date;

(e) Amount of funds available for the project; and

(f) Name, address, title, and telephone number of requesting official.

[41 FR 42953, Sept. 29, 1976]

§ 101–26.506–4 Acceptance and processing of requests.

Agency requests for interior planning and design service will be reviewed and if considered feasible, will be accepted. Upon acceptance of a request by GSA, a proposal will be furnished the requesting activity for review and approval within 30 days. The proposal will include the following:

(a) Approximate date the work can be started;

(b) Estimated completion date of planning and design services;

(c) The amount to be reimbursed GSA for the services; and

(d) Other pertinent data or recommendations.

[31 FR 9797, July 20, 1966]

§ 101–26.506–5 Reimbursement for services.

If the GSA proposal is acceptable, a purchase order, requisition, or other funded authorization document shall be issued to the GSA office named in the proposal. GSA will bill the office indicated in the order or authorization for the amount specified in the proposal. The reimbursement procedures are designed to recover GSA's direct cost for providing these services. Any changes in the scope of the project requested by the requisitioning agency prior to its completion may require a revision in the amount of the reimbursable charges and the time schedule for completion.

[31 FR 9797, July 20, 1966]

§ 101–26.507 Security equipment.

Federal agencies and other activities authorized to purchase security equipment through GSA sources shall do so in accordance with the provisions of this § 101–26.507. Under section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481), the Administrator of GSA has determined that fixed-price contractors and lower tier subcontractors who are required to protect and maintain custody of security classified records and information may purchase security equipment from GSA sources. Delivery orders for security equipment submitted by such contractors and lower tier subcontractors shall contain a statement that the security equipment is needed for housing Government security classified information and that the purchase of such equipment is required to comply with the security provision of a Government contract. In the event of any inconsistency between the terms and conditions of the delivery order and those of the Federal Supply Schedule contract, the latter shall govern. Security equipment shall be used as prescribed by the cognizant security office.

[60 FR 19675, Apr. 20, 1995]

§ 101–26.507–1 Submission of requisitions.

Requisitions for security equipment covered by the latest edition of Federal specifications AA-F-357, AA-F-358, AA-F-363, AA-S-1518, and AA-D-600, and interim Federal specifications AA-F-00364 and AA-C-001697 shall be submitted in FEDSTRIP format to the

GSA regional office supporting the geographic area in which the requisitioner is located. GSA will consolidate requisitions for these items from all regions for procurement on a definite quantity basis.

[43 FR 32765, July 28, 1978]

§ 101–26.507–2 Procurement time schedule.

Requisitions for security equipment will be consolidated by GSA on January 31, April 30, July 31, and October 31 of each year. The consolidated requisitions will be used in executing definite quantity contracts. To ensure inclusion in the invitation for bids, requisitions shall be submitted to GSA on or before January 1, April 1, July 1, or October 1 as appropriate. Requisitions received after any of these dates normally will be carried over to the subsequent consolidation date. Approximately 180 calendar days following the consolidation dates should be allowed for initial delivery. Requisitions shall include a required delivery date which reflects anticipated receipt under the time schedule.

[43 FR 32765, July 28, 1978]

§ 101–26.507–3 Purchase of security equipment from Federal Supply Schedules.

To ensure that a readily available source exists to meet the unforeseen demands for security equipment, Federal Supply Schedule contracts have been established to satisfy requirements that are not appropriate for consolidated procurement and do not exceed the maximum order limitations.

[60 FR 19675, Apr. 20, 1995]

§ 101–26.507–4 Quantities in excess of the maximum order limitation.

Quantities exceeding the maximum order limitation on Federal Supply Schedules will also be consolidated and procured by GSA pursuant to § 101–26.507–2. Where quantities are required to be delivered before the time frames established for the quarterly consolidated procurement, the requisition must indicate the earlier required delivery. As necessary, separate procurement action will be taken by GSA to satisfy the requirements.

[41 FR 34632, Aug. 16, 1976]

§ 101–26.508 Electronic data processing (EDP) tape and instrumentation tape (wide and intermediate band).

Procurement by Federal agencies of EDP tape and instrumentation tape (wide and intermediate band) shall be accomplished in accordance with the provisions of this § 101–26.508.

[38 FR 2176, Jan. 22, 1973]

§ 101–26.508–1 Requisitioning data processing tape available through Federal Supply Schedule contracts.

Federal Supply Schedules, FSC group 70, part XI, and FSC group 58, part V, section C, include contracts to satisfy Government requirements for those types of EDP tape and instrumentation tape (wide and intermediate band) which are most widely used. Federal agencies located within the 48 contiguous United States, Washington, DC and Hawaii (applicable to EDP tape only for Hawaii) shall procure these tapes in accordance with the provisions of the current schedules and this § 101–26.508–1. Orders not exceeding the maximum order limitations of the Federal Supply Schedules and prepared directly by activities located outside the geographical areas referenced above shall, to the extent possible, be consolidated and submitted in FEDSTRIP format to the GSA regional office supporting the geographic area in which the requisitioner is located.

[43 FR 32765, July 28, 1978]

§ 101–26.508–2 Requisitioning data processing tape not available from Federal Supply Schedule contracts.

(a) Requisitions for types of EDP tape and instrumentation tape (wide and intermediate band) covered by Federal Supply Schedule contracts which exceed the maximum order limitations of the schedule shall be submitted to the GSA regional office supporting the geographic area in which the requisitioner is located.

(b) Requisitions for all types of EDP tape and instrumentation tape (wide and intermediate band) not covered by

Federal Supply Schedule contracts shall be submitted to GSA for purchase action when the dollar value of the requisitions exceeds, or is estimated to exceed, $2,500 for EDP tape and $5,000 for instrumentation tape. However, regardless of the amount involved (including requisitions estimated to be less than the dollar limitations referenced above), purchase action shall not be taken by GSA or an agency unless a waiver of the requirement for using items of tape available from Federal Supply Schedule contracts has been furnished in accordance with § 101–26.100–2.

Requests for waivers shall be submitted to the Commissioner, Federal Supply Service (F), General Services Administration, Washington, DC 20406. The requests shall fully describe the type of tape required and state the reasons Federal Supply Schedule items will not adequately serve the agency's needs. GSA will notify the requesting agency in writing of the action taken on the requests. To reduce leadtime, requisitions may be submitted in FEDSTRIP format with the requests for waivers. Requisitions for which a waiver has first been obtained shall be submitted with a copy of the waiver to the GSA regional office supporting the geographic area in which the requisitioner is located. GSA will either arrange for procurement of the items or authorize the requesting agency to procure them.

(c) When establishing required delivery dates in purchase requests submitted in accordance with this § 101–26.508–2, agencies should normally allow 105 days leadtime to permit orderly procurement by GSA. In addition to this 105 days leadtime, inspection and testing of the tape requires approximately 15 days.

(d) When an agency submitting a purchase request in accordance with this § 101–26.508–2 has a need for scheduled deliveries, minimum or maximum order quantities, or other special arrangements, GSA will develop specific provisions to accommodate the needs. The provisions will be based on information furnished by the agency concerned and will be included in solicitations for offers and resultant contracts.

[37 FR 20941, Oct. 5, 1972, as amended at 41 FR 34633, Aug. 16, 1976; 43 FR 32765, July 28, 1978]

§ 101–26.508–3 Consolidation of requisitions.

To the maximum extent feasible, agencies shall develop procedures which will permit planned consolidated requisitioning of EDP tape and instrumentation tape (wide and intermediate band) on an agencywide basis. When agencywide consolidation is not feasible, consideration shall be given to the consolidation of individual requisitions for small quantities at any agency level. This will enable the Government to benefit from lower prices generally obtainable through large volume procurements.

[43 FR 32766, July 28, 1978]

§ 101–26.509 Tabulating machine cards.

Procurement by Federal agencies of tabulating machine cards shall be made in accordance with the provisions of this § 101–26.509.

[37 FR 24113, Nov. 14, 1972]

§ 101–26.509–1 Requisitioning tabulating machine cards available from Federal Supply Schedule contracts.

Federal Supply Schedule, FSC group 75, part VIII, includes contracts for tabulating cards applicable to electrical and mechanical contact tabulating machines, including aperture cards and copy cards. Federal agencies shall procure these cards in accordance with the provisions of the current schedule. Orders not exceeding the maximum order limitation of the Federal Supply Schedule and prepared directly by activities located outside the geographical delivery areas specified in the schedule shall be submitted in FEDSTRIP format to the GSA regional office supporting the geographic area in which the requisitioner is located.

[43 FR 32766, July 28, 1978]

§ 101–26.509–2 Requisitioning tabulating machine cards not available from Federal Supply Schedule contracts.

(a) Requisitions for tabulating machine cards covered by Federal Supply Schedule contracts which exceed the maximum order limitation of the schedule shall be forwarded in FEDSTRIP format to the GSA regional office supporting the geographic area in which the requisitioner is located.

(b) Requisitions for tabulating machine cards not covered by Federal Supply Schedule contracts shall be submitted to GSA for purchase action if the dollar value of the cards exceeds or is estimated to exceed $2,500. However, regardless of the amount involved (including requisitions estimated to be $2,500 or less), purchase action shall not be taken by GSA or an agency unless a waiver of the requirement for the use of tabulating cards available from Federal Supply Schedule contracts has been furnished in accordance with § 101–26.100–2. Requests for waivers shall be submitted to the Commissioner, Federal Supply Service (F), General Services Administration, Washington, DC 20406. The requests shall fully describe the items required and state the reasons the tabulating machine cards covered by the Federal Supply Schedule contracts will not adequately serve the end-use purpose. GSA will notify the requesting agency in writing of the action taken on the waiver request. To reduce leadtime, requisitions may be submitted in FEDSTRIP format with the requests for waivers. A requisition for items for which a waiver has first been obtained shall be submitted with a copy of the waiver to the GSA regional office supporting the geographic area in which the requisitioner is located. GSA will either arrange for procurement of the items or authorize the requesting activity to procure them.

(c) Purchase requests with established delivery dates should allow sufficient leadtime (see § 101–26.102–3) to permit orderly procurement by GSA, including acceptance testing and delivery to destination.

(d) In those instances where an agency anticipates a need for scheduled deliveries, minimum or maximum order quantities, or other special arrangements, GSA will develop specific provisions to accommodate the needs of the particular agency. These provisions will be based on information furnished by the agency concerned for inclusion in solicitations for offers and resultant contracts.

[35 FR 13440, Aug. 22, 1970, as amended at 43 FR 22212, May 24, 1978; 43 FR 32766, July 28, 1978]

§ 101–26.509–3 Consolidation of requisitions.

To the maximum extent feasible, agencies shall consolidate their requisitions for tabulating machine cards on an agencywide basis. If agencywide consolidation is not feasible, consideration shall be given to the consolidation of requisitions at any agency level when the Government will benefit from lower prices through large-volume procurement.

[43 FR 32766, July 28, 1978]

Subpart 101–26.6—Procurement Sources Other Than GSA

§ 101–26.600 Scope and applicability of subpart.

This subpart prescribes the policies, procedures, and limitations relating to civil agency use of procurement sources of the Department of Defense (DOD), which include the Defense supply centers of the Defense Logistics Agency (DLA) and the inventory control points of the military departments. The provisions of this subpart 101–26.6 are applicable to executive agencies unless otherwise specifically indicated. Other Federal agencies are encouraged to satisfy their requirements in the same manner.

[42 FR 58748, Nov. 11, 1977]

§ 101–26.601 [Reserved]

§ 101–26.602 Fuels and packaged petroleum products obtained from or through the Defense Logistics Agency.

(a) Agencies shall be governed by the provisions of this § 101–26.602 in satisfying requirements for coal, natural gas from sources other than a public utility, petroleum fuels, and certain

petroleum products from or through the Defense Logistics Agency.

(b) The Defense Logistics Agency has been assigned the supply responsibility for these materials which will be available either from contracts (or contracts summarized in contract bulletins) issued by the Defense Fuel Supply Center, Alexandria, Va., or through FEDSTRIP/MILSTRIP requisitions placed on the Defense General Supply Center, Richmond, Va., in accordance with instructions contained in §101–26.602–2. Agencies submitting estimates of requirements which are summarized in the Defense Fuel Supply Center contract bulletins are obligated to procure such requirements from these contracts. Estimates submitted shall not include requirements normally obtained through service station deliveries utilizing the U.S. Government National Credit Card.

[42 FR 58748, Nov. 11, 1977 as amended at 57 FR 21895, May 26, 1992]

§101–26.602–1 Procurement of lubricating oils, greases, and gear lubricants.

(a) The Defense Fuel Supply Center will make annual procurements of lubricating oils, greases, and gear lubricants for ground type (nonaircraft) equipment and of aircraft engine oils on an annual program basis. Estimates of requirements for items covered by these programs will be solicited annually from agencies on record with the Defense Fuel Supply Center in time for the requirements to arrive at the Center on the following schedule:

	Purchase program	Due on or before
Lubricating oils (nonaircraft).	4.1	November 15.
Aircraft engine oils	4.2	June 15.
Grease and gear oils	4.4	October 15.

(b) Activities not on record but requiring procurement support shall submit requests to: Commander, Defense Fuel Supply Center, Attn: DFSC:PG, Cameron Station, Alexandria, VA 22314, on or before the requirement due dates specified in §101–26.602–1(a). Submission of requirements is not required if:

(1) The maximum single order is less than the minimum quantity obtainable under the bulletin;

(2) Container sizes are smaller than those available under the bulletin; or

(3) Purchase without regard to existing Defense Fuel Supply Center contracts is otherwise authorized.

(c) Agency requirements will be consolidated and solicited for procurement by the Defense Fuel Supply Center. Contractual action to obtain coverage for these programs will be summarized in a contract bulletin for program 4.1 and 4.4. Copies of the bulletins (copies of contracts for program 4.2) will be distributed to addresses provided by the agencies on record.

(d) Deliveries of lubricants covered by Defense Fuel Supply Center contracts shall be obtained by activities in the United States by following the instructions contained in the respective contracts or contract bulletins.

[34 FR 19977, Dec. 20, 1969, as amended at 39 FR 33315, Sept. 17, 1974]

§101–26.602–2 Procurement of packaged petroleum products.

(a) Packaged petroleum products listed in Federal Supply Catalog for Civil Agencies shall be obtained by submitting requisitions prepared in accordance with the FEDSTRIP Operating Guide (FPMR 101–26.2) to the Defense General Supply Center (DGSC), Richmond, Va. 23297, using routing identifier code S9G. The Federal Supply Catalog for Civil Agencies may be obtained, upon written request, from the Commander, Defense Logistics Services Center, Attn: DLSC-T, Battle Creek, Mich. 49016. Requisitions for packaged petroleum items not in this catalog and not otherwise included in Defense Fuel Supply Center (DFSC) procurements under the provisions of §101–26.602–1 may be submitted to DGSC. DGSC will supply the items from inventory or will refer the requisitions to DFSC for purchase and direct delivery to the requisitioner. Packaged petroleum items may be obtained from other Federal activities by agreement with the activity concerned or by local purchase when such action is authorized under the provisions of the Defense Logistics Agency (DLA)

local purchase policy contained in paragraph (b) of this section.

(b) Activities may effect local purchase of any DLA-managed, centrally procured item, commercially available, provided the purchase:

(1) Is limited to immediate-use requirements generated by emergency conditions (e.g., work stoppage, etc.), or

(2) Is to satisfy a routine requirement having a total line value not in excess of $25 and is determined to be the most economical method of supply.

(c) DGSC may return requisitions for local purchase action citing FEDSTRIP/MILSTRIP status code CW with the concurrence of the requisitioning activity when it is deemed that a local purchase action would be the most economical method of supply. A determination will be based on recognition of excessive costs (procurement, transportation/shipping, and special packaging considerations) as compared to those costs associated with local purchase action. Requisition priorities, backorder situations, procurement and required delivery dates (PDD/RDD), and requisition line item dollar values shall not be a basis or consideration for a Status Code CW reject action. Requisitions from overseas activities will not be returned to overseas activities for a local purchase action.

[37 FR 668, Jan. 15, 1972, as amended at 42 FR 58748, Nov. 11, 1977]

§ 101–26.602–3 Procurement of gasoline, fuel oil (diesel and burner), kerosene, and solvents.

(a) Estimates of annual requirements will be solicited annually by the Defense Fuel Supply Center from agencies on record so as to reach that activity approximately 45 calendar days before the due date shown in Defense Fuel Supply Center geographic alignment of States set forth in §101–26.602–3 (d) and (e). The requirements call will be accomplished by mailing a computer-produced record of the file data for each delivery point that has been identified to each submitting addressee; instructions for validation and return will be included. Activities not on record but requiring procurement support shall prepare and submit estimates on DFSC Form 15:18 to the Defense Fuel Supply Center, Cameron Station, Alexandria, VA 22314. An illustration of DFSC Form 15:18 is contained in §101–26.4904–1518. Copies may be obtained on request from: Commander, Defense Fuel Supply Center, Attention: DFSC—OD, Cameron Station, Alexandria, VA 22314.

(1) Estimated annual requirements for any delivery point which total less than the following minimums shall not be submitted to the Defense Fuel Supply Center, unless the activity does not have authority or capability to procure locally.

Item	Minimum annual requirement (gallons)
Gasoline	10,000
Burner fuel oil	10,000
Diesel oil	10,000
Kerosene	10,000
Solvents	500

(2) Estimates shall not be submitted when the minimum quantities to be delivered to any one point on a single delivery are less than the following minimums, unless the activity does not have the authority or capability to procure locally.

Delivery method	Minimum quantity furnished on a single delivery
Drums	4 drums (200–220 gallons).
Tank wagon	50 gallons.
Transport truck	Full truckload (5,200–7,500 gallons).
Tank car	Full carload (8,000–12,000 gallons).

(b) Agency requirements will be solicited for procurement by the Defense Fuel Supply Center, and contracts resulting from these solicitations will be summarized in contract bulletins, separately for each Defense Fuel Supply Center geographic region, and distributed to agencies on record. Activities requiring additional contract bulletins shall submit requests to: Commander, Defense Fuel Supply Center, Attention: DFSC—OD, Cameron Station, Alexandria, VA 22314.

(c) The items covered in contract bulletins issued by the Defense Fuel Supply Center are in accordance with the latest issue of the applicable Federal specification. Agency requirements submitted for products not

under a Federal specification must include accurate and complete product laboratory analysis.

(d) The following illustrates the Defense Fuel Supply Center geographic alignment of the States, the delivery periods covered for each region, the identification of purchase programs, and the due dates for submission of requirements for motor gasoline, fuel oil (diesel and burner), and kerosene.

MOTOR GASOLINE, FUEL OILS (DIESEL AND HEATING), AND KEROSENE

State	Delivery period	Requirements due date
Alaska—Purchase Program 3.9 [1].	July 1–June 30	January 1.
Hawaii—Purchase Program 3. [1].	January 1–December 31.	July 1.
DFSC Region 1—Purchase Program 3.21:		
Connecticut	September 1–August 31.	March 1.
Maine	.....do	Do.
Massachusetts	.....do	Do.
New Hampshire	.....do	Do.
Rhode Island	.....do	Do.
Vermont	.....do	Do.
DFSC Region 2—Purchase Program 3.22:		
New Jersey	October 1–September 30.	April 1.
New York	.....do	Do.
Pennsylvania	.....do	Do.
DFSC Region 3—Purchase Program 3.23:		
Delaware	August 1–July 31.	February 1.
District of Columbia	.....do	Do.
Indiana	.....do	Do.
Kentucky	.....do	Do.
Maryland	.....do	Do.
Ohio	.....do	Do.
Tennessee	.....do	Do.
Virginia	.....do	Do.
West Virginia	.....do	Do.
DFSC Region 4—Purchase Program 3.24:		
Alabama	April 1–March 31.	October 1.
Arkansas	.....do	Do.
Florida	.....do	Do.
Georgia	.....do	Do.
Louisiana	.....do	Do.
Mississippi	.....do	Do.
Missouri	.....do	Do.
North Carolina	.....do	Do.
South Carolina	.....do	Do.
Puerto Rico	.....do	Do.
Virgin Islands	.....do	Do.
DFSC Region 5—Purchase Program 3.25:		
Illinois	May 1–April 30	Nov. 1.
Iowa	.....do	Do.
Michigan	.....do	Do.
Minnesota	.....do	Do.
Wisconsin	.....do	Do.
DFSC Region 6—Purchase Program 3.26:		
Colorado	.....do	December 1.
Kansas	.....do	Do.
Nebraska	.....do	Do.
New Mexico	.....do	Do.
North Dakota	.....do	Do.
Oklahoma	.....do	Do.
South Dakota	.....do	Do.
Texas	June 1–May 31	December 1.
Wyoming	.....do	Do.
DFSC Region 7—Purchase Program 3.27:		
Arizona	November 1–October 31.	May 1.
California	.....do	Do.
Nevada	.....do	Do.
Utah	.....do	Do.
DFSC Region 8—Purchase Program 3.28:		
Idaho	July 1–June 30	January 1.
Montana	.....do	Do.
Oregon	.....do	Do.
Washington	.....do	Do.

[1] Includes solvents.

NOTE: Program 3.23 does not include requirements for those activities supported by the GSA Region 3 Fuel Yard.

(e) Estimates of requirements for solvents to be delivered in the continental United States, Puerto Rico, and the Virgin Islands during the period January 1 through December 31 shall be submitted to arrive at the Defense Fuel Supply Center by the preceding July 1. The purchase program identification is 3.11.

(f) Estimates of requirements for aviation fuels for delivery in the United States shall be submitted in accordance with section 11, chapter 1, of DOD 4140.25–M, Procedures for the Management of Petroleum Products.

(g) Requirements for aviation fuels (all grades) shall be submitted in accordance with DFSC Regulation 4220.1, Requirements Submission Schedule for Petroleum Products. Copies of DFSCR 4220.1 may be obtained from the Defense Fuel Supply Center (DFSC-W), Cameron Station, Alexandria, Va. 22314.

(h) Requirements for petroleum fuels at locations other than as identified in this §101–26.602–3 may be obtained from other Federal activities by agreement with the activity concerned or from local purchase sources, when local purchase authority and capability exists, or by submitting requests direct to the Defense Fuel Supply Center, Attention:

DFSC-OD, Cameron Station, Alexandria, Va. 22314, if centralized procurement is desired.

[34 FR 19978, Dec. 20, 1969, as amended at 39 FR 33316, Sept. 17, 1974; 42 FR 58749, Nov. 11, 1977; 47 FR 4682, Feb. 2, 1982]

§ 101–26.602–4 Procurement of coal.

(a) Federal agencies desiring to participate in the Defense Fuel Supply Center coal contracting program for carload delivery outside the District of Columbia and vicinity may obtain coal through this program by submitting estimates as provided in this § 101–26.602–4.

(b) Estimates of coal requirements shall be prepared on DD Form 416, Requisition for Coal, Coke, or Briquettes (illustrated as § 101–26.4904–416), clearly marked ''Estimate Only'', and submitted in original and one copy to arrive at the Defense Fuel Supply Center, Cameron Station, Alexandria, Va. 22314, before the following requirement due dates:

Purchase program	For activities located in	Requirements due in DFSC by	For delivery beginning
5.5	Indiana, Illinois, Iowa, Kansas, Missouri, South Dakota, West Tennessee, West Kentucky, Wisconsin.	June 1	December 1.
5.9 (Lignite)	North Dakota	.....do	Do.
5.3	Alabama, East Kentucky, East Tennessee, Ohio, Georgia, North Carolina, South Carolina, West Virginia.	August 15	April 1.
5.8 (Anthracite)	Connecticut, District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Virginia, South Carolina.	November 1	May 1.
5.4	Michigan, Minnesota, North Dakota, Wisconsin	.....do	Do.
5.7	Alaska	.....do	Do.
5.2	District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia.	January 15	August 1.
5.1	Connecticut, Maine, Massachusetts, New Hampshire, New York, Vermont.	April 1	October 1.
5.6	Arizona, California, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, Washington, Wyoming.	.....do	Do.

NOTE: Except for purchase programs 5.8 and 5.9 all programs refer to requirements for bituminous coal.

(1) A separate requirement form shall be prepared for each delivery point and for each size and kind of coal, such as bituminous, anthracite, or lignite. The purchase program number is to be entered in the upper right hand block of DD Form 416.

(2) The section of DD Form 416 entitled ''Analytical Specifications Required'' shall reflect minimum requirements based on heating engineering data applicable to the particular equipment in which the coal will be used.

(c) Contractual information covering these requirements will be furnished each participating agency by the Defense Fuel Supply Center after contracts are awarded. As shipments of coal are required, each activity shall direct the contractor to make delivery. Payment for deliveries shall be arranged for by the ordering activity directly with the contractor. Should estimated requirements not be needed due to changes or conversions in heating equipment or other reasons, activities shall notify the Defense Fuel Supply Center of such changes as soon as possible.

(d) Copies of DD Form 416 may be obtained from: Commander, Defense Fuel Supply Center, Attention: DFSC:PE, Cameron Station, Alexandria, VA 22314.

(e) Requirements for coal at locations other than as identified in this § 101–26.602–4 may be obtained by submitting requests directly to the Defense Fuel Supply Center, if centralized procurement is desired.

(f) Each participating agency may elect to collect coal samples, for analysis purposes, in accordance with the latest edition of the Handbook on Coal Sampling issued by the Department of the Interior, Bureau of Mines. Copies of this Handbook on Coal Sampling may be obtained upon request from: Coal Sampling and Inspection, Division of Mineral Studies, U.S. Bureau of Mines, College Park, Md. 20740.

(g) Coal samples shall be forwarded by the agency to the Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, Pa. 15213. A charge for each sample submitted will be assessed by the Bureau of Mines for performing such analysis, or agencies may enter into an agreement with the Bureau of Mines for services and testing on an annual flat rate basis. Agencies shall furnish the Bureau of Mines laboratory complete billing instructions at the time samples are submitted. Copies of the results of each analysis will be furnished by the Bureau of Mines to offices responsible for payment for comparison with the analytical limits guaranteed by the contractor. In the event that the sample does not meet the minimum requirements of the analytical limits specified in the contract, the using agency shall compute the amount, if any, to be deducted from the contract price.

[34 FR 19978, Dec. 20, 1969, as amended at 42 FR 58749, Nov. 11, 1977]

§ 101–26.602–5 Procurement of natural gas from the wellhead and other supply sources.

(a) Natural gas requirements shall be satisfied from sources that are most advantageous to the Government in terms of economy, efficiency, and service. A cost/benefit analysis shall be required by the procuring Federal agency if the natural gas procurements at a facility exceed 20,000 mcf annually and the facility can accept interruptible service. If sources other than the local public utility are the most advantageous to the Government, agency requirements may be satisfied through the Defense Logistics Agency (DLA). Arrangements for DLA procurements on behalf of civilian agencies shall be made through GSA. GSA will forward agency requests to DLA after assuring that necessary requirements data are included.

(b) Agency requests for DLA natural gas shall be forwarded to the Public Utilities Division (PPU), Office of Procurement, General Services Administration, 18th and F Streets, NW., Washington, DC 20405. The requests shall include for each facility for which natural gas is required: The name, address, and telephone number of the requesting agency representative; the name, address, and telephone number of the facility representative; the name of the local distribution company; the expected usage (in mcf) at the facility for each month during the next year of service; the expected peak day usage in mcf at the facility; a statement of funds availability; and documentation of the cost analysis performed that justifies the alternative source procurement.

(c) Agency requests for procurements by DLA shall be forwarded to GSA at the time the information specified in § 101–26.602–5(b) becomes available.

(d) Agencies should anticipate that actions required by DLA to establish a natural gas contract will take 5 to 7 months.

[57 FR 21895, May 26, 1992]

§ 101–26.603 Electronic items available from the Defense Logistics Agency.

Executive agencies shall satisfy their requirements for electronic items listed in the Federal Supply Catalog for Civil agencies (FSC group 59, except classes 5940, 5970, 5975, 5977, and 5995) from the Defense Electronic Supply Center (DESC), DLA. Requisitions shall be prepared in accordance with the FEDSTRIP Operating Guide and submitted to DESC, 1507 Wilmington Pike, Dayton, Ohio 45444, using routing identifier code S9E. Items listed in classes 5940, 5970, 5975, 5977, and 5995, unless managed as exceptions by GSA, shall be obtained from the Defense General Supply Center (DGSC), Richmond, Va. 23297. Electronic items may be obtained from local purchase sources when such action is authorized under the provisions of § 101–26.602–2(b). DESC may return requisitions for local purchase under the same conditions governing the return of requisitions by DGSC set forth in § 101–26.602–2(c).

[42 FR 58749, Nov. 11, 1977]

§ 101–26.605 Items other than petroleum products and electronic items available from the Defense Logistics Agency.

Agencies required to use GSA supply sources should also use Defense supply centers (DSC's) as sources of supply for items listed in the Federal Supply

Catalog for Civil Agencies, Identification and Management Data List, published by DLA. By agreement with the Defense Logistics Agency, the catalog will contain only those items in Federal supply classification classes which are assigned to them for Government-wide integrated management, or exception items in other classes similarly assigned. A list of DSC's and their corresponding commodity areas along with requisitioning instructions are published in the FEDSTRIP Operating Guide. As additional items are assigned to managers other than GSA for Government-wide integrated material management, GSA will announce the changes through the Federal Catalog System and GSA's regular supply publications.

[42 FR 58750, Nov. 11, 1977]

§ 101–26.606 Supply support available from the inventory control points of the military departments.

Federal civil agencies may obtain items of supply which are procured and managed by the inventory control points (ICP) of the Army, Navy, and Air Force and are available in the United States, provided that a national stock number has been assigned to the items. A list of ICP's and their corresponding commodity areas is in the FEDSTRIP operating Guide. Agencies should also refer to the FEDSTRIP operating Guide for additional information concerning supply support from the ICP's and for instructions on obtaining items from these sources.

[42 FR 58750, Nov. 11, 1977]

§ 101–26.607 Billings.

Unless other arrangements have been made between the Defense Logistics Agency and the requisitioning activity, billings for sales will be rendered at least monthly on Standard Form 1080, Voucher for Transfers Between Appropriations and/or Funds, supported by a listing of documents including identification of requisitions and related cards reflecting data pertaining to the gross sale, the retail loss allowance, and any credits for adjustments applicable to prior billings. In addition to these charges, an accessorial charge will be made on shipments destined for overseas to cover expenses incident to overseas packing, handling, and transportation. The Defense supply centers shall be provided with a continental U.S. address for payment of bills for overseas shipments.

[42 FR 28750, Nov. 11, 1977]

§ 101–26.607–1 Payments.

Payments are expected to be made within 15 calendar days of receipt of the Standard Form 1080 from the Defense supply centers. Payment shall not be deferred until receipt of shipment or withheld pending resolution of adjustments.

[42 FR 58750, Nov. 11, 1977]

§ 101–26.607–2 Adjustments.

Requests for billing adjustments should be submitted in accordance with chapter 5 of the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101–26.8).

[42 FR 58750, Nov. 11, 1977]

§ 101–26.607–3 Emergency requirements.

In cases of public exigency, items available from the Defense Logistics Agency may be procured from other sources as provided in § 1–3.202.

[42 FR 58750, Nov. 11, 1977]

Subpart 101–26.7—Procurement Sources Other Than GSA and the Department of Defense

§ 101–26.700 Scope and applicability of subpart.

This subpart prescribes policy and procedures relating to procurement sources other than those of GSA and the Department of Defense. The provisions of this subpart 101–26.7 are applicable to executive agencies unless otherwise indicated. Other Federal agencies are encouraged to obtain their requirements in the same manner.

[39 FR 20599, June 12, 1974]

§ 101–26.701 Purchase of products and services from the blind and other severely handicapped persons.

(a) Purchases by executive agencies of products produced by workshops of the blind or other severely handicapped persons which are carried in GSA supply distribution facilities must be made as provided in subpart 101–26.3.

(b) Purchases by all Federal agencies of products and services offered for sale by workshops of the blind or other severely handicapped persons which are not carried in GSA supply distribution facilities, and purchases by executive agencies under exceptions set forth in § 101–26.301, must be made in accordance with the Procurement List published by the Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped. Products and services offered by the blind shall be given precedence over those offered by other severely handicapped persons. (See § 101–26.702(d) for priority accorded to products manufactured by Federal Prison Industries, Inc.)

(c) Products produced by workshops for the blind or other severely handicapped persons which are available from GSA supply distribution facilities are designated by an asterisk(*) preceding the national stock number in the Procurement List identified in paragraph (b) of this section.

[39 FR 20599, June 12, 1974, as amended at 40 FR 7619, Feb. 21, 1975]

§ 101–26.702 Purchase of products manufactured by the Federal Prison Industries, Inc.

(a) Purchases by executive agencies of prison-made products carried in GSA supply distribution facilities must be made as provided in subpart 101–26.3.

(b) Purchases by all Federal agencies of prison-made products not carried in GSA supply distribution facilities, or supply items procured under exceptions set forth in § 101–26.301, must be made in accordance with the provisions in the Schedule of Products Made in Federal Penal and Correctional Institutions.

(c) Prison-made products which are available from GSA supply distribution facilities are designated by an asterisk (*) preceding the national stock number in the product schedule referred to in paragraph (b) of this section.

(d) Products available from Federal Prison Industries, Inc., shall be accorded priority over products offered for sale by the workshops of the blind and other severely handicapped persons.

[39 FR 20599, June 12, 1974, as amended at 40 FR 7619, Feb. 21, 1975]

§ 101–26.703 Marginally punched continuous forms.

GSA has delegated authority to the U.S. Government Printing Office (GPO) to procure all marginally punched continuous forms for use by Federal agencies except those procured by GSA for stock. Therefore, all Federal agencies shall submit their requirements for such forms in accordance with the provisions of this § 101–26.703.

(a) Except for those marginally punched continuous forms which GSA procures for stock, all requirements for such forms shall be ordered from GPO contracts or other established GPO sources. If an item is available from GSA stock, acquisition shall be from this source.

(b) Requirements for marginally punched continuous forms which are not available from GPO or GSA sources or which exceed the maximum monetary limitations of the GPO contract shall be submitted to GPO for appropriate action. If requirements are less than the minimum orders/shipment limitations of the GPO contract, agencies may procure them directly from commercial sources.

[39 FR 20600, June 12, 1974]

§ 101–26.704 Purchase of nonperishable subsistence (NPS) items.

With the exception of condiment packages in Federal supply classes 8940 and 8950, managed by the Defense Logistics Agency's Defense Personnel Support Center, all nonperishable subsistence items in Federal supply group 89, Subsistence Items, are managed by and available from the Veterans Administration (VA). These items are listed in the Subsistence Catalog, which is available from the Director,

Supply Service (134A), Veterans Administration, Washington, DC 20420.

[43 FR 29005, July 5, 1978]

Subpart 101–26.8—Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings

SOURCE: 41 FR 56320, Dec. 28, 1976, unless otherwise noted.

§ 101–26.800 Scope of subpart.

This subpart prescribes a uniform system for reporting discrepancies or deficiencies in material or shipments and processing requests for or documenting adjustments in billings from or directed by GSA or Department of Defense (DOD) activities.

§ 101–26.801 Applicability.

This subpart is applicable to all civilian executive agencies, including their contractors and subcontractors when authorized. DOD activities should follow the applicable DOD or military service/agency regulations in reporting discrepancies or deficiencies in shipments or material, or requesting adjustments in billings from or directed by GSA unless exempted therefrom, in which case the provisions of this §101–26.801 apply.

§ 101–26.802 Exclusions.

The provisions of this regulation are not applicable to shipments and billings related to the stockpile of strategic and critical materials or excess or surplus property; or to billings for services, space, communications, and printing.

§ 101–26.803 Discrepancies or deficiencies in shipments, material, or billings.

§ 101–26.803–1 Reporting discrepancies or deficiencies.

Discrepancies or deficiencies in shipments or material occur in four broad categories: Quality deficiencies, shipping discrepancies, transportation discrepancies, and billing discrepancies. When discrepancies or deficiencies occur, activities shall document them with sufficient information to enable initiation and processing of claims against suppliers and carriers. Procedures for documenting discrepancies or deficiencies are set forth in the GSA publication, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings, issued by the Federal Supply Service, GSA. Copies of the publication may be obtained by submitting a completed GSA Form 457, FSS Publications Mailing List Application, (referencing mailing list code number ODDH–0001) to the following address: General Services Administration, Centralized Mailing List Service (CMLS-C), 819 Taylor Street, P.O. Box 17077, Fort Worth, TX 76102–0077.

NOTE: Copies of the GSA Form 457 may be obtained by writing the Centralized Mailing List Service.

[55 FR 24086, June 14, 1990]

§ 101–26.803–2 Reporting quality deficiencies.

(a) Quality deficiencies are defined as defects or nonconforming conditions which limit or prohibit the item received from fulfilling its intended purpose. Quality deficiencies include deficiencies in design, specification, material, manufacturing, and workmanship. Timely reporting of all quality deficiencies is essential to maintain an acceptable quality level for common-use items. GSA relies on agency reporting of quality deficiencies in order to act to remove the defective items from the supply system as well as to document contractor performance files for use in future procurements.

(b) A product deficiency which may cause death, injury, or severe occupational illness, or directly restrict the mission capabilities of the using organization, is called a ''category I'' complaint. Quality complaints that do not meet the category I criteria are called ''category II'' complaints. Standard Form (SF) 368, Quality Deficiency Report, or a message in the format of the Standard Form 368, is used to report quality deficiencies.

(c) Standard Form 368 (including SF's 368 submitted in message formats) are required for all product quality deficiencies that involve material (1) shipped to the user from a GSA distribution center (including shipments made directly to the user from GSA

distribution centers as well as ''indirect'' shipments (shipments with intermediate stops between the GSA distribution center and the ultimate user)), (2) shipped to the user from a DOD depot or another Government activity, as directed by GSA, (3) purchased by GSA for the user and inspected by GSA, or (4) ordered from a GSA Federal Supply Schedule contract which specified source inspection by GSA.

(d) Category I complaints are to be reported to GSA by telephone or telegraphic message within 72 hours of discovery. Category II complaints are to be reported within 15 days after discovery.

(e) Standard Forms 368 (in triplicate) should be sent to the following address: GSA Discrepancy Reports Centers (6 FR-Q), 1500 East Bannister Road, Kansas City, MO 64131–3088. Communications routing indicator: RUEVFXE (unclassified), RULSSAA (classified), Com: (816) 926–7447, FTS: 926–7447, AUTOVON: 465–7447.

In addition, when reporting a category I product quality deficiency condition, an information copy should be sent to the following address: General Services Administration, FSS, Office of Quality and Contract Administration, Quality Assurance Division (FQA), Washington, DC 20406. Communications routing indicator: RUEVFWM (unclassified), RULSSAA (classified), COM: (703) 557–8515, FTS: 557–8515.

(f) For defective items covered by a manufacturer's commercial warranty, activities should initially attempt to resolve all complaints on these items themselves (examples of items with a commercial warranty are vehicles, major appliances such as gas and electric ranges, washing machines, dishwashers, and refrigerators). If the contractor replaces or corrects the deficiency, an SF 368, in triplicate, should be sent to the Discrepancy Reports Center at the above address. The resolution of the case should be clearly stated in the text of the SF 368.

(g) If, however, the contractor refuses to correct, or fails to replace, either a defective item or an aspect of service under the warranty, an SF 368, along with copies of all pertinent correspondence, should be forwarded to the GSA office executing the contract (address will be contained in the pertinent contract/purchase order). An information copy of the SF 368 should also be submitted to the Discrepancy Reports Center at the above address.

(h) For items ordered from a GSA Federal Supply Schedule contract when the inspection is performed by an activity other than GSA or when the items are purchased by GSA for the user but not inspected by GSA, activities should initially attempt to resolve all complaints on these items directly with the contractor. If the contractor refuses to correct, or fails to replace a defective item, an SF 368, along with copies of all correspondence, should be forwarded to the GSA office executing the contract (address will be contained in the pertinent contract/purchase order). An information copy of the SF 368 should also be submitted to the Discrepancy Reports Center at the above address.

(i) Information submitted to the Discrepancy Reports Center regarding defective items will be maintained as a quality history file for use in future procurements.

(j) Additional information regarding reporting of quality deficiences may be obtained by referring to chapter 4 of the GSA publication cited in §101–26.803–1.

[53 FR 26595, July 14, 1988, as amended at 55 FR 24086, June 14, 1990]

§ 101–26.803–3 Reporting of discrepancies in transportation, shipments, material, or billings.

(a) Transportation-type discrepancies shall be processed under the instructions in subpart 101–40.7 when the discrepancies are the fault of the carrier and occur while the shipments are in the possession of:

(1) International ocean or air carriers, regardless of who pays the transportation charges, except when shipment is on a through Government bill of lading (TGBL), or is made through the Defense Transportation System (DTS). Discrepancies in shipments on a TGBL or which occur while in the DTS shall be reported as prescribed in the GSA publication referenced in §101–26.803–1; or

(2) Carriers within the continental United States, when other than GSA or DOD pays the transportation charges.

(b) All other shipping, transportation, or billing discrepancies shall be reported on the forms, and within the time frames, dollar limitations, and according to the procedures prescribed in the GSA publication referenced in §101–26.803–1.

[53 FR 26596, July 14, 1988, as amended at 55 FR 24086, June 14, 1990]

§101–26.803–4 Adjustments.

GSA and DOD will adjust billings resulting from over or under charges, or discrepancies or deficiencies in shipments, or material on a bill submitted under the provisions of this subpart 101–26.8 and the GSA publication referenced in §101–26.803–1.

[55 FR 24086, June 14, 1990]

Subparts 101–26.9—101–26.48 [Reserved]

Subpart 101–26.49—Illustrations of Forms

§101–26.4900 Scope of subpart.

This subpart illustrates forms prescribed or available for use in connection with subject matter covered in other subparts of part 101–26.

[29 FR 14729, Oct. 29, 1964]

§101–26.4901 Standard forms.

(a) The Standard forms are illustrated in this section to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this section correspond with the Standard form numbers.

(b) The Standard forms illustrated in this §101–26.4901 may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting agency.

[32 FR 15754, Nov. 16, 1967, as amended at 41 FR 34633, Aug. 16, 1976]

§101–26.4901–149 Standard Form 149, U.S. Government National Credit Card.

NOTE: The form illustrated in §101–26.4901–149 is filed as part of the original document and does not appear in the FEDERAL REGISTER or the Code of Federal Regulations.

[37 FR 18536, Sept. 13, 1972]

§101–26.4902 GSA forms.

(a) The GSA forms are illustrated in this §101–26.4902 to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this section correspond with the GSA form numbers.

(b) Agency field offices may obtain the GSA forms illustrated in this §101–26.4902 by submitting their requirements to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (BRO), Washington, DC 20405.

[31 FR 7235, May 18, 1966, as amended at 41 FR 34633, Aug. 16, 1976]

§101–26.4902–457 GSA Form 457, FSS Publications Mailing List Application.

NOTE: The form illustrated in §101–26.4902–457 is filed as part of the original document and does not appear in the FEDERAL REGISTER or the Code of Federal Regulations.

[40 FR 31224, July 25, 1975]

§101–26.4902–1398 GSA Form 1398: Motor vehicle purchase and inspection label.

NOTE: The form illustrated in §101–26.4902–1398 is filed as part of the original document and does not appear in the FEDERAL REGISTER or the Code of Federal Regulations.

[39 FR 20683, June 13, 1974]

§101–26.4902–1424 GSA Form 1424, GSA Supplemental Provisions.

NOTE: The form illustrated in §101–26.4902–1424 is filed as part of the original document and does not appear in the FEDERAL REGISTER or the Code of Federal Regulations.

[44 FR 24060, Apr. 24, 1979]

§101–26.4902–1781 GSA Form 1781, Motor Vehicle Requisition—Delivery Order.

NOTE: The form illustrated in §101–26.4902–1781 is filed as part of the original document

and does not appear in the FEDERAL REGISTER or the Code of Federal Regulations.

[47 FR 41364, Sept. 20, 1982]

§ 101–26.4902–2891 GSA Form 2891: Instructions to Users of Federal Supply Schedules.

NOTE: The form illustrated in § 101–26.4902–2891 is filed as part of the original document and does not appear in the FEDERAL REGISTER or the Code of Federal Regulations.

[43 FR 24533, June 6, 1978]

§ 101–26.4904 Other agency forms.

This section illustrates forms issued by other agencies which are prescribed or available for use in connection with subject matter covered in other subparts of part 101–26. The issuing activity is also identified in the section requiring the use of such forms. The forms are illustrated to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this section correspond with the applicable agency form numbers.

[34 FR 19979, Dec. 20, 1969]

§ 101–26.4904–416 DD Form 416: Purchase Request for Coal, Coke, or Briquettes.

NOTE: The form illustrated in § 101–26.4904–416 is filed as part of the original document and does not appear in the FEDERAL REGISTER or the Code of Federal Regulations.

[40 FR 31224, July 25, 1975]

PART 101–27—INVENTORY MANAGEMENT

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AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 101–27.000 Scope of part.

This part provides policies, principles, and guidelines to be used in the management of Government-owned inventories of personal property.

[29 FR 15997, Dec. 1, 1964]

Subpart 101–27.1—Stock Replenishment

§ 101–27.101 General.

Each agency shall establish and maintain such control of personal property inventories as will assure that the total cost involved will be kept to the minimum consistent with program needs. For purposes of stock replenishment, inventories may be considered to be composed of active inventory which is that portion carried to satisfy average expected demand, and safety stock which is that portion carried for protection against stock depletion occurring when demand exceeds average expected demand, or when leadtime is greater than anticipated.

(a) In establishing active inventory levels, consideration shall be given to the average demand of individual items, space availability, procurement costs, inventory carrying costs, purchase prices, quantity discounts, transportation costs, other pertinent costs, and statutory and budgetary limitations.

(b) In establishing safety stock levels, consideration shall be given to demand and leadtime fluctuations, essentiality of items, and the additional costs required to achieve additional availability.

[29 FR 15997, Dec. 1, 1964]

§ 101–27.102 Economic order quantity principle.

The economic order quantity (EOQ) principle is a means for achieving economical inventory management. Application of the EOQ principle reduces total variable costs of procurement and possession to a minimum.

[41 FR 3858, Jan. 27, 1976]

§ 101–27.102–1 Applicability.

All executive agencies, except the Department of Defense, within the United States, excluding Alaska and Hawaii, shall replenish inventories of stock items having recurring demands, except items held at points of final use, in accordance with the economic order quantity (EOQ) principle.

[29 FR 15997, Dec. 1, 1964]

§ 101–27.102–2 Guidelines.

Guidelines for implementing the EOQ principle of stock replenishment are in the GSA Handbook, The Economic Order Quantity Principle and Applications, issued by the Federal Supply Service, GSA. The handbook is identified under national stock number 7610–00–543–6765 in the GSA Supply Catalog, and copies may be obtained by agencies in the same manner as other items in that catalog. The public may purchase the handbook from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

[41 FR 3858, Jan. 27, 1976]

§ 101–27.102–3 Limitations on use.

(a) When there are no limiting factors which preclude its application, such as space or budgetary limitations, the basic EOQ techniques shall be used.

(b) When a space, personnel, or budgetary limitation precludes application of the basic EOQ technique, a modification of the technique may be made provided the modification produces:

(1) The fewest possible replenishments for a given level of inventory investment; or

(2) The lowest possible level of inventory investment for a given number of replenishments.

(c) When quantity purchase discounts or volume transportation rates will produce savings greater than the increased variable costs involved in procurement and possession, the economic purchase quantity (EPQ) principle shall be used as described in the GSA Handbook. The Economic Order Quantity Principle and Applications.

[29 FR 15997, Dec. 1, 1964, as amended at 31 FR 9541, July 14, 1966; 41 FR 3858, Jan. 27, 1976]

§ 101–27.103 Acquisition of excess property.

Except for inventories eligible for return to GSA for credit pursuant to the

provisions of §101–27.501 and for inventories for which an economic retention limit has been established in accordance with the provisions of subpart 101–27.3 of this part, inventory levels may be adjusted upward when items of stock are to be acquired from excess sources. Such adjustments should be tempered by caution and arrived at after careful consideration. Generally, acquisitions of items for inventory from excess sources shall not exceed a 2-year supply except when:

(a) A greater quantity is needed to meet known requirements for an authorized planned program.

(b) The item is not available without special manufacture and a predictable requirement exists.

(c) Administrative determination has been made that in application of the EOQ principle of stock replenishment within an agency an inventory level in excess of 2 years is appropriate for low dollar-volume items.

(d) The items are being transferred into authorized stock funds for resale to other Government agencies.

[34 FR 200, Jan. 7, 1969, as amended at 41 FR 3858, Jan. 27, 1976]

Subpart 101–27.2—Management of Shelf-Life Materials

§101–27.201 Scope of subpart.

This subpart provides for the identification, designation of useful life, and establishment of controls for shelf-life items to minimize loss and insure maximum use prior to deterioration. A shelf-life item is any item possessing deteriorative or unstable characteristics to the degree that a storage period must be assigned to assure the issuance of material that will perform satisfactorily in service.

[32 FR 6493, Apr. 27, 1967]

§101–27.202 Applicability.

This subpart 101–27.2 is applicable to all executive agencies except the Department of Defense. The principles and objectives prescribed in this subpart are in consonance with those adopted by the Department of Defense in the establishment of shelf-life procedures for use by military activities.

[32 FR 6493, Apr. 27, 1967]

§101–27.203 Program objectives.

In order to assure maximum use of shelf-life items, each executive agency shall:

(a) Identify shelf-life items, including any new items to be placed in inventory, which have a limited shelf-life period.

(b) Establish the shelf-life period of such items and procedures for controlling their procurement, storage, and issue.

(c) Inspect or test certain shelf-life items prior to deterioration to determine if the shelf-life period can be extended.

(d) Conduct inventory management analyses to determine if shelf-life stocks are expected to be utilized prior to the expiration of the original or any extended shelf-life period, and, if not, arrange for transfer of such stock in sufficient time to permit usage prior to deterioration.

(e) Make available for Government-wide distribution, through excess property channels, any stocks which cannot be utilized through normal supply channels.

[32 FR 6493, Apr. 27, 1967]

§101–27.204 Types of shelf-life items.

Shelf-life items are classified as nonextendable (Type I) and extendable (Type II). Type I items have a definite storage life after which the item or material is considered to be no longer usable for its primary function and should be discarded. Type II items are those for which successive reinspection dates can be established when the items have a continued usability as determined by examination based upon criteria that have been agreed upon. Examples of Type I items are drugs and medicines with certain characteristics. Examples of Type II items are paint and ink.

[40 FR 59595, Dec. 29, 1975]

§101–27.205 Shelf-life codes.

Shelf-life items shall be identified by use of a one-digit code to provide for uniform coding of shelf-life materials by all agencies.

(a) The code designators for shelf-life periods of up to 60 months are as follows:

Shelf-life period (months)	Type I item code	Type II item code
1	A	
2	B	
3	C	1
4	D	
5	E	
6	F	2
9	G	3
12	H	4
15	J	
18	K	5
21	L	
24	M	6
27	N	
30	P	
36	Q	7
48	R	8
60	S	9

(b) Code designator 0 is used to identify items not included in a shelf-life program.

(c) Code designator X shall be used to identify critical end-use items, military essential items, and medical items with a shelf life greater than 60 months. Agencies shall establish controls for such materials to prevent issuance of any unserviceable items.

(d) Agencies may also establish controls for materials with a shelf life greater than 60 months that are not identified in paragraph (c) of this section. Such controls should be established only when they are necessary for effective management of the items.

[40 FR 59595, Dec. 29, 1975]

§ 101–27.206 Procurement of shelf-life materials.

§ 101–27.206–1 General considerations.

In determining requirements for shelf-life items, the following elements should be taken into consideration:

(a) Assigned storage time periods; and

(b) Appropriate contracting techniques for the particular item involved, including specification requirements, industry practices, and storage and delivery procedures.

[40 FR 59595, Dec. 29, 1975]

§ 101–27.206–2 Identification and shipping requirements.

Manufacturers shall, whenever practicable, be required to mark the unit or container with the month and year of manufacture or production and the batch number on all shelf-life items (60 months or less) procured from other than GSA sources. Whenever practical, the supplier shall be required to ship or deliver material within a given number of months from the date of manufacture or production. These ''age on delivery'' requirements should not be imposed in such a manner as to unduly restrict competition at any trade level. The following guidelines are suggested as appropriate for most shelf-life items:

Shelf-life period	Age on delivery
25 mos. or more	6 mos.
19 to 24 mos	4 mos.
13 to 18 mos	3 mos.
7 to 12 mos	2 mos.
6 mos. or less	1 mo. or less.

[40 FR 59595, Dec. 29, 1975]

§ 101–27.206–3 Packaging.

To the extent feasible and economical, shelf-life material shall be packaged in such a way as to provide for minimum deterioration.

[40 FR 59595, Dec. 29, 1975]

§ 101–27.207 Control and inspection.

§ 101–27.207–1 Agency controls.

Agencies shall establish the necessary controls to identify shelf-life items on their stock records (and in other appropriate elements of their supply system), and shall determine the appropriate shelf life for other than GSA managed items. Shelf-life items shall be stored in such a way as to ensure that the oldest stock on hand is issued first. Agencies shall issue the oldest stock of shelf-life items first except when it is not feasible as in shipments to overseas activities.

[40 FR 59596, Dec. 29, 1975]

§ 101–27.207–2 Inspection.

Type II items remaining in stock immediately before the end of the designated shelf-life period shall be inspected to determine whether the shelf life can be extended, except items having a line item inventory value of $300 or less, or if the cost of inspection or testing is significant in relation to the

value of the item. If the material is found suitable for issue on the date of inspection, the shelf life should be extended for a period equal to 50 percent of the original shelf-life period and the next reinspection date established accordingly. Material should be reinspected before the end of each extended shelf-life period and the shelf life extended again up to 50 percent of the original shelf life as long as the material conforms to the established criteria. Material on which the shelf life has been extended shall not be shipped to overseas activities if the time remaining in the extended shelf-life period is relatively short.

[40 FR 59596, Dec. 29, 1975]

§ 101–27.207–3 Marking material to show extended shelf life.

When the shelf-life period of Type II material (except for critical end-use items as described below) is extended, only the exterior containers of bulk stocks need be annotated or labeled to indicate the date of inspection and date material is to be reinspected. Individual units of issue not classified as having a critical end-use application are not required to be annotated or labeled as long as controls are established to preclude issuance of unserviceable material to a user. (A critical end-use item is any item which is essential to the preservation of life in emergencies; e.g., parachutes, marine life preservers, and certain drug products, or any item which is essential to the performance of a major system; e.g., aircraft, the failure of which would cause damage to the system or endanger personnel.) At the time of shipment, the date of inspection and date for reinspection shall be affixed by label or marked by other means on each unit of issue of Type II items having a critical end-use application.

[42 FR 61861, Dec. 7, 1977]

§ 101–27.208 Inventory analyses.

(a) An inventory analysis shall be conducted periodically for each Type I item to determine whether the quantity on hand will be used within the established shelf-life period. If the analysis indicates there are quantities which will not be used within the shelf-life period, arrangements shall be made to ensure use of the item(s) within the holding agency or for redistribution to other agencies.

(b) An inventory analysis shall be conducted periodically for each Type II item with a shelf life of 60 months or less to determine whether issue of the quantity on hand is anticipated prior to the expiration of the designated shelf life. This analysis shall be made as follows:

Shelf-life period	Date of analysis
48 to 60 mos	12 to 16 mo. prior to expiration.
36 to 48 mos	8 to 12 mo. prior to expiration.
18 to 36 mos	6 to 8 mo. prior to expiration.
12 to 18 mos	4 to 6 mo. prior to expiration.
6 to 12 mos	3 to 4 mo. prior to expiration.
Up to 6 mos	No analysis required, but special emphasis should be placed on good requirements determination and proper order quantity.

(1) If the analysis indicates that the quantity on hand will not be issued within the shelf-life period and the cost of inspection or testing is not significant in relation to the line item value, the items shall be inspected to determine if the shelf-life period can be extended.

(2) If the analysis indicates that the quantity on hand will be issued within the shelf-life period, inspection is not required. However, such items shall be viewed again during the last month of the shelf-life period to determine whether quantities are sufficient to warrant inspection. The guidelines in § 101–27.207–2 shall be used to determine whether quantities are sufficient to warrant inspection and for extending the shelf-life period.

(3) If an agency does not have an inspection capability and the quantity and value of an indicated overage is sufficiently large to warrant special consideration, arrangements shall be made for qualified inspection or laboratory testing to determine whether the material is suitable for issue.

[40 FR 59596, Dec. 29, 1975]

§ 101–27.209 Utilization and distribution of shelf-life items.

Where it is determined that specified quantities of both Type I and Type II shelf-life items will not be used within the shelf-life period, such quantities

shall be utilized or distributed in accordance with this section.

[35 FR 5010, Mar. 24, 1970]

§ 101–27.209–1 GSA stock items.

Shelf-life items that meet the criteria for return under the provisions of subpart 101–27.5 of this part may be offered for return to GSA.

[35 FR 12721, Aug. 11, 1970]

§ 101–27.209–2 Items to be reported as excess.

Shelf-life items which do not meet the criteria in subpart 101–27.5 of this part, which would, if returned to GSA, adversely affect the GSA nationwide stock position, or which are returned to GSA and are determined unsuitable for issue, will be reported as excess under the provisions of part 101–43 of this chapter.

[35 FR 12721, Aug. 11, 1970]

§ 101–27.209–3 Disposition of unneeded property.

If no transfer is effected and no donation requested, the property shall be assigned for sale, abandonment, or destruction in accordance with part 101–45 of this chapter.

[32 FR 6493, Apr. 27, 1967]

Subpart 101–27.3—Maximizing Use of Inventories

SOURCE: 32 FR 13456, Sept. 26, 1967, unless otherwise noted.

§ 101–27.300 Scope.

This subpart prescribes policy and procedures to assure maximum use of inventories based upon recognized economic limitations.

§ 101–27.301 [Reserved]

§ 101–27.302 Applicability.

The provisions of this subpart are applicable to all civil executive agencies.

§ 101–27.303 Reducing long supply.

Through effective interagency matching of material and requirements before the material becomes excess, unnecessary procurements and investment losses can be reduced. Timely action is required to reduce inventories to their normal stock levels by curtailing procurement and by utilizing and redistributing long supply. (The term *long supply* means the increment of inventory of an item that exceeds the stock level criteria established for that item by the inventory manager, but excludes quantities to be declared excess.) In this connection, requirements for agency managed items should be obtained from long supply inventories offered by agencies rather than by procurement from commercial sources. Because supply requirements usually fluctuate over a period of time, a long supply quantity which is 10 percent or less of the total stock of the item is considered marginal and need not be reduced.

[41 FR 3858, Jan. 27, 1976]

§ 101–27.303–1 Cancellation or transfer.

When the long supply of an item, including quantities due in from procurement, is greater than 10 percent of the total stock of that item, the inventory manager, or other appropriate official, shall cancel or curtail any outstanding requisitions or procurements on which award has not been made for such items, and may also cancel contracts for such items (if penalty charges would not be incurred) or transfer the long supply, if economical, to other offices within the agency in accordance with agency utilization procedures. In such cases, acquisition of long supply items shall not be made from other sources such as requirements contracts.

§ 101–27.303–2 Redistribution.

If the long supply of an item remains greater than 10 percent of the total stock of an item despite efforts to cancel or transfer the long supply as provided in §101–27.303–1, the inventory manager shall offer the long supply to another agency or other agencies in accordance with this §101–27.303–2. Before offering a long supply to any agency, the inventory manager shall determine whether the item to be offered is a centrally managed item or an agency managed item. A centrally managed item is an item of supply or equipment which

forms part of an inventory of an agency performing a mission of storage and distribution to other Government activities; e.g., GSA and DSA. An agency managed item is a procured item that forms a part of a controlled inventory of an agency and its activities for issue internally for its own use. After determining whether the item to be offered is an agency or centrally managed item, the inventory manager shall:

(a) Offer centrally managed items to the agency managing the item for return and credit in accordance with the procedures established by that agency; and

(b) Offer agency managed items to other agencies which manage the same item. Reimbursement shall be arranged by the agencies effecting the inventory transfer. The responsibility of locating agencies or activities requiring these items shall rest with the agency holding the long supply. However, agencies may receive a list of Government activities using particular national stock numbers by writing to the General Services Administration (FFL), Washington, DC 20406.

[32 FR 13456, Sept. 26, 1967, as amended at 41 FR 3858, Jan. 27, 1976]

§ 101–27.304 Criteria for economic retention limits.

If a long supply continues to exceed 10 percent of the total stock of an item despite efforts to redistribute the long supply as provided in § 101–27.303–2, the inventory manager shall establish an economic retention limit for the item in accordance with the provisions of this § 101–27.304. An economic retention limit is the maximum quantity of an item that can be held in stock without incurring greater costs for carrying the stock than the costs for disposal and resulting loss of investment. The economic retention limit shall be used to determine which portion of the inventory may be economically retained and which portion should be disposed of as excess.

[41 FR 3858, Jan. 27, 1976]

§ 101–27.304–1 Establishment of economic retention limit.

An economic retention limit must be established for inventories so that the Government will not incur any more than the minimum necessary costs to provide stock of an item at the time it is required. Generally, it would be more economical to dispose of stock in excess of the limit and procure stock again at a future time when the need is more proximate rather than incur the cumulative carrying costs.

(a) The agency managing a centrally managed or agency managed item shall establish an economic retention limit so that the total cumulative cost of carrying a stock of the item (including interest on the capital that is tied up in the accumulated carrying costs) will be no greater than the reacquisition cost of the stock (including the procurement or order cost). Consideration should be given to any significant net return that might be realized from present disposal of the stock. Where no information has been issued, the net return from disposal is assumed to be zero. Guidelines for setting stock retention limits are provided in the following table and explanatory remarks that follow:

Annual carrying costs as a percentage of item reacquisition costs	Economic retention limit in years of supply—net return on disposal as a percentage of item reacquisition costs				
	0	5	10	15	20
10	7¼	6¾	6¼	6	5½
15	5½	5	4¾	4¼	4
20	4¼	4	3¾	3½	3¼
25	3½	3¼	3	3	2¾
30	3	2¾	2¾	2½	2¼
35	2¾	2½	2¼	2¼	2
40	2½	2¼	2	2	1¾

NOTE: The entries in the tables were calculated by determining how long an item must be carried in inventory before the total cumulative carrying costs (including interest on the additional funds that would be tied up in the accumulated annual carrying costs) would exceed the acquisition costs of the stock. at that time (reacquisition costs). For example, assuming no net return from disposal, the accumulated carrying costs computed at the rate of 25 percent per year on the reacquisition cost of the stock and compounded annually at 10 percent (GSA's recommended rate of interest on Government investments) would be:

Years	Compounded carrying costs as a percentage of reacquisition	Accumulated costs as a percentage of reacquisitioned costs
1	27.5	27.5
2	30.3	57.8
3	33.3	91.1
4	36.6	127.7
5	40.3	168.0
6	44.3	212.3

At 25 percent a year, accumulated carrying costs would be equivalent to the reacquisition costs after 3½ years.

Three and one-half years is, therefore, the economic retention limit for items with a 25 percent annual carrying cost rate. Where an activity has not yet established an estimate of its carrying cost, an annual rate of 10 percent may be used as an interim rate thereby resulting in an economic retention limit of 7¼ years when the net return on disposal is zero. The elements of carrying (holding) cost are given in the GSA Handbook, The Economic Order Quantity Principle and Applications. The handbook is listed in the GSA Supply Catalog and may be ordered in the same manner as other items in the catalog.

(b) The economic retention limit at a user stocking activity can best be determined by the item manager (for centrally managed or agency managed items) on the basis of overall Government requirements and planned procurement. Since stocks in long supply at a user stocking activity are less likely to find utilization outlets, the retention limit at these activities should be relatively small. Generally the economic retention limit at a user stocking activity should be computed in the same manner as in paragraph (a) of this section and then reduced by 70 percent.

[39 FR 27902, Aug. 2, 1974]

§ 101–27.304–2 Factors affecting the economic retention limit.

(a) The economic retention limit may be increased where:

(1) The item is of special manufacture and relates to an end item of equipment which is expected to be in use beyond the economic retention time limit; or

(2) Costs incident to holding an additional quantity are insignificant and obsolescence and deterioration of an item are unlikely.

(b) The economic retention limit should be reduced under the following conditions:

(1) The related end item of equipment is being phased out or an interchangeable item is available; or

(2) The item has limited storage life, is likely to become obsolete, or the age and condition of the item does not justify the full retention limit.

§ 101–27.305 Disposition of long supply.

Where efforts to reduce the inventory below the economic retention limit have been unsuccessful, appropriate disposition should be effected in accordance with subpart 101–43.3 of this chapter. Any remaining inventory which is within the economic retention limit shall be retained. However, the item shall be reviewed at least annually and efforts made to reduce the long supply inventory in accordance with § 101–27.303.

Subpart 101–27.4—Elimination of Items From Inventory

SOURCE: 32 FR 12401, Aug. 25, 1967; 32 FR 12721, Sept. 2, 1967, unless otherwise noted.

§ 101–27.400 Scope of subpart.

This subpart establishes policy and procedures designed to assure that items which can be obtained more economically from readily available sources, Government or commercial, are eliminated from inventory. For items which are not readily available from Government or commercial sources or are being held in inventory for a one time construction project, this subpart shall be applied to the extent feasible by the activity managing or controlling such inventories.

§ 101–27.401 [Reserved]

§ 101–27.402 Applicability.

The provisions of this subpart are applicable to all executive agencies in connection with inventory items maintained at stocking activities other than Government wholesale supply sources.

§ 101–27.403 General.

By eliminating inactive items and slow-moving items which are readily available, when needed, from Government wholesale supply activities or from commercial sources, the costs to the Government in inventory investment and for maintaining the items in inventory can be eliminated. An ''inactive item'' is an item for which no current or future requirements are recognized by previous users and the item manager. A ''slow-moving item'' is an

item for which there are current or future requirements, but the frequency and quantity of such requirements do not make it economical to stock them in lieu of obtaining requirements from other sources when needed. However, ''standby or reserve items'' are not to be eliminated from inventories. A ''standby or reserve item'' is an item for which a reserve stock is held so that the items will be available immediately to meet emergencies for which there is insufficient time to procure or requisition the items without endangering life or causing substantial financial loss to the Government.

[41 FR 3859, Jan. 27, 1976]

§ 101–27.404 Review of items.

Except for standby or reserve stocks, items in inventory shall be reviewed periodically (at least annually) to identify those which are inactive and slow-moving. This review may be conducted coincidently with the normal replenishment or long supply reviews. The estimate of current or future requirements for an item shall be based on its recent history of recurring requirements. Standby items shall also be reviewed at appropriate intervals to substantiate their qualification for inclusion in that category.

§ 101–27.405 Criteria for elimination.

Inactive items, items which no longer qualify as standby, and slow-moving items which are readily available, when needed, from Government or commercial sources shall be eliminated from inventory. The determination of a slow-moving item shall be based on a comparison of the costs for continuing to maintain it in stock as opposed to the costs for ordering it from outside sources each time it is requested. This comparison shall also consider any difference in price and transportation costs for each alternative. In the absence of criteria for stockage of an item developed and used by an agency, the desired results will be obtained through application of the following table:

Orders per year under economic order quantity (EOQ)	Minimum number of requests per year to justify continuation in stock
12 and over	24
11	22
10	20
9	18
8	16
7	14
6	12
5	10
4	8
3 and under	7

NOTE: Except for the low dollar infrequently ordered item, which requires a higher minimum, an item should be discontinued from stock if the number of requests for it is less than twice its order frequency under EOQ. For example, an item ordered six times per year under EOQ should have at least 12 requests per year to continue stockage. For 11 requests, it would cost less to order each time it was requested.

11 orders at $5 per order	$55
Under EOQ:	
6 orders at $5 per order	$30
Holding cost (equal to ordering cost)	30
Total	60

§ 101–27.406 Disposition of stock.

Stocks of slow-moving items which are not otherwise determined to be eligible for continued stockage shall be eliminated through normal attrition and shall not be replenished. The successive actions indicated in paragraphs (a) through (c) of this section, shall be taken, as necessary, to remove stocks of inactive items from inventory.

(a) Transfer stock to other offices where needed within the agency.

(b) Transfer stock to other agencies as follows:

(1) Centrally managed items to the agency managing the item for credit; or

(2) Agency program items to agencies requiring them.

(c) Dispose of remaining stocks, as excess, after actions taken in paragraphs (a) and (b) of this section, in accordance with subpart 101–43.3.

Subpart 101–27.5—Return of GSA Stock Items

SOURCE: 35 FR 12721, Aug. 11, 1970, unless otherwise noted.

§ 101–27.500 Scope and applicability of subpart.

This subpart sets forth policy and procedures for the return to GSA for credit of items which are in long supply or for which no current or future requirements are anticipated. The provisions of this subpart 101–27.5 are applicable to all executive agencies. Federal agencies other than executive agencies may participate in this program and are encouraged to do so.

§ 101–27.501 Eligibility for return.

GSA stock items for which no current or future agency requirements are anticipated are eligible for return to GSA for credit. Despite eligibility for return to GSA, consideration should be given to the transportation costs involved as related to the value of the items, and, where excessive, such items shall not be reported to GSA.

§ 101–27.502 Criteria for return.

Any GSA stock item to be returned to GSA by an agency which has no current or future requirements for that item shall meet the following conditions:

(a) The minimum dollar value per line item, based on the current GSA selling price, shall be:

(1) $130 for hand tools, FSG 51, and measuring tools, FSG 52; and

(2) $450 for items in all other Federal supply groups and classes except for tires and tubes, FSC 2610; tool kits, FSC 5180; laboratory supplies, FSCs 6630 and 6640; Standard forms, FSC 7540; paints, dopes, varnishes, and related products, FSC 8010; preservatives and sealing compounds, FSC 8030; adhesives, FSC 8040; boxes, cartons, and crates, FSC 8115; and subsistence items, FSG 89, which are not returnable and shall be considered excess, and shall be processed in accordance with part 101–43 of this chapter.

(b) The minimum remaining shelf life of this material shall be 12 months at the time of receipt by GSA.

(c) The material shall not be a terminal or discontinued item.

(d) The material shall be in either condition code A or condition code E.

[35 FR 12721, Aug. 11, 1970, as amended at 44 FR 39393, July 6, 1979; 56 FR 11939, Mar. 21, 1991]

§ 101–27.503 Allowable credit.

Allowable credit for activities returning material that is accepted by GSA will be reflected in billings by GSA and will be commensurate with the condition of the material received.

(a) Credit will be granted at the rate of 80 percent of the current GSA selling price after acceptance by GSA for new, used, repaired, or reconditioned material which is serviceable and issuable to all agencies without limitation or restriction (condition code A).

(b) Credit will be granted at the rate of 60 percent of the current GSA selling price for items which involve limited expenses or effort to restore to serviceable condition, and which is accomplished in the storage activity where the stock is located (e.g., a deficiency in packing or packaging which restricts the issue or requires repacking or repackaging (condition code E)).

(c) No credit will be given for material returned to GSA which does not meet the above criteria or which was returned to GSA without prior approval.

[56 FR 11939, Mar. 21, 1991]

§ 101–27.504 Notice to GSA.

When an activity elects to offer material to GSA for credit, the activity shall submit offers in accordance with chapter 4 of the FEDSTRIP Operating Guide or chapter 9 of MILSTRIP (DoD 4000.25–1–M).

[56 FR 11939, Mar. 21, 1991]

§ 101–27.505 Notice to activity.

GSA will provide notice to the offering activity of an acceptance/rejection decision for an offer and verification of material receipt for accepted offers.

(a) Within 20 workdays after receipt of an offer to return material, GSA will notify the offering activity of acceptance or rejection of the offer.

(1) For accepted offers, GSA will inform the offering activity of the GSA material return facility (storage activity) to which the material shall be

shipped. Prior to shipment of the material authorized by GSA for return, activities shall verify the declared condition. (If the offering activity considers that the transportation costs of sending the material to the GSA material return facility are excessive in relation to the value of the material and withdraws the offers, the GSA region that was designated to receive the offered material shall be notified accordingly.)

(2) For rejected offers, GSA will so inform the activity offering the material and give the reason for nonacceptance.

(b) Upon receipt of material authorized for return by GSA, the offering activity will be provided verification of receipt and a report of any discrepancies. When the discrepant condition is attributable to carrier negligence, subsequent credit allowed by GSA will be reduced by the amount to be paid the agency by the carrier for any damages incurred. A notice of credit will be provided the offering activity through credit entries on the monthly billing statement from the supporting GSA finance center.

(c) When offers of material that have been authorized by GSA for return are withdrawn, offering activities shall report such cancellation to the GSA region that was designated to receive the offered material.

[41 FR 3859, Jan. 27, 1976, as amended at 44 FR 39394, July 6, 1979; 56 FR 11939, Mar. 21, 1991]

§ 101–27.506 Determination of acceptability for credit.

Returned material will be examined by GSA upon receipt to determine acceptability for credit. Returned material which is unacceptable for credit will be deemed to have been declared excess by the returning activity, and will be disposed of by GSA as excess or surplus in the name of the activity, in accordance with part 101–43 of this chapter. The returning activity will be officially notified of the disposal action taken by GSA.

§ 101–27.507 Transportation and other costs.

Transportation costs for the movement of material to GSA and handling costs for preparation and shipment shall be paid by the activity shipping the material to GSA.

PART 101–28—STORAGE AND DISTRIBUTION

Sec.
101–28.000 Scope of part.

Subpart 101–28.1 [Reserved]

Subpart 101–28.2—Interagency Cross-Servicing in Storage Activities

101–28.200 Scope of subpart.
101–28.201 Applicability.
101–28.202 GSA/DOD cross-servicing agreement.
101–28.202–1 Request for services.
101–28.202–2 Cancellation of cross-servicing arrangements.
101–28.202–3 Cross-servicing rates.
101–28.202–4 Reimbursement for services.
101–28.203 Definitions.
101–28.203–1 Government storage activity.
101–28.203–2—101–28.203–3 [Reserved]
101–28.203–4 Contact point.

Subpart 101–28.3—Customer Supply Centers

101–28.300 Scope of subpart.
101–28.301 Applicability.
101–28.302 Mission of customer supply centers.
101–28.303 Benefits provided by customer supply centers.
101–28.304 Item selection and stockage criteria.
101–28.304–1 Types of items.
101–28.304–2 Determining items to be stocked.
101–28.305 Prices of customer supply center items.
101–28.306 Customer supply center (CSC) accounts and related controls.
101–28.306–1 Establishment of a CSC account by a customer activity.
101–28.306–2 Use of customer supply centers.
101–28.306–3 Limitations on use.
101–28.306–4 Expiration or cancellation.
101–28.306–5 Safeguards.
101–28.306–6 Sensitive items.
101–28.306–7 Responsibility for operation.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 101–28.000 Scope of part.

This part prescribes policy and procedures for the economical and efficient management of warehousing and related activities by executive agencies.

[29 FR 15998, Dec. 1, 1964]

Subpart 101–28.1 [Reserved]

Subpart 101–28.2—Interagency Cross-Servicing in Storage Activities

§ 101–28.200 Scope of subpart.

This subpart prescribes policies and procedures to be followed in the cross-servicing of storage and warehousing services between executive agencies of the Government. It implements the provisions of the cross-servicing agreement between the Department of Defense (DOD) and GSA and extends the provisions of the agreement to provide cross-servicing between the civilian agencies of the Government.

[29 FR 15998, Dec. 1, 1964]

§ 101–28.201 Applicability.

(a) The policies and procedures established by this subpart 101–28.2 are primarily applicable to storage activities within the United States. Executive agencies shall make every effort to utilize available Government storage services of other executive agencies to avoid new construction of storage facilities, acquisition of temporary space, and unnecessary transportation of supplies, material, and equipment to distant storage points. Whenever feasible, the policies and procedures shall be used to cross-service storage and warehousing requirements in overseas storage activities. Available storage services of executive agencies shall be made available for cross-servicing the requirements of other Federal agencies when requested. Other Federal agencies are encouraged to participate in cross-servicing arrangements.

(b) The provisions of this subpart 101–28.2 do not apply to ocean terminals, Government storage activities financed under industrial funds, activities concerned with the storage and handling of bulk fuels (petroleum products), and storage functions performed by GSA for the Federal Preparedness Agency.

[35 FR 7050, May 16, 1970, as amended at 42 FR 2317, Jan. 11, 1977]

§ 101–28.202 GSA/DOD cross-servicing agreement.

An agreement between GSA and DOD has established procedures to be followed in the cross-servicing of storage and warehousing services between Government agencies. Copies of the agreement, containing a listing of minimum services to be provided, responsibilities of agencies operating storage facilities, responsibilities of requesting agencies, and agency contact points to determine storage availability, may be obtained from the General Services Administration (FFN), Washington, DC 20406.

[42 FR 2317, Jan. 11, 1977]

§ 101–28.202–1 Request for services.

Requests for storage and warehousing services shall be in accordance with the procedures set forth in the GSA/DOD cross-servicing agreement. Arrangements incident to the furnishing of services, specific limitations, terms, and conditions shall be agreed to directly by the activities concerned.

[42 FR 2317, Jan. 11, 1977]

§ 101–28.202–2 Cancellation of cross-servicing arrangements.

(a) Accepted requests may be canceled by the requesting agency prior to delivery of supplies, material, and equipment to the storage activity when logistical developments make cancellation necessary or cancellation is in the best interest of the Government. The agency which accepted the request shall be informed of the cancellation in writing as soon as possible.

(b) Cancellation of arrangements in facilities to be inactivated or disposed of by an operating agency may be made as provided for in the GSA/DOD agreement. Also, after supplies, material, and equipment have been received at a storage activity, cancellation may be made when unforeseen emergencies arise which justify such cancellation. Advice of these necessary cancellations shall be in writing to the agency owning the material sufficiently in advance to allow the owning agency the maximum amount of time to make other arrangements for their property.

(c) When a facility in which cross-servicing is being accomplished is to be transferred from an operating agency to another agency, the operating agency shall inform the agency owning the

property at least 90 days before the transfer. The agency owning the property shall negotiate with the agency gaining the facility for continued cross-servicing of the property at the facility. The agency gaining the facility shall continue the cross-servicing arrangements unless they are contrary to the best interest of the Government.

[42 FR 2317, Jan. 11, 1977]

§ 101–28.202–3 Cross-servicing rates.

Normally, charges for services rendered will be based upon the standard rates established by the agency for internal use. However, special rates may be negotiated to cover actual or estimated costs for large, bulk lots of material when the applicable rates appear inequitable, subject to the approval of the appropriate program official for the civilian agency, and the Assistant Secretary of Defense (I and L) when DOD is involved.

[42 FR 2317, Jan. 11, 1977]

§ 101–28.202–4 Reimbursement for services.

Reimbursement for services rendered shall be made promptly after receipt of billing. The frequency for billing and reimbursement shall be established by the activity providing warehousing and storage services; however, billing and reimbursement shall be made not less frequently than quarterly nor more frequently than monthly.

[42 FR 2317, Jan. 11, 1977]

§ 101–28.203 Definitions.

As used in this subpart 101–28.2, the following term shall apply.

[42 FR 2317, Jan. 11, 1977]

§ 101–28.203–1 Government storage activity.

A Government activity or facility utilized for the receipt, storage, and issue of supplies, materials, and equipment, including storage of reserve or excess stocks or intransit storage. The activity may be either Government owned or leased, and it may be either Government operated or contract operated.

[42 FR 2317, Jan. 11, 1977]

§§ 101–28.203–2—101–28.203–3 [Reserved]

§ 101–28.203–4 Contact point.

The point within the headquarters of a military service or civilian agency to which requests should be forwarded. Coordination necessary with various organizational elements within a military service or civilian agency shall be accomplished by the contact point.

[42 FR 2317, Jan. 11, 1977]

Subpart 101–28.3—Customer Supply Centers

SOURCE: 51 FR 13499, Apr. 21, 1986, unless otherwise noted.

§ 101–28.300 Scope of subpart.

This subpart provides policy for the GSA customer supply center program, including policy on item stockage, services provided, and Federal agency participation.

§ 101–28.301 Applicability.

This subpart is applicable to all activities that are eligible to use customer supply centers. Eligible activities include executive agencies, elements of the legislative and judicial branches of the Government, and cost reimbursable contractors. Customer supply centers are for the use of activities located within the market area of a customer supply center as determined by GSA.

§ 101–28.302 Mission of customer supply centers.

Customer supply centers are retail supply distribution outlets established by GSA to provide efficient, economical support of frequently needed common-use expendable items for the accomplishment of customer agency missions.

§ 101–28.303 Benefits provided by customer supply centers.

The customer supply centers (CSCs) provide the following:

(a) Overall savings to the Federal Government through volume purchases.

(b) Quick and easy catalog item selection and simplified order placement

by telephone, mail, electronic mail, or customer walk-in for urgent agency requirements.

(c) Next business day shipment to the customer for most orders.

(d) Same day pick up of emergency walk-in and telephone orders.

(e) Immediate stock availability information for all telephone and walk-in orders.

(f) Extensive inventory designed to meet the needs of customer agencies within the geographic area served by each CSC.

(g) A detailed catalog which lists the items stocked and procedures for use of the CSC.

(h) Automated biweekly billings (consistent with DOD MILSBILLS).

(i) Other services as approved by the GSA Regional Administrator.

§ 101–28.304 Item selection and stockage criteria.

§ 101–28.304–1 Types of items.

Items stocked in customer supply centers are based on customer agency requirements for common use expendable items. In addition to administrative type items commonly used in Government offices, janitorial supplies, handtools, and other industrial-type items are stocked when required to meet the mission-related needs of the activities supported by the CSC.

§ 101–28.304–2 Determining items to be stocked.

(a) Each CSC will stock administrative items normally required by Federal agencies for day-to-day operations. In addition to those items, each CSC will stock additional items as determined by the requirements of the activities within the geographic area it serves.

(b) Regional FSS offices will canvass customer agencies periodically to identify items for which there is an official need within their support area.

(c) Customer agencies may request that specific items be stocked by their support CSC. The requests must be submitted in writing to the appropriate FSS Bureau Director and must be signed by a customer agency official at a level of responsibility (division director or higher) acceptable to the GSA Regional Administrator. All requests must indicate the expected monthly usage of the item requested. Each request will be evaluated and the submitting activity notified of the results of the evaluation.

§ 101–28.305 Prices of customer supply center items.

The selling price of a CSC item is an average price which is calculated automatically by the CSC computer at the time the item is ordered. Items stocked in CSCs that are obtained from GSA wholesale supply distribution facilities are input into the computer at the price in effect at the time of shipment from the facilities (this price is normally the price shown in the GSA Supply Catalog). Items stocked in CSCs that are not available from GSA wholesale supply distribution facilities but which are obtained from other Government supply sources or commercial sources are input into the computer at the invoice cost. Due to cost averaging, item prices listed in the CSC catalog may differ somewhat from the sale price for a particular transaction.

§ 101–28.306 Customer supply center (CSC) accounts and related controls.

§ 101–28.306–1 Establishment of a CSC account by a customer activity.

(a) Eligible agencies should contact the GSA Regional Federal Supply Service Bureau to obtain full information on the use of the CSC for their locale. FSS Bureau personnel will provide assistance to agencies in the establishment of the CSC account, brief personnel on the use of the CSC to meet local, retail supply requirements, and provide copies of the CSC catalog.

(b) An appropriate level management official (division director of higher) authorized to obligate agency funds must sign the GSA Form 3525, Application for Customer Supply Services, requesting establishment of the CSC account for the activity.

§ 101–28.306–2 Use of customer supply centers.

(a) Orders are received by the CSC via phone, mail, electronic mail, or in person on a walk-in basis for urgent agency requirements. All use of the CSC is based upon the customer access

code assigned at the time of establishment of the activity account. The customer access code determines the ship-to point for orders placed with the CSC. The ship-to point cannot be changed, one established, except by the submission of a written request signed by an appropriate agency official.

(b) All orders placed with the CSC, except emergency pickup orders, described in §101–28.306–1(c), will be shipped to the activity placing the order via mail or small parcel carrier not later than the end of the next business day.

(c) Walk-in orders for urgent requirements are accepted and filled immediately provided the individual placing the order has proper identification. Telephone orders placed in the morning may be picked up in the afternoon of the same day provided that the individual picking up the order possesses proper identification and the order ticket number provided by the CSC personnel at the time the order is placed.

§101–28.306–3 Limitations on use.

(a) Agencies shall establish internal controls to ensure that the use of the CSC account by the agency or other authorized activities is limited to the purchase of items for official Government use. The controls shall include written instructions that contain a statement prohibiting the use of the CSC account in acquiring items for other than Government use. When an agency makes a purchase of more than $500 per line item from a GSA customer supply center which is other than a similar lowest priced item available from a multiple-award schedule, GSA will assume that a justification has been prepared and made a part of the buying agency's purchase file. Availability of products, regardless of the total amount of the line item price, does not relieve an agency of the responsibility to select the lowest priced item commensurate with needs of the agency.

(b) Office supplies needed by Members of Congress and the Delegate of the District of Columbia for use in their offices in the House or Senate Office Buildings should be obtained from the Senate and Houses Representatives supply rooms, as appropriate. Members of Congress, except for the Delegate of the District of Columbia, should limit their use of the CSCs to those located outside of the District of Columbia. The Delegate of the District of Columbia may obtain office supplies for the use of his or her district offices from the CSC serving the District of Columbia.

§101–28.306–4 Expiration or cancellation.

(a) CSC accounts established for Federal agencies or members of the Federal judiciary are valid for an indefinite period of time unless canceled by the Commissioner, FSS, GSA, or by a GSA Regional Administrator.

(b) CSC accounts established for authorized contractors or Members of Congress will contain an expiration date reflecting the termination date of the contract or term of office. New accounts will be established for reinstated contractors or reelected Members of Congress upon submission of a new application.

(c) Any CSC customer may request cancellation of his/her account when no longer required or whenever there is cause to believe that the customer access code has been compromised. Agencies shall keep GSA advised of any changes in organization or accounting structures that might have an impact on their CSC accounts.

(d) The Commissioner FSS, GSA, may periodically direct a nationwide purge of all CSC accounts to cancel those that are duplicates, not needed, or for which the customer access code has been compromised. Selective account cancellations may be directed by the GSA Regional Administrator in coordination with FSS Central Office. Under the procedures of a nationwide purge, CSC accounts become invalid as of a specific date established by the Commissioner, FSS, GSA, or by a Regional Administrator, and new CSC accounts are established upon receipt of new applications.

§101–28.306–5 Safeguards.

Agencies shall establish internal controls to ensure that the customer access codes assigned for their accounts are properly protected. It is by use of

these access codes that orders are accepted by the CSC and these codes determine the ship-to points for all orders filled by the CSC with the exception of orders picked up at the CSC by the customer. GSA will not change the ship-to location associated with the customer access code except upon receipt of a written request to do so, signed by a duly authorized official of the customer activity.

§ 101–28.306–6 Sensitive items.

Many items stocked by the CSCs may be considered sensitive based upon standard criteria factors such as propensity for personal use, the potential for embarrassment of GSA and customer agencies, the level of customer complaints, and control as an accountable item of personal property. Each customer activity shall take all appropriate measures necessary to ensure that all items are properly controlled within its activity and are purchased solely for official Government use.

§ 101–28.306–7 Responsibility for operation.

The GSA Regional Administrator is responsible for the operation of any CSCs located within his or her region.

PART 101–29—FEDERAL PRODUCT DESCRIPTIONS

Sec.

101–29.000 Scope of part.

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101–29.102 Use of metric system of measurement in Federal product descriptions.

Subpart 101–29.2—Definitions

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101–29.203 Federal specification.
101–29.204 Interim Federal specification.
101–29.205 Federal standard.
101–29.206 Interim Federal standard.
101–29.207 Qualified products list (QPL).
101–29.208 Commercial item description (CID).
101–29.209 Purchase description.
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101–29.212 Tailoring.
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101–29.221 Federal Specifications, Standards and Commercial Item Description Program (Federal Standardization Program).

Subpart 101–29.3—Responsibilities

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101–29.301–1 Policies and procedures.
101–29.301–2 Federal Standardization Handbook.
101–29.301–3 Availability of Federal product descriptions.
101–29.301–4 Periodic review of Federal product descriptions.
101–29.302 Other Federal agencies.
101–29.303 All Federal executive agencies.

Subpart 101–29.4—Mandatory Use of Federal Product Descriptions

101–29.401 Federal product descriptions listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.
101–29.402 Exceptions to mandatory use of Federal product descriptions.
101–29.403 Federal product description exceptions and tailoring.
101–29.403–1 Authorization of exceptions.
101–29.403–2 Agency responsibility relative to exceptions to Federal product descriptions.
101–29.403–3 Tailoring of Federal product descriptions.

Subpart 101–29.5—Use of and Optional Use of Federal Product Descriptions and Agency Product Descriptions

101–29.501 Optional use of interim Federal specifications.
101–29.502 Use of Federal specifications and interim Federal specifications in Federal construction contracts.
101–29.503 Agency product descriptions.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 48 FR 25196, June 6, 1983, unless otherwise noted.

§ 101–29.000 Scope of part.

This part sets forth the policy and procedures for managing and using Federal product descriptions.

Subpart 101–29.1—General

§ 101–29.101 Federal product descriptions.

Federal and interim Federal specifications, their associated Federal qualified products lists (QPL's), Federal and interim Federal standards and Commercial item descriptions (CID's) are referred to collectively as Federal product descriptions. They are developed by GSA or other Federal agencies under the Assigned Agency Plan described in the ''Federal Standardization Handbook'' issued by the Assistant Administrator for Federal Supply and Services (FSS). Product descriptions are coordinated with other Federal agencies having technical, statutory, or regulatory interest in the commodity or other subject matter covered. Generally, before they are issued, Federal product descriptions are reviewed by technical societies, individual industrial producers, and organizations representing industrial producers and consumers.

§ 101–29.102 Use of metric system of measurement in Federal product descriptions.

In accordance with Public Law 94–168, 15 U.S.C. 205b, the Administrator of General Services shall develop procedures and plan for the increasing use of metric products by requiring Federal agencies to:

(a) Maintain close liaison with other Federal agencies, State and local governments, and the private sector on metric matters, and

(b) Review, prepare, and revise Federal standardization documents to eliminate barriers to the procurement of metric goods and services. These actions will occur during the overage document review or when the agency is informed by the private sector that metric products can be produced in a specific Federal supply classification class.

[49 FR 2774, Jan. 23, 1984]

Subpart 101–29.2—Definitions

§ 101–29.201 Specification.

A *specification* is a document, prepared specifically to support acquisition that clearly and accurately describes the essential technical requirements for purchased material. Procedures necessary to determine whether these requirements have been met are also included.

§ 101–29.202 Standard.

A *standard* is a document that establishes engineering and technical requirements for items, processes, procedures, practices, and methods that have been adopted as customary. Standards may also establish requirements for selection, application, and design criteria so as to achieve the highest practical degree of uniformity in materials or products, or interchangeability of parts used within or on those products.

§ 101–29.203 Federal specification.

A *Federal specification* is a specification, issued in the Federal series, that is mandatory for use by all Federal agencies. These documents are issued or controlled by the General Services Administration and are listed in the GSA ''Index of Federal Specifications, Standards and Commercial Item Descriptions.''

§ 101–29.204 Interim Federal specification.

An *interim Federal specification* is a potential Federal specification issued in temporary form for optional use by all Federal agencies. Interim amendments to Federal Specifications and amendments to interim Federal specifications are included in this definition. These documents are issued or controlled by the General Services Administration and are listed in the GSA ''Index of Federal Specifications, Standards and Commercial Item Descriptions.''

§ 101–29.205 Federal standard.

A *Federal standard* is a standard, issued in the Federal series, that is mandatory for use by all Federal agencies. These documents are issued or controlled by the General Services Administration and are listed in the GSA ''Index of Federal Specifications, Standards and Commercial Item Descriptions.''

§ 101–29.206 Interim Federal standard.

An *interim Federal standard* is a potential Federal standard issued in temporary form for optional use by all Federal agencies. These documents are issued or controlled by the General Services Administration, primarily for use in the telecommunication functional area.

§ 101–29.207 Qualified products list (QPL).

A *qualified products list* is a list of products that have met the qualification requirements stated in the applicable specification, including appropriate product identification and test or qualification reference number, with the name and plant address of the manufacturer and distributor, as applicable. Documents that contain QPL requirements are listed in the GSA ''Index of Federal Specifications, Standards and Commercial Item Descriptions.''

§ 101–29.208 Commercial item description (CID).

A *commercial item description* is an indexed, simplified product description that describes by function or performance characteristics of available, acceptable commercial products that will satisfy the Government's needs. These documents are issued or controlled by the General Services Administration and are listed in the GSA ''Index of Federal Specifications, Standards and Commercial Item Descriptions.''

§ 101–29.209 Purchase description.

A *purchase description* is any informal product description prepared for one-time use only or for small purchases when issuance of a formal product description is not cost effective.

§ 101–29.210 Product.

The term *product* is any end item, either manufactured or produced, and also includes materials, parts, components, subassemblies, equipment, accessories, attachments, and services.

§ 101–29.211 Product description.

A *product description* is a description of a product for acquisition and management purposes. Product descriptions include specifications, standards, commercial item descriptions, purchase descriptions, and brand-name purchase descriptions.

§ 101–29.212 Tailoring.

Tailoring is a process by which the individual requirements (sections, paragraphs or sentences) or product descriptions are evaluated to determine the extent to which each requirement is most suitable for a specific acquisition and the modification of these requirements, where necessary, to ensure that each document invoked achieves and optimal balance between operational needs and costs.

§ 101–29.213 Commercial product.

A *commercial product* is any item, component, or system available from stock or regular production that is sold in substantial quantities to the general public at established catalog or market prices (for definition of terms, see FPR 1–3.807.1).

§ 101–29.214 Commercial-type product.

A *commercial-type product* is defined as:

(a) Any product similar to the commercial product but modified or altered in compliance with specified Government requirements and, as such is usually sold only to the Government and not through the normal catalog or retail outlets;

(b) Any product similar to a commercial product that is either assembled or manufactured in accordance with specifically stated Government requirements and sold only to the Government and not to the general public; or

(c) A commercial product identified or marked differently than the commercial product normally sold to the general public.

§ 101–29.215 Departmental specification or standard.

A *departmental specification or standard* is a specification or standard prepared by, and of primary interest to, a particular Federal agency, but which may be used by other Federal agencies.

§ 101–29.216 Department of Defense Index of Specifications and Standards (DODISS).

The *Department of Defense Index of Specifications and Standards* is a Department of Defense (DoD) publication of unclassified Federal and military specifications and standards, related standardization documents, and voluntary standards that are used by DoD.

§ 101–29.217 Military specification or standard.

A *military specification or standard* is a specification or standard issued by the Department of Defense and listed in the DODISS.

§ 101–29.218 Voluntary standards.

Voluntary standards are established generally by private sector bodies and available for use by any person or organization, private or governmental. The term includes what are commonly referred to as ''industry standards'' as well as ''consensus standards,'' but does not include professional standards of personal conduct, institutional codes of ethics, private standards of individual firms, or standards mandated by law such as those contained in the United States Pharmacopeia as referenced in 21 U.S.C. 351.

§ 101–29.219 Index of Federal Specifications, Standards and Commercial Item Descriptions.

The *Index of Federal Specification, Standards and Commercial Item Descriptions* is a GSA publication that lists Federal specifications, qualified products lists, standards, and commerical item descriptions.

§ 101–29.220 Market research and analysis.

Market research and analysis is a process used to ascertain and analyze the range and quality of available commercial products to determine whether they meet user needs and to identify the market practices of firms engaged in producing, distributing, and supporting the products.

§ 101–29.221 Federal Specifications, Standards and Commercial Item Description Program (Federal Standardization Program).

The *Federal Specifications, Standards and Commercial Item Description Program* is a standardization program developed under authority of the Federal Property and Administrative Services Act of 1949, as amended (63 Stat. 377) in consonance with the Defense Cataloging and Standardization Act (Sections 2451–2456, title 10, U.S.C. chapter 145), managed by the General Services Administration, for the purpose of coordinating civilian and military standardization functions to avoid unnecessary duplication. Within the program, procedures and controls govern the development, coordination, approval, issuance, indexing, management, and maintenance of product descriptions in the Federal series (Federal specifications, Federal standards, and CID's) that define commercial products and products that have high potential for common Federal agency use.

Subpart 101–29.3—Responsibilities

§ 101–29.301 General Services Administration.

§ 101–29.301–1 Policies and procedures.

The Administrator of General Services is responsible for establishing policies and procedures, in coordination with the other agencies, for the preparation, coordination, approval, issuance, and maintenance of product descriptions in the Federal series of specifications, standards, and CID's.

§ 101–29.301–2 Federal Standardization Handbook.

The Assistant Administrator for Federal Supply and Services will issue and maintain on a current basis a ''Federal Standardization Handbook.'' The Federal Standardization Handbook sets forth operating procedures and applicable definitions used in the development of Federal product descriptions under the Assigned Agency Plan described therein. Federal agencies shall adhere to the provisions of the handbook in the development and coordination of Federal product descriptions.

§ 101–29.301–3 Availability of Federal product descriptions.

The Assistant Administrator for Federal Supply and Services will promulgate and maintain on a current basis the ''Index of Federal Specifications, Standards and Commercial Item Descriptions.'' The Index lists Federal product descriptions which have been printed and distributed, including those which are mandatory for use, and identifies the sources from which these documents may be obtained. Supplements to the Index indicate the dates on which the use of new Federal product descriptions become mandatory. The Department of Defense also lists Federal product descriptions in the ''Department of Defense Index of Specifications and Standards.''

§ 101–29.301–4 Periodic review of Federal product descriptions.

The Assistant Administrator for Federal Supply and Services is responsible for establishing a program for periodically reviewing Federal product descriptions to determine whether revision, cancellation or reauthorization (validation) is appropriate. The frequency of the review shall be based on the degree of change in the technology of the product covered by the description and shall be conducted at least once every 5 years.

§ 101–29.302 Other Federal agencies.

Heads of other Federal agencies are responsible for adhering to the policies and procedures established by GSA for management and control of Federal product descriptions and for the use of these documents in acquisition as applicable.

§ 101–29.303 All Federal executive agencies.

(a) Federal executive agencies shall evaluate the effectiveness of their Federal product descriptions by:

(1) Establishing a system for obtaining user critiques of products acquired using those descriptions; and

(2) Establish a method whereby the preparing activity can locate and communicate with the users.

(b) The system shall encourage users to communicate with acquisition organizations regarding:

(1) The user's essential requirements;

(2) Product suitability for use in the user's environment;

(3) Product failures and deficiencies;

(4) The needs of the logistics system; and

(5) Suggestions for corrective actions.

(c) Acquisition organizations shall designate a central point in each agency to evaluate and respond to user critiques and take corrective action on reasonable complaints and suggestions.

(d) At the time of the periodic review, the responsible preparing activity shall consider available user evaluations, the results of market research and analysis, and all reported deviations from the product description. Information, such as the following shall be examined in the review process:

(1) Whether the product description is still needed in its present form and scope or whether a more simplified one can be used;

(2) The existence of voluntary standards or other Government product descriptions that may better reflect current requirements;

(3) The need to convert Federal and agency specifications covering commercial or commercial-type products to CID's; and

(4) The currency and applicability of reference documents included in the product description.

Subpart 101–29.4—Mandatory Use of Federal Product Descriptions

§ 101–29.401 Federal product descriptions listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.

(a) Federal product descriptions shall be used by all Federal agencies in the procurement of supplies and services covered by such descriptions, except as provided in § 101–29.402 and § 101–29.403.

(b) The order of preference in selecting Federal product descriptions for acquisition shall be:

(1) Any Federal product description adopting voluntary standards.

(2) Commercial item descriptions.

(3) Federal specifications and standards.

§ 101–29.402 Exceptions to mandatory use of Federal product descriptions.

(a) Federal product descriptions do not need to be used under any of the following circumstances:

(1) The purchase is required under a public exigency and a delay in obtaining agency requirements would be involved in using the applicable description.

(2) The total amount of the purchase is less than $10,000. (Multiple small purchases of the same item shall not be made for the purpose of avoiding the intent of this exception. Further, this exception in no way affects the requirements for the procurement of items available from GSA supply distribution facilities, Federal Supply Schedule contracts, GSA procurement programs, and certain procurement sources other than GSA that have been assigned supply responsibility for Federal agencies as provided in subparts 101–26.3, § 101–26.4, and § 101–26.5).

(3) The items are purchased in foreign markets for use of overseas activities of agencies.

(4) The products are adequately described in voluntary standards or in standards mandated by law.

(5) The acquisition involves a one-time procurement.

(6) A Federal product description is not currently available and is not expected to be available within a reasonable time of the scheduled acquisition action.

(7) The product is available only from a single source or is produced to a single manufacturer's design.

(8) The product is unique to a single system.

(9) The product (excluding military clothing) is acquired for authorized resale.

(b) If the purchase involves the following, Federal product descriptions do not need to be used except to the extent they are applicable, in whole or in part:

(1) Items required in construction of facilities for new processes or new installations of equipment;

(2) Items required for experiment, test, or research and development; or

(3) Spare parts, components, or material required for operation, repair, or maintenance of existing equipment.

§ 101–29.403 Federal product description exceptions and tailoring.

§ 101–29.403–1 Authorization of exceptions.

When the exceptions listed in § 101–29.402 do not apply and an applicable indexed product description is desired for use in procurement but does not meet an agency's essential needs, exceptions to the product description to effect procurement may be authorized as follows:

(a) All exceptions to Federal telecommunications standards require prior approval by the Assistant Administrator for Information Resources Management, General Services Administration, Washington, DC 20405.

(b) Preparing activities may designate specific product descriptions that require approval of exceptions by the preparing activity before use.

(c) Exceptions to Federal product descriptions that do not require prior approval under paragraphs (a) and (b) of this section may be authorized by the acquiring agency if:

(1) Justifications for exceptions are subject to review before authorization and that such justification can be fully substantiated if post audit is required;

(2) Notification of exception or recommendation for change to the Federal product description is sent promptly to the preparing activity and the General Services Administration (FCO), Washington, DC 20406.

(A statement of the exception with a justification and, where applicable, recommendation for revision or amendment to the description)

§ 101–29.403–2 Agency responsibility relative to exceptions to Federal product descriptions.

Each agency taking exceptions shall establish procedures whereby a designated official having substantial procurement responsibility shall be responsible for assuring that Federal product descriptions are used and provisions for exceptions are complied with.

§ 101–29.403–3 Tailoring of Federal product descriptions.

Product descriptions prepared to define and impose performance characteristics, engineering disciplines, and manufacturing practices such as reliability, system safety, quality assurance, maintainability, configuration management, and the like shall be tailored in accordance with their specific application in acquisitions.

Subpart 101–29.5—Use of and Optional Use of Federal Product Descriptions and Agency Product Descriptions

§ 101–29.501 Optional use of interim Federal specifications.

Interim Federal specifications are for optional use. All agencies are urged to make maximum use of them and to submit suggested changes to the preparing activity for consideration in further development of the specifications for promulgation as Federal specifications or commercial item descriptions. Interim revisions or interim amendments to Federal specifications are for optional use as valid exceptions to the Federal specifications so revised or amended and must, therefore, be specifically identified by symbol and date in the invitation for bids or request for proposal.

§ 101–29.502 Use of Federal specifications and interim Federal specifications in Federal construction contracts.

When material, equipment, or services covered by an available Federal specification or interim Federal specification are specified in connection with Federal construction, the Federal specification or interim Federal specification shall be made part of the specification for the construction contract, subject to provisions in §§ 101–29.402, 101–29.403, and 101–29.501.

§ 101–29.503 Agency product descriptions.

When a Federal product description is not available, existing agency product descriptions should be used by all agencies consistent with each agency's procedures for establishing priority for use of such descriptions.

PART 101–30—FEDERAL CATALOG SYSTEM

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101–30.4900 Scope of subpart.
101–30.4901 Standard forms.
101–30.4901–1303 Standard Form 1303, Request for Federal Cataloging/Supply Support Action.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 101–30.000 Scope of part.

This part provides for a Federal Catalog System by which items of supply under § 101–30.301 are uniformly named, described, classified, and assigned national stock numbers (NSN's) to aid in managing all logistical functions and operations from determination of requirements through disposal. This system provides a standard reference language or terminology to be used by personnel in managing these items of supply, a prerequisite for integrated item management under the Federal procurement system concept.

[46 FR 35644, July 10, 1981]

§ 101–30.001 Applicability.

The provisions of this part are applicable to all Federal agencies. However, they shall apply to the Department of Defense only when so specified within or by the subparts of this part.

[36 FR 20292, Oct. 20, 1971]

Subpart 101–30.1—General

SOURCE: 29 FR 16004, Dec. 1, 1964, unless otherwise noted.

§ 101–30.100 Scope of subpart.

This subpart defines the objectives of the Federal Catalog System, and assigns responsibilities for its operation. The basic principles and procedures of the Federal Catalog System are contained in published cataloging handbooks and manuals described in subpart 101–30.2.

§ 101–30.101 Definitions.

As used in this part 101–30, the following terms shall have the meanings set forth in this § 101–30.101.

§ 101–30.101–1 Civil agency item.

Civil agency item means an item of supply in the supply system of one or more civilian agencies, which is repetitively procured, stocked, or otherwise managed (includes direct delivery requirements as well as items stocked for issue).

[46 FR 35644, July 10, 1981]

§ 101–30.101–1a Item of production.

Item-of-production means those articles, equipment, materials, parts,

pieces, or objects produced by a manufacturer which conform to the same engineering drawing, standard, or specification and receive the same quality control and inspection.

[46 FR 35644, July 10, 1981]

§ 101–30.101–2 Item of supply.

Item of supply means an item of production that is purchased, cataloged, and assigned a national stock number by the Government. The item of supply is determined by the requirements of each Government agency's supply system. The item of supply concept differentiates one item from another item in the Federal Catalog System. Each item of supply is expressed in and fixed by a national item identification number. An item of supply may be:

(a) A single item of production;

(b) Two or more items of production that are functionally interchangeable;

(c) A more precise quality controlled item than the regular item of production, or

(d) A modification of a regular item of production.

[46 FR 35644, July 10, 1981]

§ 101–30.101–3 National stock number.

The *national stock number* (NSN) is the identifying number assigned to each item of supply. The NSN consists of the 4-digit Federal Supply Classification (FSC) code and the 9-digit national item identification number (NIIN). The written, printed, or typed NSN configuration is 1234–00–567–8901. The following terms are elements of the 13-digit national stock number:

(a) *Federal Supply Classification* (FSC) is a 4-digit number which groups similar items into classes.

(b) *National Codification Bureau* (NCB) code is a 2-digit number designating the central cataloging office of the NATO or other friendly country which assigned the national item identification number (NIIN) and is used as the first two digits of the NIIN.

(c) *National item identification number* (NIIN) is a 9-digit number composed of the NCB code number (2-digits) followed by 7 other nonsignificant digits.

[41 FR 11308, Mar. 18, 1976]

§ 101–30.101–4 Federal item identification.

Federal item identification means the approved item identification for the item of supply, plus the national stock number assigned to that item identification. It consists of four basic elements: The name of the item, the identifying characteristics, the Federal Supply Classification code, and the national item identification number.

[41 FR 11308, Mar. 18, 1976]

§ 101–30.101–5 Cataloging.

Cataloging means the process of uniformly identifying, describing, classifying, numbering, and publishing in the Federal Catalog System all items of personal property (items of supply) repetitively procured, stored, issued, and/or used by Federal agencies.

[41 FR 11308, Mar. 18, 1976]

§ 101–30.101–6 Cataloging activity.

Cataloging activity means the activity of a Federal agency having responsibility for performing cataloging operations in identifying and describing items of supply in the Federal Catalog System.

[41 FR 11308, Mar. 18, 1976]

§ 101–30.101–7 Federal Catalog System.

Federal Catalog System means the single supply catalog system designed to uniformly identify, classify, name, describe, and number the items of personal property used by the Federal Government by providing only one classification, one name, one description, and one item identification number for each item of supply. It provides a standard reference language or terminology to be used by all persons engaged in the process of supply.

[41 FR 11308, Mar. 18, 1976]

§ 101–30.101–8 Conversion.

Conversion means the changeover from using existing supply classifications, stock numbers, names, and identification data to using those of the Federal Catalog System in all supply operations, from determination of requirements to final disposal.

[41 FR 11308, Mar. 18, 1976]

§ 101–30.101–9 Item entry control.

Item entry control means the functional responsibility of GSA/DOD cataloging to minimize the number of items in the supply system by: (a) Establishing controls that prevent unessential new items from entering the supply system; (b) promoting the development of standards and use of standard items; and (c) eliminating items having nonstandard characteristics, and isolating and recommending the use of duplicate or replacement items.

[46 FR 35645, July 10, 1981]

§ 101–30.101–10 GSA section of the Federal Supply Catalog.

GSA section of the Federal Supply Catalog means a series of supply catalogs issued by GSA as an integral part of the Federal Supply Catalog. These catalogs indicate the source for obtaining supplies and services and contain ordering instructions and related supply management data.

[41 FR 11308, Mar. 18, 1976]

§ 101–30.101–11 Recorded data.

Recorded data means the data which are associated with a national stock number and are recorded on microfilm or magnetic computer tape at the Defense Logistics Center (DLSC), Battle Creek, MI 49016.

[41 FR 11308, Mar. 18, 1976]

§ 101–30.101–12 Item identification data.

Item identification data means recorded data which are used to differentiate an item from all other items. Item identification data are composed of data that describe the essential physical characteristics of the item and reference data that relate the item to other identifying media (such as manufacturers' part numbers, identified blueprints, suppliers' catalogs, or the like).

[41 FR 11308, Mar. 18, 1976]

§ 101–30.101–13 Management data.

Management data means recorded data that relate an item to the individual agency's supply system for purposes of supply management as standardization, source of supply, or inventory control. Management data do not affect the identification of an item.

[41 FR 11308, Mar. 18, 1976]

§ 101–30.101–14 Maintenance action.

Maintenance action means any action taken after conversion to the Federal Catalog System which changes the previously reported identification or management data regarding a cataloged item.

[46 FR 35645, July 10, 1981]

§ 101–30.101–15 Data preparation.

Data preparation means the conversion of item identification and management data to the appropriate Automated Data Processing (ADP) format.

[41 FR 11308, Mar. 18, 1976]

§ 101–30.101–16 Data transmission.

Data transmission means the operation of telecommunication equipment for the receipt and transmission of item identification and management data.

[41 FR 11308, Mar. 18, 1976]

§ 101–30.101–17 Supply support.

Supply support means the functions performed by the supply manager to provide requesting (using) activities with a Government source and method of supply for an item; e.g., GSA stock program, Federal supply schedule program, GSA's buy-on-demand program, or GSA's authorizing an agency to purchase locally.

[43 FR 42257, Sept. 20, 1978]

§ 101–30.101–18 Supply support request.

Supply support request means a request from an activity to a supply manager; e.g., a request to GSA to provide that activity with supply support for an item.

[43 FR 42257, Sept. 20, 1978]

§ 101–30.102 Objectives.

The objectives of the Federal cataloging program are:

(a) To provide for the maintenance of a uniform Federal supply catalog system and the conversion to and exclusive use of this system by all Federal agencies.

(b) To name, describe, identify, classify, and number each item of personal property to be included in the Federal Catalog System so that the same items will have a single Federal item identification within and among the organizational elements of all Federal agencies.

(c) To collect, maintain, and publish such Federal catalog data and related supply management data as may be determined necessary or desirable to reflect such benefits to supply management as:

(1) Assistance in standardization of supplies and equipment;

(2) Disclosure of interchangeability and substitutability of items;

(3) Reduction in inventories of stock and increased rates of turnover;

(4) Increase in vendor competition and broader sources of supply;

(5) Provision of data for determining the most effective and economical method of item management on a Federal agency systemwide basis;

(6) Enhance item entry control;

(7) Facilitation of better interagency and intra-agency use of supplies, equipment, and excess stocks, and more exact identification of surplus personal property; and

(8) Assistance in providing precise statistics for budget and financial accounting purposes.

[29 FR 16004, Dec. 1, 1964, as amended at 36 FR 20292, Oct. 20, 1971; 41 FR 11308, Mar. 18, 1976]

§ 101–30.103 Responsibilities.

§ 101–30.103–1 General.

(a) The provisions of section 206 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 487) authorize the Administrator of General Services to establish and maintain a uniform Federal Catalog System to identify and classify personal property under the control of Federal agencies. Under this law each Federal agency is required to utilize the uniform Federal Catalog System, except as the Administrator of General Services shall otherwise provide, taking into consideration efficiency, economy, and other interests of the Government.

(b) The Defense Cataloging and Standardization Act (chapter 145, title 10, U.S. Code) authorizes the Secretary of Defense to develop a single supply catalog system for the Department of Defense.

(c) Both laws require that the Administrator of General Services and the Secretary of Defense shall coordinate the cataloging activities of GSA and the Department of Defense to avoid unnecessary duplication.

[29 FR 16004, Dec. 1, 1964, as amended at 41 FR 11309, Mar. 18, 1976]

§ 101–30.103–2 Agency responsibilities.

(a) Each civil agency shall:

(1) Participate in the preparation and maintenance of the civil agency portion of the Federal Catalog System and in the conversion to and utilization of this system, and

(2) Comply with the policies, principles, rules, and procedures of the Federal Catalog System as prescribed in this part 101–30.

(b) Adherence by the Department of Defense to the single supply catalog system developed for the military departments under chapter 145, title 10, U.S. Code, shall be deemed to constitute full coordination of cataloging activities with GSA.

Subpart 101–30.2—Cataloging Handbooks and Manuals

§ 101–30.201 General.

(a) This subpart describes the cataloging handbooks and manuals prepared by the Defense Logistics Agency, Department of Defense, in coordination with GSA.

(b) The following basic cataloging handbooks and manuals are available for purchase from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. The requirements of these publications shall be followed by all cataloging activities participating in the Federal Catalog System.

(1) *Federal Catalog System Policy Manual (DOD 4130.2–M).* This hard copy

manual prescribes the operating policies and instructions covering the maintenance of a uniform catalog system.

(2) *Defense Integrated Data Systems (DIDS) Procedures Manual (DOD 4100.39–M).* This hard copy manual prescribes the procedures covering the maintenance of a uniform catalog system.

(3) *Federal Supply Classification (Cataloging Publication H2 Series).* This microfiche publication includes the listings and indexes necessary for using the commodity classification system (grouping related items of supply) as prescribed by the Federal Catalog System Policy Manual.

(4) *Federal Supply Code for Manufacturers (Cataloging Publication H4 Series).* This microfiche publication includes a comprehensive listing of the names and addresses of manufacturers who have supplied or are currently supplying items of supply used by the Federal Government and the applicable 5-digit code assigned to each.

(5) *Federal Item Name Directory (FIND) for Cataloging (Cataloging Publication H6 Series).* This microfiche publication includes names of supply items with definitions, item name codes, and other related data required to prepare item identifications for inclusion in the Federal Catalog System.

[29 FR 16004, Dec. 1, 1964, as amended at 42 FR 36254, July 14, 1977; 46 FR 35645, July 10, 1981]

§ 101–30.202 Policies.

The cataloging publications indicated in § 101–30.201 provide a ready reference to the following operating policies and rules covering the uniform catalog system:

(a) *Identification.* (1) Each civil agency shall ensure that each of its items authorized for cataloging is included and maintained in the Federal Catalog System as prescribed in the Federal Catalog System Policy Manual.

(2) Each item of supply shall have applicable to it one, and only one, Federal item identification; each Federal item identification shall be applicable to one, and only one, item of supply.

(b) *Federal Supply Classification (FSC).* (1) The Federal Supply Classification shall be used in supply management within the civil agencies.

(2) Each item included in the Federal Catalog System shall be classified under the Federal Supply Classification and shall be assigned only one 4-digit class in accordance with the rules prescribed in the Federal Catalog System Policy Manual.

(c) *Numbering.* (1) Each item of supply identified in the Federal Catalog System shall be assigned a national stock number which shall consist of the applicable 4-digit FSC class code and a 9-digit national item identification number.

(2) The national stock number shall be the only stock number used in supply operations for items within the scope of the Federal Catalog System. The integrity of the national stock number shall always be maintained whenever it is employed in any operation or document. Supply management codes, or other management symbols, may be associated with, but never included as a part of the national stock number. These management codes or symbols shall always be separated from the national stock number in such a manner that the national stock number is clearly distinguishable.

[29 FR 16004, Dec. 1, 1964, as amended at 39 FR 37060, Oct. 17, 1974; 41 FR 11309, Mar. 18, 1976]

Subpart 101–30.3—Cataloging Items of Supply

§ 101–30.300 Scope of subpart.

This subpart prescribes the types of items to be cataloged, the types of items to be excluded from the Federal Catalog System, the responsibilities for catalog data preparation and transmission to the Defense Logistics Services Center (DLSC), and the application of item entry control procedures upon request for cataloging action.

[42 FR 36255, July 14, 1977]

§ 101–30.301 Types of items to be cataloged.

Items of personal property in the civil agency systems that are subject to repetitive procurement, storage, distribution and/or issue, and all locally purchased, centrally managed items will be named, described, identified, classified, and numbered (cataloged) in

the Federal Catalog System. Other locally purchased items may be cataloged based upon civil agency requirements. The term ''repetitive'' will be construed to mean continual or recurring and applies to those items for which a need is deemed to exist within the appropriate civil agency.

[41 FR 11309, Mar. 18, 1976]

§ 101–30.302 Types of items excluded from cataloging.

Items of personal property in the following categories are to be excluded from the Federal Catalog System except when an agency determines that Federal item identification data will be of value in its supply management operations:

(a) Capital equipment items which are nonexpendable and are especially designed for a specific purpose, such as elevators or central air-conditioning system installations.

(b) Items of personal property on which security classification is imposed.

(c) Items procured on a one-time or infrequent basis for use in research and development, experimentation, construction, or testing and not subject to centralized item inventory management, reporting, or stock control.

(d) Items procured in foreign markets for use in overseas activities of Federal agencies.

(e) Printed forms.

[29 FR 16004, Dec. 1, 1964, as amended at 41 FR 11309, Mar. 18, 1976; 42 FR 36255, July 14, 1977]

§ 101–30.303 Responsibility.

Each agency shall ensure that each of its items to be cataloged is included and maintained in the Federal Catalog System.

(a) Agencies with cataloging and data preparation and transmission capabilities, when authorized by GSA, shall submit data direct to the Defense Logistics Services Center (DLSC) in conformance with procedures set forth in the Defense Integrated Data System (DIDS) Procedures Manual (DOD 4100.39–M).

(b) Agencies not having the capabilities cited in paragraph (a) of this section shall submit their request to the appropriate cataloging activity; i.e., GSA or VA, for the performance of all cataloging functions and/or the preparation of data for submission to DLSC. Cataloging requests to GSA or VA shall be prepared using Standard Form 1303, Request for Federal Cataloging/Supply Support Action (illustrated at § 101–30.4901–1303). EAM card formatted requests for volume add/delete user actions may also be submitted. Instructions on the preparation of Standard Form 1303 and EAM card formatted requests and guidance in determining the appropriate cataloging activity designated to receive requests are in the GSA Handbook, Federal Catalog System-Logistics Data (FPMR 101–30.3), issued by the Commissioner, Federal Supply Service.

(c) GSA will confer with civil agencies periodically to review and devise methods of submission according to their needs and capabilities.

[42 FR 36255, July 14, 1977, as amended at 46 FR 35645, July 10, 1981]

§ 101–30.304 Application of item entry control.

In addition to the reviews attendant to the process of item identification and assignment of national stock numbers, proposed new items will be subjected to a technical review to associate them with items available through the GSA supply system. Where a similar item is available through the GSA supply system, the agency will be informed of the national stock number and a source of supply and will be requested to use that item. If the requesting agency considers the GSA item unacceptable because of technical differences, the requesting agency shall notify GSA of the technical differences between the alternate item and the requested item to allow for the assignment of a new national stock number to the requested item.

[46 FR 35645, July 10, 1981]

§ 101–30.305 Exemptions from the system.

When an agency believes that the benefits of the Federal Catalog System may be realized without formal participation, a request for an exemption

shall be submitted to the General Services Administration (FRI), Washington, DC 20406. After reviewing the request for an exemption, GSA will inform the requesting agency of the decision and will provide instructions for implementation. The request for an exemption shall include, but not be limited to, the following information:

(a) Number of items repetitively procured, stored, distributed, or issued.

(b) Number of items currently used having national stock numbers.

(c) Identification system planned or in use other than the Federal catalog system.

(d) Whether procurement is centralized.

(e) Description of any catalogs published. If none, so state.

(f) Whether supply support is received from another agency including the name of the agency and category of item involved; e.g., electronics.

(g) Cost differential between submitting a request for cataloging action and identifying the item under the agency's current or planned system.

[43 FR 42257, Sept. 20, 1978, as amended at 46 FR 35645, July 10, 1981]

Subpart 101–30.4—Use of the Federal Catalog System

§ 101–30.400 Scope of subpart.

This subpart prescribes the policies and procedures governing the dissemination of Federal catalog data, the conversion to and use of the Federal catalog system by Federal agencies, and the requesting of supply support from Government supply managers.

[43 FR 42257, Sept. 20, 1978]

§ 101–30.401 Data available from the Federal Catalog System.

Federal Catalog System data are available in publications of general interest to Government supply activities and in the form of automated output tailored to meet individual agency needs.

[42 FR 36255, July 14, 1977]

§ 101–30.401–1 Publications providing Federal catalog data.

(a) Federal Catalog System publications contain selected data from the Defense Logistics Services Center (DLSC) files chosen, assembled, and formatted to meet recognized needs for information in support of assigned missions, functions, and related responsibilities. Most publications are produced in microfiche form; however, some are produced in hard copy form. The following publications are available:

(1) *Master cross-reference list.* A microfiche publication which contains a master list of national stock numbers (NSN's) cross-referenced to and from manufacturers' part numbers, specifications, or reference drawings. This publication is used to cross-relate reference numbers and stock numbers or to ascertain the manufacturer of an item when the reference number or the NSN is known.

(2) *Identification list (IL).* A microfiche publication arranged by Federal supply class and containing descriptions of items in the DLSC file. The principal uses of the IL are to obtain or verify an NSN when only the characteristics of the item are known or descriptive data when the NSN is known, and to determine interchangeable or substitutable items.

(3) *Consolidated Management Listing.* A microfiche publication which is a consolidated listing of NSN's and related supply management data of each integrated manager and military service. These data include Government source of supply, unit of issue, unit price, etc.

(4) *Federal item logistics data records (FILDR).* A microfiche publication containing complete identification data in tabular format for all descriptive-type item identifications. The data are arranged in NSN sequence within Federal supply class. An FILDR is known in hard copy form as a DD–146 card which is furnished as an output to authorized receivers of Federal catalog data who cannot use other available output media.

(5) *Defense Logistics Agency (DLA) Federal Supply Catalog for Civil Agencies.* This publication (available in hard copy only) includes NSN's for which DLA is the single source of supply for civil agencies. These NSN's may not necessarily have a DOD user recorded. The publication contains descriptive and management data for items not

usually listed in the GSA catalog but which might be required by civil agencies.

(b) Agencies may obtain without charge copies of the DLA Federal Supply Catalog for Civil Agencies, described in paragraph (a)(6)[1] of this section by contacting the Defense Logistics Services Center, DLSC-TP, Federal Center, Battle Creek, MI 49016. To obtain copies of the publications described in paragraphs (a) (1) through (5) of this section, agencies may submit a request in writing to the same address shown above, except that the applicable mail distribution code is DLSC-AP. Information concerning the charges for the latter publications is available from DLSC-AP.

[42 FR 36255, July 14, 1977, as amended at 46 FR 35645, July 10, 1981]

§ 101–30.401–2 Automated catalog data output.

As a result of participation in the Federal catalog system, activities may receive data directly from DLSC tailored to their individual needs in support of their own supply management data system. The two basic categories of file maintenance are:

(a) *Simplified file maintenance (SFM).* Subscribers to this category of file maintenance are provided replacement files (magnetic tape) semiannually containing selected technical and supply management data for those items on which they are a registered user. The subscriber will also receive a monthly maintenance update and cumulative monthly basic records from DLSC which may be used to maintain the semiannual basic file. Recipients of this form of file maintenance have latitude in selecting those items which meet the needs of their supply system from the categories of data available from the Federal Catalog System.

(b) *Regular file maintenance (RFM).* This form of the file maintenance provides activities with data on a daily basis as transactions affect items upon which they are a registered user. It is used primarily by those activities which consider it essential to maintain file compatibility with the DLSC file at all times.

[42 FR 36255, July 14, 1977]

§ 101–30.402 Conversion.

Following completion of cataloging action, GSA will establish a time period in which conversion to the Federal Catalog System shall be accomplished by all civil agencies. The terminal dates for conversion will be established after consultation with the civil agencies concerned.

[29 FR 16004, Dec. 1, 1964]

§ 101–30.403 Utilization.

On and after the established date for completion of conversion, all interagency and intra-agency transactions involving item identifications, commodity classification, or stock numbers shall be in the terms of the Federal Catalog System.

[29 FR 16004, Dec. 1, 1964]

§ 101–30.403–1 Reports of excess and surplus personal property.

For items of personal property which have been identified in the Federal Catalog System, national stock numbers and Federal item identifications, with such additional descriptive detail as is required, shall be utilized in reports and listings of excess and surplus personal property. The assignment of national stock numbers and Federal item identifications shall not be required for items of excess or surplus personal property which have not been identified in the Federal Catalog System.

[39 FR 37060, Oct. 17, 1974]

§ 101–30.403–2 Management codes.

For internal use within an agency, alphabetic codes excluding letters ''I'' and ''O'' may be prefixed or suffixed to the national stock number as CM7520–00–123–4567 or 7520–00–123–4567CM, as required for supply management operations. Numeric codes shall not be affixed immediately adjacent to or as a part of the national stock number, nor shall codes be intermingled in the national stock number.

[41 FR 11309, Mar. 18, 1976]

[1] At 46 FR 35645, July 10, 1981, paragraph (a)(6) of § 101–30.401–1 was removed.

§ 101–30.404 Supply support.

Civilian agencies requiring supply support on an item of supply shall request this action by preparing Standard Form 1303, Request for Federal Cataloging/Supply Support Action (illustrated at § 101–30.4901–1303), and submitting the form to the General Services Administration (FRIS), Washington, DC 20406. All supply support request for nonperishable subsistence items in Federal Supply Group 89, subsistence (except condiment packets in FSC classes 8940 and 8950), shall be submitted to the Veterans Administration, Catalog Division (901S), Veterans Administration Supply Depot, P.O. Box 27, Hines IL 60141. Guidance on the preparation of supply support requests is in the GSA Handbook, Federal Catalog System-Logistics Data (FPMR 101–30.3), issued by the Commissioner, Federal Supply Service.

[46 FR 55991, Nov. 13, 1981]

§ 101–30.404–1 Consolidation of supply support requests.

Requests for supply support should be consolidated in one focal point within each agency or activity. On the basis of the total consolidated agency or activity requirement; i.e., annual demand, GSA can determine the most economical and efficient method of supply support.

[43 FR 42257, Sept. 20, 1978]

Subpart 101–30.5—Maintenance of the Federal Catalog System

§ 101–30.500 Scope of subpart.

This subpart prescribes the policies and procedures governing the maintenance of the Federal Catalog System.

[31 FR 11106, Aug. 20, 1966]

§ 101–30.501 Applicability.

(a) The Administrator of General Services delegated authority to the Secretary of Defense to develop and maintain the Federal Catalog System. This delegation provided for the cataloging system to continue to provide for the identification and classification of personal property under the control of Federal agencies and to maintain uniform item management data required and suitable for interdepartment supply activities.

(b) The Federal Catalog System Policy Manual (DOD 4130.2–M) and the Defense Integrated Data System (DIDS) Procedures Manual (DOD 4100.39–M) are equally applicable to all DOD and civilian agencies. The Federal Supply Service, GSA, and the Department of Defense share joint responsibility for the coordination of civilian agency cataloging to ensure the integrity of the system and the compatibility of civilian and military agency participation in the Federal Catalog System.

[46 FR 35646, July 10, 1981]

§ 101–30.502 [Reserved]

§ 101–30.503 Maintenance actions required.

After converting to the Federal Catalog System, the agency concerned shall promptly take maintenance actions affecting the items converted and new items to be added. These actions may include deletion or revision of item identification or management data, or any other change required to ensure that the recorded data are maintained on a current basis. Submission of data to DLSC shall be as follows:

(a) As new items meeting criteria for national stock number (NSN) assignment are added to an agency's supply system, the agency shall submit data to GSA, the Defense Logistics Agency (DLA), the Veterans Administration (VA), or DLSC when a direct submitter of catalog data is involved in accordance with § 101–30.303.

(b) All civilian agencies not authorized to submit catalog data direct to DLSC shall prepare Standard Form 1303, Request for Federal Cataloging/Supply Support Action (illustrated at § 101–30.4901–1303), to request maintenance action. Maintenance requests shall be submitted to GSA for collaboration and submission to DLSC, except that civilian agencies receiving supply support on an item from a DLA center or the VA, as expressed by major organizational entity (MOE) rule, should submit these requests to the DLA center using DD Form 1685, Data Exchange and/or Proposed Revision of Catalog Data, or to the VA using Standard

Form 1303, for collaboration and submission to DLSC. When GSA receives maintenance requests on these items, they will be forwarded to the appropriate DLA center or to the VA.

(c) Agencies authorizd to submit catalog data direct to DLSC as provided in §101–30.303(a) shall comply with item maintenance and data collaboration procedures as set forth in the Defense Integrated Data System (DIDS) Procedures Manual (DOD 4100.39M).

(d) All civilain agencies not authorized to submit catalog data to DLSC shall use Standard Form 1303, Request for Federal Cataloging/Supply Support Action, to request maintenance action. Proposed maintenance requests shall be submitted to GSA for collaboration and submission to DLSC, except that civilian agencies receiving supply support from DLA supply centers, as expressed in the DLSC user record by major organizational entity (MOE) rule, should submit proposed maintenance requests to the appropriate DLA supply center for collaboration and submission to DLSC. When GSA receives maintenance requests for these items, they will be referred to the appropriate DLA supply center.

(e) Any civilian agency participating in the Federal Catalog System (those agencies previously assigned a Cataloging Activity Code) may propose action for maintenance of the catalog system tools as outline in §101–30.201(b).

[41 FR 11310, Mar. 18, 1976, as amended at 42 FR 36255, July 14, 1977; 43 FR 18673, May 2, 1978; 46 FR 35646, July 10, 1981]

§101–30.504 Cataloging data from Defense Logistics Services Center (DLSC).

Upon receipt of cataloging data from civil agencies, DLSC will process the data and provide for their inclusion in the Federal Catalog System. Notification to the submitting and originating agencies of the action taken by DLSC will be as required in the Federal Catalog System Policy Manual (DOD 4130.2–M) and will be accomplished by means of electric accounting machine cards, magnetic tape, or wire transmission, according to the capabilities of those agencies. DLSC will send this information to the agencies that are designated by GSA as direct data receivers. Otherwise, DLSC will transmit the information to the submitting agency to be forwarded to the originating agency, when required.

[42 FR 36256, July 14, 1977]

§101–30.505 Assistance by Government suppliers.

When a new item is to be introduced into an agency supply system, the agency establishing the need for the new item shall determine whether or not adequate identification data for cataloging the item are available. If the data are not available, the agency may specify in procurement documents the use of Federal Standard No. 5, Standard Guides for Preparation of Proposed Item Logistics Data Records, and submission of the cataloging data required by that standard to the contracting officer (for further processing in accordance with this subpart 101–30.5).

[41 FR 11310, Mar. 18, 1976]

Subpart 101–30.6—GSA Section of the Federal Supply Catalog

§101–30.600 Scope of subpart.

This subpart describes that section of the Federal Supply Catalog issued by GSA and authorizes its issuance by the Commissioner, Federal Supply Service.

[35 FR 3071, Feb. 17, 1970]

§101–30.601 Objective.

GSA supply catalogs are primarily designed to aid in the acquisition of GSA centrally managed, stocked, and issued items available from GSA supply facilities by Federal civilian agencies and other organizations authorized to use the GSA Federal Supply Service (FSS) stock program as a source of supply. GSA also provides information relative to other FSS sales programs and GSA services.

[46 FR 35646, July 10, 1981]

§101–30.602 Authority for issuance.

The GSA section of the Federal Supply Catalog is issued as an integral part of the Federal Supply Catalog and

the Federal Catalog System as prescribed in subpart 101–30.1. The Commissioner, Federal Supply Service, is authorized to publish catalogs for those items and programs for which GSA furnishes supply support to Federal agencies.

[35 FR 3071, Feb. 17, 1970]

§ 101–30.603 GSA Supply Catalog.

(a) The GSA Supply Catalog is an illustrated catalog, published annually, which serves as the primary source to identify and order centrally managed, stocked, and issued items available from GSA supply facilities. The catalog also provides information concerning other Federal Supply Service programs and GSA services.

(b) The GSA Supply Catalog contains all necessary information for ordering from the GSA Federal Supply Service stock program and basic information, such as:

(1) *Alphabetical Index.* This index is organized alphabetically by approved item names under the basic noun name in inverted word sequence, (i.e. sofa, sleeper) with reference to the page that contains the pertinent item description.

(2) *Item Descriptions/Ordering Data.* Item descriptions are listed by commodity groups in this section. Included also are descriptive and ordering data with representative illustrations for selected common-use items that are centrally managed, stocked, and issued from GSA supply facilities.

(3) *National Stock Number Index.* This NSN sequenced index lists items that are centrally managed, stocked, and issued from GSA supply facilities.

(4) *Narrative.* The narrative includes comprehensive detailed information to use and understand the GSA Federal Supply Service stock program.

(5) *Other Federal Supply Service sales programs and GSA services.* This section provides to user agencies pertinent information regarding the use and understanding of the GSA Federal Supply Service stock program, sales program, and other GSA services.

(c) Changes to the GSA Supply Catalog are effected by change bulletins issued during April, July, and October. These are cumulative publications that contain information pertaining to new items, changes to supply management data, and deleted items.

(d) Special Notice to Ordering Office is issued on a nonscheduled basis as required by the Commissioner, FSS, to inform agencies of significant program changes to the GSA Supply Catalog.

[46 FR 35646, July 10, 1981]

§ 101–30.603–1 [Reserved]

§ 101–30.603–2 GSA Supply Catalog.

The GSA Supply Catalog, published annually and updated quarterly, is an illustrated publication which serves as the primary source for identifying items and services available through the following GSA supply sources:

(a) GSA supply distribution facilities;

(b) Federal Supply Schedules; and

(c) Term Contract Program.

[39 FR 37060, Oct. 17, 1974]

§§ 101–30.603–3—101–30.603–4 [Reserved]

§ 101–30.603–5 Change bulletins.

Changes to the GSA Supply Catalog are effected by quarterly cumulative publications entitled ''Change Bulletin to the GSA Supply Catalog.'' These change bulletins will serve as the media to notify agencies of additions, deletions, and other pertinent changes occurring between the annual publication of the GSA Supply Catalog.

[38 FR 28568, Oct. 15, 1973]

§ 101–30.603–6 Special Notices.

Special Notices will be issued on a nonschedule basis to advise agencies of program changes, general information, or additions, deletions, and other pertinent changes to the GSA Supply Catalog.

[38 FR 28568, Oct. 15, 1973]

§ 101–30.604 Availability.

Agencies that require current copies of and desire to be placed on distribution lists to receive Federal supply catalogs and related publications shall complete GSA Form 457, FSS Publications Mailing List Application (illustrated at § 101–26.4902–457), and forward the completed GSA Form 457 to General Services Administration (8BRC), Centralized Mailing Lists Services,

Building 41, Denver Federal Center, Denver, CO 80225. Copies of GSA Form 457 may also be obtained from the above address. Periodically, the Centralized Mailing Lists Services will request information from agency offices for use in maintaining current distribution lists.

[46 FR 35646, July 10, 1981]

Subpart 101–30.7—Item Reduction Program

SOURCE: 43 FR 4999, Feb. 7, 1978, unless otherwise noted.

§ 101–30.700 Scope of subpart.

This subpart defines the objectives of the item reduction program and assigns responsibilities for its operation. Procedures implementing the policy set forth herein are contained in the GSA Handbook, Item Elimination (FPMR 101–30.7), issued by the Commissioner, Federal Supply Service.

§ 101–30.701 Definitions.

As used in this subpart 101–30.7, the following terms shall have the meanings set forth in this § 101–30.701.

§ 101–30.701–1 Item reduction study.

Item reduction study means the study of a group of generally similar items which are subject to evaluation by physical and performance characteristics. This evaluation process identifies items determined to be unnecessarily similar or uneconomical for Government use and which will be considered for removal from Government supply systems. For items so identified, a replacement item shall be proposed. The result of item reduction studies will indicate items which are authorized for procurement or not authorized for procurement.

§ 101–30.701–2 Item standardization code.

Item standardization code (ISC) means a code assigned an item in the supply system which identifies the item as authorized for procurement or not authorized for procurement.

§ 101–30.701–3 Preparing activity.

Preparing activity means a Government agency responsible for the preparation of item reduction studies, or an activity authorized by the listed agencies to conduct an item reduction study. The DOD Standardization Directory SD–1 provides such a listing.

§ 101–30.701–4 Standardization relationship.

Standardization relationship means the relationship between the replaced item and the replacement item. The replaced item will contain an item standardization code designating the item as not authorized for procurement and therefore must have a replacement item. The relationship of the two items is displayed within the item reduction study by item standardization codes and, upon approval of the study, in the Federal catalog system data base at the Defense Logistics Services Center (DLSC).

§ 101–30.702 Determining item reduction potential.

Item reduction studies are required where there are large numbers of generally similar items which are subject to grouping and examination by item name, item name modifiers, or other characteristics such as sizes, grades, lengths, and materials. Before conducting a full scale item reduction study, the assignee activity shall determine whether sufficient item reduction potential appears to exist. Item reduction studies shall be undertaken only when the expected benefits outweigh the costs of performing the study.

§ 101–30.703 Program objectives.

The objective of the item reduction program is to reduce the varieties and sizes of similar items in the Government supply system by:

(a) Implementing a coordinated item reduction process among supply managers of using activities;

(b) Standardizing items of supply used by the Government;

(c) Ensuring that all participants in item reduction studies give priority to controlling and completing item reduction studies;

(d) Promptly recording decisions in the Federal catalog system data base; and

(e) Phasing out of the Government supply system those items identified in item reduction studies as not authorized for procurement to reduce cataloging, supply management, and warehousing costs; then following through to eliminate the items from agency catalog systems.

[43 FR 4999, Feb. 7, 1978, as amended at 46 FR 35646, July 10, 1981]

§ 101–30.704 Agency responsibilities.

§ 101–30.704–1 General Services Administration.

(a) The General Services Administration (GSA) will develop or authorize other Government agencies to develop item reduction studies on items within the Federal supply classification (FSC) classes for which GSA is the integrated material manager.

(b) GSA, as the civil agency coordinating activity for item reduction studies originated by both GSA and DOD, will:

(1) Distribute proposed item reduction studies, as appropriate, to all civil agencies recorded as users of the item in the DLSC data base. This distribution will be made by coordination letters in which a time frame for a response will be specified. GSA will interpret each nonresponse to a proposed study to mean that the activity concurs with the study. Extensions, when requested by an agency, normally will be granted by GSA.

(2) Respond to questions concerning proposed item reduction studies.

(3) Prepare a consolidated civil agency position paper (including comments and nonconcurrences) relative to each study upon receipt of user responses.

(4) Incorporate civil agency positions into proposed item reduction studies prepared by GSA or forward a consolidated civil agency position paper to appropriate preparing activities.

(5) Resolve controversies arising from proposed item reduction study recommendations.

(6) Review approved item reduction studies to ensure that concurrences and nonconcurrences from all civil agencies are accurately reflected.

(7) Register into the Federal catalog system, data base approved item reduction decisions concerning items within the FSC classes which are managed by GSA.

(8) Implement decisions documented in approved item reduction studies within the GSA supply system.

(9) Distribute approved item reduction studies to all recorded civil agency users. All civil agencies (except direct submitters of catalog data to DLSC) will also be forwarded covering letters which will request specific information relative to implementing the studies; i.e., inventory levels of items coded ISC 3. Activities not responding within the time frame specified (60 calendar days) will receive a followup notice before being automatically withdrawn as users of all items coded as not authorized for procurement.

[43 FR 4999, Feb. 7, 1978, as amended at 46 FR 35646, July 10, 1981]

§ 101–30.704–2 Other agencies.

Civil agencies participating in the Federal Catalog System shall:

(a) Conduct a review of the items included in the proposed study by the preparing activity with respect to the ISC to determine the impact the assigned code may have on the agency's supply system.

(b) Prepare and submit written comments on the proposed study to GSA within the time frame specified in the GSA coordination letter, concur with the study, or nonconcur on specific proposed standardization relationships. If comments cannot be prepared and submitted within the time frame specified, an extension shall be requested from GSA.

(c) Review the approved item reduction study and notify GSA in writing if the activity is to be retained or deleted as a user of any item coded as ''not authorized for procurement.'' This notification will allow the preparer of the study to complete coordination of the study and update the DLSC Total Item Record (TIR).

(d) Implement within the agency those item reduction decisions resulting from the study.

(e) Request, as appropriate, the retention of a nonstandard item in their

supply system by forwarding a letter to General Services Administration (FRIS), Washington, DC 20406. The request shall include but not be limited to the following information:

(1) The specific end-use of end-item application;

(2) A technical explanation comparing the physical and functional characteristics of the nonstandard item with each authorized-for-procurement item;

(3) The duration of the requirement for the item or how long the end-item will be retained in the agency's supply system; and

(4) Economic considerations from a technical standpoint. GSA will evaluate the request and inform the agency of its acceptance or rejection.

[43 FR 4999, Feb. 7, 1978, as amended at 46 FR 35647, July 10, 1981]

§ 101–30.705 GSA assistance.

Activities requiring assistance in fulfilling their responsibilities under the program shall contact the General Services Administration (FRI), Washington, DC 20406.

[46 FR 35647, July 10, 1981]

Subparts 101–30.8—101–30.48 [Reserved]

Subpart 101–30.49—Illustrations of Forms

§ 101–30.4900 Scope of subpart.

This subpart illustrates forms prescribed or available for use in connection with subject matter covered in other subparts of this part 101–30.

[31 FR 11107, Aug. 20, 1966]

§ 101–30.4901 Standard forms.

(a) Standard forms are illustrated in this §101–30.4901 to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this §101–30.4901 correspond with the Standard form numbers.

(b) Standard forms illustrated in this §101–30.4901 may be obtained by submitting a requisition in FEDSTRIP format to the GSA regional office providing support to the requesting activity.

[43 FR 18674, May 2, 1978]

§ 101–30.4901–1303 Standard Form 1303, Request for Federal Cataloging/Supply Support Action.

NOTE: The form illustrated in §101–30.4901–1303 is filed with the original document and does not appear in the FEDERAL REGISTER.

[43 FR 18674, May 2, 1978]

PART 101–31—INSPECTION AND QUALITY CONTROL

Sec.

101–31.000 Scope of part.

Subpart 101–31.1 [Reserved]

Subpart 101–31.2—Private Inspection, Testing, and Grading Services

101–31.200 Cross-reference to the Federal Acquisition Regulation (FAR) (48 CFR chapter 1, parts 1–99).

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 29 FR 13257, Sept. 24, 1964, unless otherwise noted.

§ 101–31.000 Scope of part.

This part prescribes policy, guidelines, and procedures related to inspection, testing, and grading of supplies or services.

Subpart 101–31.1 [Reserved]

Subpart 101–31.2—Private Inspection, Testing, and Grading Services

§ 101–31.200 Cross-reference to the Federal Acquisition Regulation (FAR) (48 CFR chapter 1, parts 1–99).

For guidance see Federal Acquisition Regulation (e.g., Subpart 7.5, and parts 37 and 46) (48 CFR Subpart 7.5, and parts 37 and 46).

[64 FR 34734, June 29, 1999]

PART 101–32 [RESERVED]

PART 101–33—PUBLIC UTILITIES

AUTHORITY: 40 U.S.C. 486(c); The Federal Property and Administrative Services Act of 1949, as amended, Sec. 205(c), 63 Stat. 390.

SOURCE: 67 FR 76883, Dec. 13, 2002, unless otherwise noted.

§ 101–33.0 Cross-reference to the Federal Management Regulation (FMR) 41 CFR chapter 102 parts 1 through 220).

For information on public utilities, *see* FMR part 102–82 (41 CFR part 102–82).

PART 101–34 [RESERVED]

APPENDIX TO SUBCHAPTER E—TEMPORARY REGULATIONS [RESERVED]

SUBCHAPTER F [RESERVED]

SUBCHAPTER G—AVIATION, TRANSPORTATION, AND MOTOR VEHICLES

PART 101–37—GOVERNMENT AVIATION ADMINISTRATION AND COORDINATION

AUTHORITY: 40 U.S.C. 121(c); the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended; Reorganization Plan No. 2 of 1970; Executive Order 11541; OMB Bulletin No. 93–11 (April 19, 1993) and OMB Circular No. A–126 (Revised May 22, 1992).

SOURCE: 69 FR 34303, June 21, 2004, unless otherwise noted.

§ 101–37.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, part 102–33 and the Federal Travel Regulation (FTR) (41 CFR chapters 300–304, parts 300–3, 301–10, and 301–70)).

(a) For information on Government aviation administration and coordination, previously contained in subparts 101–37.1, 101–37.2, 101–37.3, and 101–37.5 through 101–37.14, see FMR part 102–33, Management of Government Aircraft (41 CFR part 102–33).

(b) For information on travel on Government aircraft previously contained in subparts 101–37.1 and 101–37.4, see 41 CFR parts 300–3, 301–10, and 301–70 of the Federal Travel Regulation (FTR).

PART 101–38—MOTOR VEHICLE MANAGEMENT

AUTHORITY: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

SOURCE: 64 FR 59593, Nov. 2, 1999, unless otherwise noted.

§ 101–38.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For motor vehicle management policy, see FMR part 34 (41 CFR part 102–34).

PART 101–39—INTERAGENCY FLEET MANAGEMENT SYSTEMS

Sec.

101–39.000 Scope of part.

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Subparts 101–39.5—101–39.48 [Reserved]

Subpart 101–39.49—Forms

101–39.4900 Scope of subpart.
101–39.4901 Obtaining standard and optional forms.

AUTHORITY: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

SOURCE: 51 FR 11023, Apr. 1, 1986, unless otherwise noted.

§ 101–39.000 Scope of part.

This part prescribes policies governing the establishment and operation of interagency fleet management systems and operating procedures applicable to the General Services Administration (GSA) Interagency Fleet Management System.

[56 FR 59887, Nov. 26, 1991]

Subpart 101–39.0—General Provisions

§ 101–39.001 Authority.

Section 211 of the Federal Property and Administrative Services Act of 1949, as amended, (40 U.S.C. 491), requires that the Administrator of General Services will, to the extent that he determines that so doing is advantageous to the Government in terms of economy, efficiency, or service, and after consultation with, and with due regard to the program activities of the agencies concerned, (a) consolidate, take over, acquire, or arrange for the operation by any executive agency of motor vehicles and other related equipment and supplies for the purpose of establishing fleet management systems to serve the needs of executive agencies; and (b) provide for the establishment, maintenance, and operation (including servicing and storage) of fleet management systems for transportation of property or passengers, and for furnishing such motor vehicles and related services to executive agencies. The exercise of this authority is subject to regulations issued by the President, which are set forth in Executive Order 10579, dated November 30, 1954.

§ 101–39.002 Applicability.

The regulations in this part apply to all executive agencies of the Federal Government to the extent provided in the Act.

§ 101–39.003 Financing.

(a) Section 211(d) of the Federal Property and Administrative Services Act, 1949, as amended, provides that the General Supply Fund, provided for in section 109 of the Act, shall be available for use by or under the direction and control of the Administrator of General Services for paying all elements of cost incident to the establishment, maintenance, and operation of fleet management systems.

(b) When an agency other than GSA operates an interagency fleet management system, the financing and accounting methods shall be developed by GSA in cooperation with the agency concerned.

[51 FR 11023, Apr. 1, 1986, as amended at 56 FR 59887, Nov. 26, 1991]

§ 101–39.004 Optional operations.

Nothing in this part shall preclude the establishment or operation of interagency fleet management systems by GSA or by other agencies which are to be operated on the basis of optional use by executive or other agencies

under arrangements worked out between the agencies concerned and GSA.

[56 FR 59887, Nov. 26, 1991]

Subpart 101–39.1—Establishment, Modification, and Discontinuance of Interagency Fleet Management Systems

§ 101–39.100 General.

GSA will conduct studies of the operation and costs of motor vehicle and motor vehicle services in selected geographical areas to determine the advisability of establishing fleet management systems.

(a) Based on these studies, the Administrator of General Services, with the assistance of the affected agencies, shall develop necessary data and cost statistics for use in determining the feasibility of establishing a fleet management system in the geographical area studied.

(b) If the Administrator, GSA, determines that a fleet management system shall be established, a formal determination is prepared to that effect.

(c) In the event the Administrator, GSA, decides that the establishment of a fleet management system is not feasible, the head of each agency concerned will be notified.

(d) In the making of determinations for the establishment of fleet management systems, the Administrator, GSA, will, to the extent consistent with the provisions of section 1(b) of Executive Order 10579, observe the policies outlined in the Office of Management and Budget (OMB) Circular A–76, for the utilization of commercial facilities.

(e) Except as provided in this subpart, all Government motor vehicles subsequently acquired for official purposes by fully participating agencies which are stored, garaged, or operated within the defined mandatory use service area of a fleet management system shall also be consolidated into and operated under the control of that system.

(f) Fleet management systems established under this subpart provide for furnishing motor vehicles and related services to executive agencies. So far as practicable, these services will also be furnished to any mixed-ownership corporation, the District of Columbia, or a contractor authorized under the provisions of Federal Acquisition Regulation, 48 CFR part 51, subpart 51.2, upon request. Such services may be furnished, as determined by the Administrator, GSA, through the use, under rental or other arrangements, of motor vehicles of private fleet operators, commercial companies, local or interstate common carriers, or Government-owned motor vehicles, or combinations thereof.

[51 FR 11023, Apr. 1, 1986, as amended at 56 FR 59887, Nov. 26, 1991]

§ 101–39.101 Notice of intention to begin a study.

The Administrator, GSA, will ascertain the possibilities of economies to be derived through the establishment of a fleet management system in a specific geographical area. After preliminary investigation, he or she will notify the head of each agency concerned at least 30 calendar days in advance of the intent to conduct a study to develop data and justification as to the feasibility of establishing a fleet management system. The notification, in writing, will include:

(a) The approximate geographical area to be included in the study, including a defined mandatory use service area and an optional use service area; and

(b) The date on which the study will begin.

[51 FR 11023, Apr. 1, 1986, as amended at 56 FR 59887, Nov. 26, 1991]

§ 101–39.101–1 Agency cooperation.

(a) As provided by Executive Order 10579, the head of each executive agency receiving notice that GSA will conduct a study will designate representatives with whom members of the GSA staff may consult and who will furnish information and assistance to the GSA staff, including reasonable opportunities to observe motor vehicle operations and facilities and to examine pertinent cost and other records. Such information shall include the inventory, management, operation, maintenance, and storage of motor vehicles,

motor vehicle facilities, and motor vehicle services in the area, including location, use, need, cost, and personnel involved.

(b) In the absence of recorded information, GSA will assist in preparing agency estimates, if requested, or will develop the necessary data.

§ 101–39.102 Determinations.

Each determination to establish a fleet management system will include:

(a) A description of the proposed operation (including Government-owned vehicles operated by contractors) covering the types of service and the geographic area (including the defined mandatory and optional use service areas) and executive agencies or parts of agencies to be served;

(b) The name of the executive agency designated to be responsible for operating the fleet management system and the reason for such designation;

(c) A statement indicating the motor vehicles and related equipment and supplies to be transferred and the amount of reimbursement, if any, to be made; and

(d) An analytical justification to accompany each determination, including a comparison of estimated costs of the present and proposed methods of operation, an estimate of the savings to be realized through the establishment of the proposed fleet management system, a description of the alternatives considered in making the determination, a statement concerning the availability of privately owned facilities and equipment, and the feasibility and estimated cost (immediate and long-term) of using such facilities and equipment.

[51 FR 11023, Apr. 1, 1986, as amended at 56 FR 59887, Nov. 26, 1991]

§ 101–39.102–1 Records, facilities, personnel, and appropriations.

(a) If GSA decides to establish a fleet management system, GSA, with the assistance of the agencies concerned, will prepare and present to the Director, OMB, a schedule of those records, facilities, personnel, and appropriations, if any, that are proposed for transfer to the fleet management system. The Director, OMB, will determine the records, facilities, personnel, and appropriations, if any, to be transferred.

(b) The Administrator of General Services will furnish a copy of each determination, with a copy of the schedule of proposed transfer of motor vehicles, records, facilities, personnel, and appropriations, to the Director, OMB, and to each agency affected.

[51 FR 11023, Apr. 1, 1986, as amended at 56 FR 59887, Nov. 26, 1991]

§ 101–39.102–2 Effective date of determination.

Unless a longer time is allowed, any determination made by the 6Administrator, GSA, shall become binding on all affected executive agencies 45 calendar days after issuance, except with respect to any agency which appeals or requests an exemption from any determination in accordance with § 101–39.103.

§ 101–39.103 Agency appeals.

(a) Any executive agency may appeal or request exemption from any or all proposals affecting it which are contained in a determination. Appeals shall be submitted, in writing, within 45 calendar days from the date of the determination to the Director, OMB, with a copy to the Administrator of GSA. Appeals shall be accompanied by factual and objective supporting data and justification.

(b) The Director, OMB, will review any determination which an executive agency has appealed and will make a final decision on that appeal. The Director, OMB, will decide within 75 calendar days after he or she receives the appeal, or as soon thereafter as practicable, on the basis of information contained in GSA's determination, the executive agency appeal, and any supplementary data submitted by GSA and the contesting agency. The Director, OMB, will send copies of decisions to GSA and to the heads of other executive agencies concerned.

(c) With reference to each appeal, the decision of the Director, OMB, if he or she holds that the GSA's determination shall apply in whole or in part to the appealing agency, will state the extent to which the determination applies and the effective date of its application. To the extent that the decision

on an appeal does not uphold GSA's determination the, determination will be of no force and effect.

§ 101–39.104 Notice of establishment of a fleet management system.

GSA will inform each affected agency of the time schedule for establishment of a fleet management system and of the agency's responsibility for transferring personnel, motor vehicles, maintenance, storage and service facilities, and other involved property. Arrangements will be made for discussions at the local level between the agencies concerned and the agency responsible for operating the fleet management system in order to work out any problems pertaining to establishing and operating fleet management systems.

§ 101–39.104–1 Consolidations into a fleet management system.

(a) All Government-owned motor vehicles acquired by executive agencies for official purposes which are operated, stored, or garaged within a defined mandatory use service area of an established fleet management system and other related equipment and supplies shall, when requested by the Administrator, GSA, in accordance with a determination, be transferred to the control and the responsibility of the fleet management system. Those vehicles specifically exempt by:

(1) Section 101–39.106 and § 101–39.107,

(2) In the determination establishing the fleet management system,

(3) A subsequent determination by the Administrator, GSA, or

(4) The decision of the Director, OMB,

are not required to be transferred into the fleet management system. Facilities, personnel, records, and appropriations, as determined by the Director, OMB, pursuant to § 101–39.102–1, shall be included in the transfer.

(b) Transfers of Government-owned motor vehicles to the control and responsibility of the fleet management system shall be accomplished with transfer forms of the transferring agency or forms furnished by GSA. Each transferring agency shall:

(1) Prepare a transfer document listing each vehicle to be transferred;

(2) Forward a signed copy to the Controller, Federal Supply Service, GSA;

(3) Furnish two copies of the transfer document to the fleet management system receiving the vehicles; and

(4) Forward an additonal copy of the transfer document to the fleet management system, when a signed receipt is required by the transferring agency.

[51 FR 11023, Apr. 1, 1986, as amended at 56 FR 59887, Nov. 26, 1991]

§ 101–39.104–2 Reimbursement.

Reimbursement for the motor vehicles and related equipment and supplies acquired by agencies through expenditure made from and not previously reimbursed to any revolving or trust fund authorized by law, shall be made by GSA in an amount equal to the fair market value of the vehicle, equipment, or supplies so taken over, as required by law (40 U.S.C. 491(g)).

§ 101–39.105 Discontinuance or curtailment of service.

(a) If, during any reasonable period not exceeding 2 successive fiscal years, no economies or efficiencies are realized from the operation of any fleet management system, the Administrator, GSA, will discontinue the fleet management system concerned.

(b) The Administrator, GSA, may discontinue or curtail a fleet management system when he or she determines that sufficient economies or efficiencies have not resulted from the operation of that fleet management system. The Administrator, GSA, will give at least 60 calendar days notice of his or her intent to the heads of executive agencies affected and to the Director, OMB, before taking action.

[56 FR 59888, Nov. 26, 1991]

§ 101–39.105–1 Transfers from discontinued or curtailed fleet management systems.

When a fleet management system is discontinued or curtailed, transfers of vehicles and related equipment and supplies, personnel, records, facilities, and funds as may be appropriate will be made, subject to the approval of the Director, OMB. Reimbursement for motor vehicles and related equipment and supplies acquired by GSA through

expenditure made from, and not previously reimbursed to the General Supply Fund, or any revolving or trust fund authorized by law, shall be made by the agency receiving the motor vehicles and related equipment and supplies in an amount equal to the fair market value, as required by law (40 U.S.C. 491(g)).

§ 101–39.105–2 Agency requests to withdraw participation.

(a) Executive agencies receiving motor vehicle services from fleet management systems may request discontinuance or curtailment of their participation after 1 year of participation, unless a different time period has been mutually agreed to, or if the need for these services ceases. Requests shall be submitted to the Administrator, GSA, with factual justification.

(b) If the Administrator, GSA, does not agree with these requests and is unable to make arrangements which are mutually acceptable to GSA and the agency concerned, the agency's request for discontinuance or modification and the explanation of the Administrator, GSA, denying the request will be forwarded to the Director, OMB, who will make the final and binding decision.

[51 FR 11023, Apr. 1, 1986, as amended at 56 FR 59888, Nov. 26, 1991]

§ 101–39.106 Unlimited exemptions.

Unlimited exemptions from inclusion in the fleet management system are granted to the specific organizational units or activities of executive agencies listed below. Unlimited exemptions do not preclude agencies from requesting fleet management services, if available, under optional use arrangements. Such optional use services must be authorized under the provisions of Executive Order 10579 and 40 U.S.C. 472.

(a) Any motor vehicle regularly used by an agency in the performance of investigative, law enforcement, or intelligence duties if the head of that agency or designee makes a determination, in writing (a copy of which shall be forwarded to the Administrator of General Services), that the exclusive control of such vehicles is essential to the effective performance of those duties. Vehicles regularly used for common administrative purposes not directly connected with the performance of law enforcement, investigative, or intelligence duties shall not be exempted from inclusion.

(b) Motor vehicles designed or used for military field training, combat, or tactical purposes, or used principally within the confines of a regularly established military installation.

(c) Any motor vehicle exempted from the display of conspicuous identification by the Administrator, GSA, when identification as a Government vehicle would interfere with the purpose for which it is acquired and used.

(d) Unless inclusion is mutually agreed upon by the Administrator, GSA, and the head of the agency concerned:

(1) Motor vehicles for the use of the heads of the executive agencies, ambassadors, ministers, charges d'affaires, and other principal diplomatic and consular officials.

(2) Motor vehicles regularly and principally used for the transportation of diplomats and representatives of foreign countries or by officers of the Department of State for the conduct of official business with representatives of foreign countries.

(3) Motor vehicles regularly used by the United States Postal Service for the distribution and transportation of mail.

[51 FR 11023, Apr. 1, 1986, as amended at 56 FR 59888, Nov. 26, 1991]

§ 101–39.107 Limited exemptions.

The Administrator, GSA, may exempt those vehicles which, because of their design or the special purposes for which they are used, cannot, advantageously be incorporated in the fleet management system, if the exemption has been mutually agreed upon by the Administrator and the head of the executive agency concerned. Limited exemption will normally be restricted to:

(a) *Special-purpose motor vehicles.* Motor vehicles acquired for special purposes and which, because of special design, use, or fixed special equipment, cannot advantageously be included in a consolidated operation; or

(b) *Motor vehicles operated outside the defined geographical area of the fleet management system.* Motor vehicles

which are operated almost entirely outside the defined mandatory use area of the fleet management system.

[51 FR 11023, Apr. 1, 1986, as amended at 56 FR 59888, Nov. 26, 1991]

Subpart 101–39.2—GSA Interagency Fleet Management System Services

§ 101–39.200 Scope.

This subpart defines the procedures for acquiring motor vehicles and related services provided by the General Services Administration (GSA) Interagency Fleet Management System (IFMS). Local transportation services for Government personnel and property may be provided by the GSA IFMS to efficiently meet the authorized requirements of participating agencies. These services may be furnished through commercial rental companies, private sector fleet operators, local or interstate common carriers, the Government, or a combination of the above.

[56 FR 59888, Nov. 26, 1991]

§ 101–39.201 Services available.

GSA Interagency Fleet Management System (IFMS) vehicles and services shall be used in connection with official business and incidental use as prescribed by rule by the head of the agency in conformance with section 503 of the Ethics Reform Act of 1989 (Pub. L. 101–194) only. Available GSA IFMS services may include any or all of the following:

(a) Motor vehicles for indefinite assignment;

(b) Commercial motor vehicles for daily or short-term use, exclusive of temporary duty requirements;

(c) GSA IFMS dispatch vehicles for short-term use, where available. This service is generally limited to locations where there is no commercial alternative;

(d) Shuttle run or similar services;

(e) Driver services; and

(f) Other related services, including servicing, fueling, and storage of motor vehicles.

[56 FR 59888, Nov. 26, 1991]

§ 101–39.202 Contractor authorized services.

(a) Authorized contractors and subcontractors shall use related GSA Interagency Fleet Management System (IFMS) services solely for official purposes.

(b) To the extent available, authorized contractors and subcontractors may use GSA IFMS services on a reimbursable basis to provide maintenance, repair, storage, and service station services for Government-owned or -leased equipment which is not controlled by a GSA IFMS fleet management center, or for authorized contractor-owned or -leased equipment used exclusively in the performance of Government contracts.

(c) Contractor use of GSA IFMS services will be allowable only to the extent provided in Federal Acquisition Regulation, 48 CFR part 51, subpart 51.2.

(d) Use of GSA IFMS vehicles in the performance of a contract other than a cost-reimbursement contract requires preapproval by the Administrator of GSA. Such requests shall be submitted through the Director, Fleet Management Division, GSA, Attn: FBF, Washington, DC 20406.

[56 FR 59888, Nov. 26, 1991]

§ 101–39.203 Obtaining motor vehicles for short-term use.

Any participating Federal agency, bureau, or activity may obtain vehicles for short-term local use through the GSA Interagency Fleet Management System (IFMS). Short-term use vehicles may be provided through Military Traffic Management Command (MTMC) agreements with commercial firms or, where available, through GSA IFMS dispatch services. This support is available for official use performed locally or within commuting distance of an employee's designated post of duty. Arrangements for these vehicles will be made by the GSA IFMS fleet management center serving the local area. The requesting agency official or employee must be authorized to place orders for vehicle support and provide a complete billing address and GSA billed office address code (BOAC) at the time an order is placed. Agencies requiring a

BOAC may obtain one by contacting any General Services Administration IFMS fleet management center.

[56 FR 59888, Nov. 26, 1991]

§ 101–39.203–1 Obtaining motor vehicles while on temporary duty (TDY) travel.

Federal employees on TDY requiring short-term use of vehicles in the destination area shall obtain service directly from the appropriate sources listed in the Federal Travel Directory (available from the Superintendent of Documents, Government Printing Office, Washington, DC 20402).

§ 101–39.204 Obtaining motor vehicles for indefinite assignment.

Motor vehicles and related services of the GSA Interagency Fleet Management System (IFMS) are provided to requesting agencies under the following procedures. When competing requests are received, priority will be given to a fully participating agency over an other than fully participating agency.

(a) Federal agencies or parts thereof that meet the following conditions are considered fully participating:

(1) All agency-owned motor vehicles have been consolidated into the supporting GSA IFMS fleet management center, and no agency-owned vehicles, with the exception of approved exemptions, are operated in the defined mandatory use service area of the supporting GSA fleet management center;

(2) No vehicles were available to consolidate, but total reliance is placed on the supporting GSA IFMS fleet management center or the GSA IFMS as a whole to meet all motor vehicle requirements, and no agency-owned vehicles are operated in the defined mandatory use service area of the supporting GSA fleet management center;

(3) The agency would otherwise qualify under paragraph (a) (1) or (2) of this section but has been authorized by GSA to purchase or commercially lease motor vehicles because the GSA IFMS was unable to supply its requirements.

(b) Fully participating agencies may request indefinite assignment of vehicles, regardless of number, from the supporting IFMS fleet management center. Assignment may be made at that level, subject to availability. If the required vehicles are not available, a written request shall be sent to the General Services Administration, Attn: FBF, Washington, DC, 20406. To be considered, the request shall include the following:

(1) Certification that concurrence has been obtained from the designated agency fleet manager or other designated headquarters-level official and that other means of transportation are not feasible or cost-effective;

(2) The number and types of vehicles required, of which passenger vehicles are limited to compact or smaller unless the agency head or designee has certified that larger vehicles are essential to the agency's mission;

(3) Location where the vehicles are needed;

(4) Date required, including earliest and latest acceptable dates;

(5) Anticipated length of assignment;

(6) Projected utilization, normally in terms of miles per month or year;

(7) Certification of funding;

(8) Billing address and billed office address code (BOAC);

(9) Agency contact, including name, address, and telephone number;

(10) Office, program, or activity requiring the vehicles;

(11) A statement that the agency does or does not request authority to commercially lease, and the anticipated duration of the lease, should GSA be unable to provide the vehicles.

(c) Federal agencies that meet the following conditions are considered other than fully participating:

(1) Vehicles have been acquired from other sources for reasons other than the inability of the GSA IFMS to supply the required vehicles, except those designated as exempt vehicles as determined by the GSA IFMS;

(2) Cost reimbursable contractors authorized to utilize GSA IFMS motor vehicles when they represent participating agencies;

(3) Other authorized users of the GSA IFMS.

(d) Other than fully participating agencies must contact the supporting GSA IFMS fleet management center to ascertain vehicle availability, regardless of the number required. If the vehicles are available, assignment shall be

made. When the supporting GSA IFMS fleet management center determines that the requested vehicles are not available, the requesting activity shall make a record of contact to document compliance with the mandatory first source of supply requirement. No further authorizations from GSA are required for the agency to execute a commercial lease from sources established by the GSA Automotive Commodity Center or the agency, provided that such agency has Congressional authority to lease motor vehicles and:

(1) All applicable procurement regulations (e.g., Federal Acquisition Regulation (FAR)) and internal agency acquisition regulations are observed;

(2) The requirements of part 101–38 of this chapter regarding fuel economy, Government identification and marking, etc., are adhered to;

(3) The agency fleet manager or designee retains responsibility for fleet oversight and reporting requirements under Public Law 99–272; and

(4) Other than fully participating agencies that choose not to commercially lease may utilize the procedures for full participants in paragraph (b) of this section, on the understanding that fully participating agencies will receive priority consideration.

[56 FR 59888, Nov. 26, 1991]

§ 101–39.205 [Reserved]

§ 101–39.206 Seasonal or unusual requirements.

Agencies or activities having seasonal, peak, or unusual requirements for vehicles or related services shall inform the GSA IFMS fleet management center as far in advance as possible. Normally, notice shall be given not less than 3 months in advance of the need. Requests for vehicles for other than indefinite assignment will usually be filled for agencies participating fully with the GSA IFMS, provided resources permit. Other than fully participating agencies will normally not be accommodated for seasonal, peak, or unusual vehicle requirements.

[56 FR 59889, Nov. 26, 1991]

§ 101–39.207 Reimbursement for services.

(a) GSA Regional Administrators will issue, as appropriate, regional bulletins announcing the GSA vehicle rental rates applicable to their respective regions.

(b) The using agency will be billed for GSA Interagency Fleet Management System (IFMS) services provided for under this part at rates fixed by GSA. Such rates are designed to recover all GSA IFMS fixed and variable costs. Rates will be reviewed and revised periodically to determine that reimbursement is sufficient to recover applicable costs. Failure by using agencies to reimburse GSA for vehicle services will be cause for GSA to terminate motor vehicle assignments.

(c) IFMS services provided to authorized Government contractors and subcontractors will be billed to the responsible agency unless such agency requests that the contractor be billed directly. In case of nonpayment by a contractor, GSA will bill the responsible agency which authorized the contractor's use of GSA IFMS services.

(d) Using agencies will be billed for accidents and incidents as described in § 101–39.406. Agencies may also be charged administrative fees when vehicles are not properly maintained, repaired, or when the vehicle is subject to abuse or neglect.

(e) Agencies may be charged for recovery of expenses for repairs or services to GSA IFMS vehicles which are not authorized by the GSA IFMS either through preventive maintenance notices, approval from a GSA Maintenance Control Center, or approval from a GSA fleet management center, per instructions in the operator's guide issued with each vehicle. Excess costs relating to the failure to utilize self-service gasoline pumps or the unnecessary use of premium grade gasoline may also be recovered from using agencies (see § 101–38.401–2 of this chapter).

[56 FR 59889, Nov. 26, 1991]

§ 101–39.208 Vehicles removed from defined areas.

(a) Normally, vehicles shall not be permanently operated outside the geographical area served by the issuing

GSA IFMS fleet management center. However, when agency programs necessitate vehicle relocation for a period exceeding 90 calendar days, the agency shall notify the issuing GSA IFMS fleet management center of the following:

(1) The location at which the vehicles are currently in use;

(2) The date the vehicles were moved to the present location; and

(3) The expected date the vehicles will be returned to the original location.

(b) When vehicles will be permanently relocated outside the area served by the issuing GSA IFMS fleet management center, the affected GSA IFMS fleet manager will ascertain if the using agency is fully participating at the new location (see §101–39.204). If this criterion is met, the vehicle will normally be transferred to the GSA IFMS fleet management center nearest the new location. If the agency is other than a full participant, the transfer will be treated as a request for additional vehicles at the new location.

[56 FR 59890, Nov. 26, 1991]

Subpart 101–39.3—Use and Care of GSA Interagency Fleet Management System Vehicles

§101–39.300 General.

(a) The objective of the General Services Administration (GSA) Interagency Fleet Management System (IFMS) is to provide efficient and economical motor vehicle and related services to participating agencies. To attain this objective, policies and procedures for use and care of GSA IFMS vehicles provided to an agency or activity are prescribed in this subpart.

(b) To operate a motor vehicle furnished by the GSA IFMS, civilian employees of the Federal Government shall have a valid State, District of Columbia, or Commonwealth operator's license for the type of vehicle to be operated and some form of agency identification. Non-Government personnel, such as contractors, shall have a valid license for the type of equipment to be operated when using vehicles supplied by the GSA IFMS (this may include a Commercial Driver's License). All other vehicle operators, and Federal civilian employees that have a valid civilian operator's license, but not for the type of equipment to be operated, must have in their possession an Optional Form 346, U.S. Government Motor Vehicle Operator's Identification Card, for the type of equipment to be operated. Specific regulations covering procedures and qualifications of Government motor vehicle operators are contained in 5 CFR part 930, issued by the Office of Personnel Management.

(c) To operate a motor vehicle furnished by GSA, drivers and occupants shall wear safety belts whenever the vehicle is in operation. The vehicle operator shall ensure that all vehicle occupants are wearing their safety belts prior to operating the vehicle.

(d) The use of tobacco products is prohibited in GSA IFMS motor vehicles. The agency to which the vehicle is assigned is responsible for ensuring that its employees do not use tobacco products while occupying IFMS vehicles. If a user agency violates this prohibition, the agency will be charged for the cost of cleaning the affected vehicle(s) beyond normal detailing procedures to remove tobacco odor or residue or repairing damage caused as a result of tobacco use. The decision to perform such additional cleaning or repair will be made by the GSA fleet manager based upon the condition of the vehicle when assigned, the degree of tobacco residue and damage, and the cost effectiveness of such additional cleaning.

(e) Reasonable diligence in the care of GSA IFMS vehicles shall be exercised by using agencies and operators at all times. Officials or employees failing to take proper care of motor vehicles issued to them may be refused further authorization to use GSA IFMS vehicles after reasonable notice has been provided by GSA to the head of the local activity concerned.

[56 FR 59890, Nov. 26, 1991, as amended at 58 FR 63532, Dec. 2, 1993]

§101–39.301 Utilization guidelines.

An agency must be able to justify a full-time vehicle assignment. The following guidelines may be employed by

an agency requesting GSA Interagency Fleet Management System (IFMS) services. Other utilization factors, such as days used, agency mission, and the relative costs of alternatives to a full-time vehicle assignment, may be considered as justification where miles traveled guidelines are not met.

(a) *Passenger-carrying vehicles.* The utilization guidelines for passenger-carrying vehicles are a minimum of 3,000 miles per quarter or 12,000 miles per year.

(b) *Light trucks and general purpose vehicles.* The utilization guidelines for light trucks and general purpose vehicles are as follows:

(1) *Light trucks and general purpose vehicles, 12,500 lbs.* Gross Vehicle Weight Rating (GVWR) and under—10,000 miles per year.

(2) *Trucks and general purpose vehicles, over 12,500 lbs.* GVWR to 24,000 lbs. GVWR—7,500 miles per year.

(c) *Heavy trucks and truck tractors.* The utilization guidelines for heavy trucks and truck tractors are as follows:

(1) *Heavy trucks and general purpose vehicles over 24,000 lbs.* GVWR—7,500 miles per year.

(2) Truck tractors—10,000 miles per year.

(d) *Other trucks and special purpose vehicles.* Utilization guidelines for other trucks and special purpose vehicles have not been established. However, the head of the local office of the agency or his/her designee shall cooperate with GSA IFMS fleet management center personnel in studying the use of this equipment and take necessary action to ensure that it is reasonably utilized or returned to the issuing GSA IFMS fleet management center.

[51 FR 11023, Apr. 1, 1986, as amended at 56 FR 59890, Nov. 26, 1991; 58 FR 63533, Dec. 2, 1993]

§ 101–39.302 Rotation.

GSA Interagency Fleet Management System (IFMS) vehicles on high mileage assignments may be rotated with those on low mileage assignments to assure more uniform overall fleet utilization. In cases where the continued use of a vehicle is essential but its miles traveled are not consistent with utilization guidelines, the using agency may be required to justify, in writing, retention of the vehicle. Each GSA IFMS fleet manager will decide on a case-by-case basis which vehicles, if any, will be rotated based upon vehicle type, vehicle location, location and availability of replacement vehicles, and the mission of the using agency.

[56 FR 59890, Nov. 26, 1991]

§ 101–39.303 Maintenance.

In order to ensure uninterrupted operation of GSA Interagency Fleet Management System (IFMS) vehicles, safety and preventive maintenance inspections will be performed at regularly scheduled intervals as directed by GSA. Users of GSA IFMS vehicles shall comply with the safety and preventive maintenance notices and instructions issued for the vehicle.

[56 FR 59890, Nov. 26, 1991]

§ 101–39.304 Modification or installation of accessory equipment.

The modification of a GSA Interagency Fleet Management System (IFMS) vehicle or the permanent installation of accessory equipment on these vehicles may be accomplished only when approved by GSA. For the purpose of this regulation, permanent installation means the actual bolting, fitting, or securing of an item to the vehicle. Such modification or installation of accessory equipment must be considered by the agency as essential for the accomplishment of the agency's mission. The request for such modification or installation shall be forwarded to the appropriate GSA IFMS regional fleet manager for consideration. Accessory equipment or other after-market items which project an inappropriate appearance, such as radar detectors, will not be used on GSA IFMS vehicles. Decorative items (i.e., bumper stickers and decals) will not be used on IFMS vehicles unless authorized by the Director, Fleet Management Division, GSA.

[56 FR 59890, Nov. 26, 1991]

§ 101–39.305 Storage.

(a) GSA Interagency Fleet Management System (IFMS) vehicles shall be stored and parked at locations which provide protection from pilferage or

damage. In the interest of economy, no cost storage shall be used whenever practicable and feasible.

(b) The cost of parking and storing GSA IFMS vehicles is the responsibility of the using agency. Prior to the procurement of other than temporary parking accommodations in urban centers (see § 101–l8.102), agencies shall determine the availability of Government-owned or -controlled parking space in accordance with the provisions of § 101–17.101–6.

[56 FR 59890, Nov. 26, 1991]

§ 101–39.306 Operator's packet.

The GSA Interagency Fleet Management System (IFMS) will provide each system vehicle with an operator's packet containing the following information and instructions. This information should remain in the vehicle at all times, except when inconsistent with authorized undercover operations.

(a) Driver's responsibilities;

(b) Requirement of use for official purposes only;

(c) Instruction for:

(1) Acquiring maintenance and repair authorizations;

(2) Acquiring emergency supplies, services, and repairs; and

(3) Reporting accidents.

(d) The telephone numbers of responsible GSA IFMS fleet management center employees to be called in case of accident or emergency;

(e) Instructions on the use of the Standard Form 149, U.S. Government National Credit Card;

(f) List of contractors from which vehicle operators may purchase items authorized by the SF 149, U.S. Government National Credit Card;

(g) Accident reporting kit which contains:

(1) Standard Form 91, Motor Vehicle Accident Report; and

(2) Standard Form 94, Statement of Witness.

NOTE: The vehicle operator or assignee shall be personally responsible for safeguarding and protecting the SF 149, U.S. Government National Credit Card.

[51 FR 11023, Apr. 1, 1986, as amended at 56 FR 59891, Nov. 26, 1991; 58 FR 65291, Dec. 14, 1993]

§ 101–39.307 Grounds for withdrawal of vehicle.

GSA may withdraw the issued vehicle from further use by the agency or its contractor if it is determined that the using agency has not complied with the provisions of subpart 101–39.3, that the vehicle has not been maintained in accordance with GSA IFMS maintenance standards, that the vehicle has been used improperly, or that the using agency has not reimbursed GSA for vehicle services. Improper use includes, but is not limited to, credit card abuse and misuse, continued violation of traffic ordinances, at-fault accidents, reckless driving, driving while intoxicated, use for other than official purposes, and incidental use when not authorized by the using agency.

[56 FR 59891, Nov. 26, 1991]

Subpart 101–39.4—Accidents and Claims

§ 101–39.400 General.

Officials, employees, and contractors responsible for the operation of General Services Administration (GSA) Interagency Fleet Management System (IFMS) vehicles shall exercise every precaution to prevent accidents. In case of an accident, the employee or official concerned shall comply with the procedures established by this subpart.

[56 FR 59891, Nov. 26, 1991]

§ 101–39.401 Reporting of accidents.

(a) The operator of the vehicle is responsible for notifying the following persons immediately, either in person, by telephone, or by facsimile machine of any accident in which the vehicle may be involved:

(1) The manager of the GSA IFMS fleet management center issuing the vehicle;

(2) The employee's supervisor; and

(3) State, county, or municipal authorities, as required by law.

(b) In addition, the vehicle operator shall obtain and record information pertaining to the accident on Standard Form 91, Motor Vehicle Accident Report. Only one copy of the Standard Form 91 is required. When completed, the Standard Form 91 shall be given to

the vehicle operator's supervisor. The vehicle operator shall also obtain the names, addresses, and telephone numbers of any witnesses and, wherever possible, have witnesses complete Standard Form 94, Statement of Witness, and give the completed Standard Form 94 and other related information to his or her supervisor. The vehicle operator shall make no statements as to the responsibility for the accident except to his or her supervisor or to a Government investigating officer.

(c) Whenever a vehicle operator is injured and cannot comply with the above requirements, the agency to which the vehicle is issued shall report the accident to the State, county, or municipal authorities as required by law, notify the GSA IFMS fleet manager of the center issuing the vehicle as soon as possible after the accident, and complete and process Standard Form 91. A complete copy of the accident report shall be forwarded to the appropriate GSA office as outlined in the vehicle operator's packet.

[51 FR 11023, Apr. 1, 1986, as amended at 56 FR 59891, Nov. 26, 1991; 58 FR 65291, Dec. 14, 1993]

§ 101–39.402 Recommendations for disciplinary action.

If a vehicle operator fails to report an accident involving a GSA Interagency Fleet Management System (IFMS) vehicle in accordance with § 101–39.401, or if the operator has a record showing a high accident frequency or cost, GSA will notify the appropriate official(s) of the operator's agency, and will advise that either failure to report an accident or poor driving record is considered by GSA to be sufficient justification for the agency to suspend the right of the employee to use a GSA IFMS vehicle.

[56 FR 59891, Nov. 26, 1991]

§ 101–39.403 Investigation.

(a) Every accident involving a GSA Interagency Fleet Management System (IFMS) vehicle shall be investigated and a report furnished to the manager of the GSA IFMS fleet management center which issued the vehicle.

(b) The agency employing the vehicle operator shall investigate the accident within 48 hours after the actual time of occurrence. Also, GSA may investigate any accident involving an IFMS vehicle when deemed necessary. Should such investigation develop additional information, the additional data or facts will be furnished to the using agency for its information.

(c) Two copies of the complete report of the investigation, including (when available) photographs, measurements, doctor's certificate of bodily injuries, police investigation reports, operator's statement, agency's investigation reports, witnesses' statements, the Motor Vehicle Accident Report (SF 91), and any other pertinent data shall be furnished to the manager of the GSA IFMS fleet management center issuing the vehicle.

[51 FR 11023, Apr. 1, 1986, as amended at 56 FR 59891, Nov. 26, 1991; 58 FR 65291, Dec. 14, 1993]

§ 101–39.404 Claims in favor of the Government.

Whenever there is any indication that a party other than the operator of the GSA Interagency Fleet Management System (IFMS) vehicle is at fault and that party can be reasonably identified, the agency responsible for investigating the accident shall submit all original documents and data pertaining to the accident and its investigation to the servicing GSA IFMS fleet management center. The GSA IFMS regional fleet manager, or his/her representative, will initiate the necessary action to effect recovery of the Government's claim.

[56 FR 59891, Nov. 26, 1991]

§ 101–39.405 Claims against the Government.

(a) Whenever a GSA Interagency Fleet Management System (IFMS) vehicle is involved in an accident resulting in damage to the property of, or injury to, a third party, and the third party asserts a claim against the Government based on the alleged negligence of the vehicle operator (acting within the scope of his or her duties), it shall be the responsibility of the agency employing the person who was operating the GSA IFMS vehicle at the

time of the accident to make every effort to settle the claim administratively to the extent that the agency is empowered to do so under the provisions of 28 U.S.C. 2672. It shall be the further responsibility of the agency, in the event that administrative settlement cannot be effected, to prepare completely, from an administrative standpoint, the Government's defense of the claim. The agency shall thereafter transmit the complete case through appropriate channels to the Department of Justice.

(b) Except for the exclusions listed in §101–39.406, the agency employing the vehicle operator shall be financially responsible for damage to a GSA IFMS vehicle.

(c) If a law suit is filed against the agency using a GSA Interagency Fleet Management System (IFMS) vehicle, the agency shall furnish the appropriate GSA Regional Counsel with a copy of all papers served in the action. When requested, GSA's Regional Counsel will cooperate with and assist the using agency and the Department of Justice in defense of any action against the United States, the using agency, or the operator of the vehicle, arising out of the use of a GSA IFMS vehicle.

[56 FR 59891, Nov. 26, 1991]

§101–39.406 Responsibility for damages.

(a) GSA will charge the using agency all costs resulting from damage, including vandalism, theft, and parking lot damage, to a GSA Interagency Fleet Management System (IFMS) vehicle which occurs during the period that the vehicle is assigned or issued to that agency, to an employee of that agency, or to the agency's authorized contractor; however, the using agency will not be held responsible for damages to the vehicle if it is determined by GSA, after a review on a case by case basis of the documentation required by §101–39.401, that damage to the vehicle occurred:

(1) As a result of the negligent or willful act of a party other than the agency (or the employee of that agency) to which the vehicle was assigned or issued and the identity of the party can be reasonably determined;

(2) As a result of mechanical failure of the vehicle, and the using agency (or its employee) is not otherwise negligent. Proof of mechanical failure must be submitted; or

(3) As a result of normal wear and tear such as is expected in the operation of a similar vehicle.

(b) Agencies using GSA IFMS services will be billed for the total cost of all damages resulting from neglect or abuse of assigned or issued GSA IFMS vehicles.

(c) If an agency is held responsible for damages, GSA will charge to that agency all costs for removing and repairing the GSA IFMS vehicle. If the vehicle is damaged beyond economical repair, GSA will charge all costs to that agency, including fair market value of the vehicle less any salvage value. Upon request, GSA will furnish an accident report, where applicable, regarding the incident to the agency. Each agency shall be responsible for disciplining its employees who are guilty of damaging GSA IFMS vehicles through misconduct or improper operation, including inattention.

(d) If an agency has information or facts that indicate that it was not responsible for an accident, the agency may furnish the data to GSA requesting that costs charged to and collected from it be credited to the agency. GSA will make the final determination of agency responsibility based upon Government findings, police accident reports, and any available witness statements.

(e) When contractors or subcontractors of using agencies are in accidents involving GSA IFMS vehicles, the agency employing the contractor will usually be billed directly for all costs associated with the accident. It will be the responsibility of the using agency to collect accident costs from the contractor should the contractor be at fault.

[56 FR 59892, Nov. 26, 1991]

§101–39.407 Accident records.

If GSA's records of vehicle accidents indicate that a particular activity has had an unusually high accident frequency rate or a high accident cost per

mile, GSA will so advise the using activity. Corrective action will be requested and GSA will cooperate in any reasonable manner possible to bring about improved performance.

Subparts 101–39.5—101–39.48 [Reserved]

Subpart 101–39.49—Forms

§ 101–39.4900 Scope of subpart.

This subpart provides the means for obtaining forms prescribed or available for use in connection with subject matter covered in part 101–39.

[56 FR 59892, Nov. 26, 1991]

§ 101–39.4901 Obtaining standard and optional forms.

Standard and optional forms referenced in part 101–39 may be obtained through the General Services Administration, Inventory and Requisition Management Branch, Attn: FCNI, Washington, DC 20406, or through regional GSA Federal Supply Service Bureaus. GSA regional offices will provide support to requesting activities needing forms.

[56 FR 59892, Nov. 26, 1991]

PART 101–40—TRANSPORTATION AND TRAFFIC MANAGEMENT

AUTHORITY: 40 U.S.C. 486(c); Sec. 205(c), 63 Stat. 390.

SOURCE: 65 FR 60060, Oct. 6, 2000, unless otherwise noted.

§101–40.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For information on transportation and traffic management previously contained in this part, see FMR part 117 (41 CFR part 102–117).

PART 101–41—TRANSPORTATION DOCUMENTATION AND AUDIT

AUTHORITY: 31 U.S.C. 3726; and 40 U.S.C. 486(c).

SOURCE: 65 FR 24568, Apr. 26, 2000, unless otherwise noted.

§101–41.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For transportation payment and audit policy, see FMR part 102–118 (41 CFR part 102–118).

APPENDIX TO SUBCHAPTER G—TEMPORARY REGULATIONS [RESERVED]

SUBCHAPTER H—UTILIZATION AND DISPOSAL

PART 101–42—UTILIZATION AND DISPOSAL OF HAZARDOUS MATERIALS AND CERTAIN CATEGORIES OF PROPERTY

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101–42.406 Abandonment or destruction of surplus hazardous materials and certain categories of property.

Subparts 101–42.5—101–42.10 [Reserved]

Subpart 101–42.11—Special Types of Hazardous Materials and Certain Categories of Property

101–42.1100 Scope of subpart.
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101–42.1102–1 Asbestos.
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101–42.1102–7 Lead-containing paint and items bearing lead-containing paint.
101–42.1102–8 United States Munitions List items which require demilitarization.
101–42.1102–9 Acid contaminated and explosive contaminated property.
101–42.1102–10 Firearms.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 57 FR 39121, Aug. 28, 1992, unless otherwise noted.

§ 101–42.000 Scope of part.

This part prescribes the special policies and procedures governing the utilization, donation, sale, exchange, or other disposition of hazardous materials, dangerous property, and other categories of property with special utilization and disposal requirements, located within the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

§ 101–42.001 Definitions of terms.

For the purposes of this part 101–42, the following terms shall have the meaning set forth below:

Acid contaminated property means property that may cause burns or toxicosis when improperly handled due to acid residues adhering to or trapped within the material.

Biologicals means hazardous materials which are of or pertain to the products and operations of applied biology, or any biochemical products, especially serums, vaccines, etc., produced from microorganisms.

Certified electronic product means any electronic product which bears the manufacturer's certification label or tag (21 CFR 1010.2) indicating that the product meets applicable radiation safety performance standards prescribed by the Food and Drug Administration under 21 CFR part 1020.

Controlled substances means:

(a) Any narcotic, depressant, stimulant, or hallucinogenic drug, or any other drug, other substance, or immediate precursor included in Schedules I, II, III, IV, or V of section 202 of the Controlled Substance Act (21 U.S.C. 812) except exempt chemical preparations and mixtures, and excluded substances listed in 21 CFR part 1308;

(b) Any other drug or substance that the Attorney General determines to be subject to control pursuant to Subchapter I of the Controlled Substance Act (21 U.S.C. 801 *et seq.*); or

(c) Any other drug or substance that by international treaty, convention, or protocol is to be controlled by the United States.

Explosive contaminated property means property that may ignite or explode when exposed to shock, flame, sparks, or other high temperature sources due to residual explosive material in joints, angles, cracks, or around bolts.

Extremely hazardous material means:

(a) Those materials which are hazardous to the extent that they generally require special handling such as licensing and training of handlers, protective clothing, and special containers and storage.

(b) Those materials which, because of their extreme flammability, toxicity, corrosivity or other perilous qualities, could constitute an immediate danger or threat to life and property and which usually have specialized uses under controlled conditions.

(c) Those materials which have been determined by the holding agency to endanger public health or safety or the environment if not rendered innocuous before release to other agencies or to the general public.

Firearms means any weapons (including flare and starter guns) which will, or are designed to, or may be readily converted to expel a projectile by the action of an explosive, the frame or receiver of any such weapons, or any muffler or silencer for such purposes. For purposes of this Part 101–42, firearms are considered to be dangerous property.

Hazardous material means property that is deemed a hazardous material, chemical substance or mixture, or hazardous waste under the Hazardous Materials Transportation Act (HMTA), the Resource Conservation and Recovery Act (RCRA), or the Toxic Substances Control Act (TSCA). Generally, hazardous materials have one or more of the following characteristics:

(a) Has a flash point below 200 F (93.3 C), closed cup, or is subject to spontaneous heating;

(b) Is subject to polymerization with the release of large amounts of energy when handled, stored, or shipped without adequate controls;

(c) In the course of normal operations, may produce fibers, dusts, gases, fumes, vapors, mists, or smokes which have one or more of the following characteristics:

(1) Causes 50 percent fatalities to test animals below 500 mg/kg of test animal weight when a single oral dose LD50 is used;

(2) Is a flammable solid or a strong oxidizing or reducing agent;

(3) Causes first degree burns to skin in a short time exposure, or is systematically toxic by skin contact;

(4) Has a permissible exposure limit (PEL) below 1000 p/m for gases and vapors, below 500 mg/mm3 for fumes, below 30 mmppcf (10 mg/m3), or 2 fibers/CM3 for dust;

(5) Causes occupational chemical dermatitis, which is any abnormality of the skin induced or aggravated by the work environment which includes but is not limited to primary irritant categories, allergic sensitizers, and photo sensitizers;

(d) Is radioactive to the extent it requires special handling;

(e) Is a recognized carcinogen according to Occupational Safety and Health Administration regulations at 29 CFR part 1910; or

(f) Possesses special characteristics which in the opinion of the holding agency could be hazardous to health, safety, or the environment if improperly handled, stored, transported, disposed of, or otherwise improperly used.

Hazardous waste means those materials or substances, the handling and disposal of which are governed by 40 CFR part 261.

(a) In general, hazardous materials are hazardous wastes when one or both of the following is true:

(1) They have passed through the disposal cycle without having successfully been reutilized, transferred, donated, or sold, and the holding agency declares an intent to discard.

(2) They are no longer usable for their intended purpose, a valid alternate purpose, or resource recovery.

(b) In general, solid (non-hazardous) wastes, as defined at 40 CFR 261.2, become hazardous wastes when:

(1) They exhibit one or more of the characteristics of ignitability, corrosivity, reactivity, or EP toxicity; or

(2) They are predetermined hazardous wastes upon generation as listed in 40 CFR part 261, subpart D.

(c) Hazardous materials having an expired shelf life shall be reclassified as hazardous wastes if required by Federal and/or State environmental laws or regulations. Before such reclassification, the shelf life may be extended if supported by results of tests and recertification performed by authorized personnel in accordance with applicable regulations.

(d) The transportation of hazardous wastes is governed by the regulations issued by the Department of Transportation, codified in 49 CFR part 171 *et seq.*

Lead-containing paint means paint or other similar surface coating material that contains lead or lead compounds in excess of 0.06 percent of the weight of the total nonvolatile content of the paint or the weight of the dried paint film.

Noncertified electronic product means any electronic product for which there is an applicable radiation safety performance standard prescribed or hereafter prescribed by the Food and Drug Administration (FDA) under 21 CFR part 1020, and which the manufacturer has not certified as meeting such standard. The noncertification may be due to either (a) manufacture of the product before the effective date of the standard or (b) the product was exempted from the applicable standard and is so labeled.

Nuclear Regulatory Commission—controlled materials means those materials the possession, use, and transfer of which are subject to the regulatory controls of the Nuclear Regulatory Commission (NRC) pursuant to the Energy Reorganization Act of 1974. The materials are defined as follows:

(a) *Byproduct materials* means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material. (See 10 CFR part 30.)

(b) *Source material* means uranium or thorium, or any combination thereof, in any physical or chemical form, or ores which contain by weight one-twentieth of one percent (0.05%) or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material. (See 10 CFR part 40.)

(c) *Special nuclear material* means plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, any other materials which the NRC, pursuant to the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto, determines to be special nuclear material, or any material artificially enriched by any of the foregoing, but does not include source material. (See 10 CFR part 70.)

Reagent means any hazardous material which is used to detect or measure another substance or to convert one substance into another by means of the reactions it causes.

§ 101–42.002 Requests for deviations.

Deviations from the regulations in this part shall only be granted by the Administrator of General Services (or

designee). Requests for deviations shall be made in writing to the General Services Administration (FB), Washington, DC 20406, with complete justification. A copy of the authorizing statement for each deviation, including the nature of the deviation, the reasons for such special action, and the Administrator's or designee's approval, will be available for public inspection under Subpart 105–60.3 of this title.

Subpart 101–42.1 [Reserved]

Subpart 101–42.2—Utilization of Hazardous Materials and Certain Categories of Property

§ 101–42.200 Scope of subpart.

This subpart prescribes the special policies and methods for the utilization and transfer of hazardous materials and other certain categories of property within the Government in addition to the requirements of part 101–43.

§ 101–42.201 [Reserved]

§ 101–42.202 Identification of hazardous materials.

(a) Current acquisition standards (Fed. Std. No. 313 and Fed. Std. No. 123) and the Federal Acquisition Regulation require that manufacturers identify and document potential hazards on material safety data sheets (MSDSs) as part of the acquisition process. Acquisition of MSDSs is also prescribed by the Occupational Safety and Health Administration (OSHA) regulations found in 29 CFR part 1910 and paragraph 1–602(c) of Executive Order 12196, Occupational Safety and Health Programs for Federal Employees, dated February 26, 1980. GSA's Federal Supply Service (4FQ) maintains an automated data base, accessible via modem and computer terminal, that contains MSDSs for all GSA-procured hazardous materials. In addition to display of the MSDS on the terminal screen, the system allows for the addition of the MSDS to the user's local data base and the transmission of the MSDS via facsimile to the user's site. Detailed instructions on how to access this system may be obtained by sending a self-addressed envelope to General Services Administration, Federal Supply Service, Attn: MSDS Coordinator, 401 W. Peachtree St., NE, suite 3021, Atlanta, Georgia 30365.

(b) The Hazardous Materials Information System (HMIS) is a collection of MSDS information, transportation information, and disposal information that was established by the Department of Defense to assist personnel who handle, store, ship, use or dispose of hazardous materials. Each record in the data base is defined by a stock number (either national stock number or local numbers), the manufacturer's contractor and Government entity (CAGE) code, and a part number indicator which is linked to the manufacturer's part number or trade name. The data base (DoD 6050.5L) is available on microfiche and compact disc-read only memory (CD-ROM) through the Naval Computer and Telecommunication Area Master Station, Atlantic (NCTAMS LANT), Attn.: Code 911.3, Norfolk, VA 23511–5355.

(c) For items not listed or adequately described in the HMIS or on a MSDS, contact the procuring agency, the manufacturer, or your technical staff for information as to the potential hazards of the item.

(d) Some hazardous items were acquired by Federal agencies prior to implementation of the standards requiring identification of potential hazards. Identification and documentation of the hazardous nature of such items is the responsibility of the owning or holding agency. Hazardous materials are found in most Federal supply classification (FSC) classes. Section 101–42.1101 contains a table of FSC classes composed predominantly of hazardous items and a table of FSC groups and classes which contain a significant number of hazardous items. These tables are designed to assist Federal agencies in reviewing personal property inventories to identify hazardous materials.

(e) When an item has been determined hazardous, the owning Federal agency shall document the accountable inventory record accordingly. If the item has not been appropriately labeled by the manufacturer or distributor, the owning agency shall appropriately label, mark, or tag the

item in accordance with OSHA requirements (29 CFR 1910.1200) regarding the actual or potential hazard associated with the handling, storage, or use of the item to include hazardous chemical(s) contained and the name of the chemical manufacturer, importer, or responsible party as defined at 29 CFR 1910.1200(c). Such information shall be maintained in the item record for use in preparation of reports of excess property, reassignment or transfer documentation, and other documentation requirements that may arise.

§ 101–42.203 Reassignment of hazardous materials.

When hazardous materials are reassigned within an executive agency, information on the actual or potential hazard shall be included in the documentation effecting the reassignment, and the recipient organization shall perpetuate in the inventory or control records visibility of the nature of the actual or potential hazard.

§ 101–42.204 Reporting requirements.

(a) Except as set forth in this 101–42.204, excess personal property which has been identified as hazardous shall be reported promptly in accordance with this part and § 101–43.4801, with a complete description of the actual or potential hazard associated with the handling, storage, or use of the item.

(b) If the hazardous characteristics of the item are adequately described on a MSDS or HMIS record (or equivalent), the reporting document should so indicate, and a copy of the MSDS or HMIS record shall be included. If no MSDS or HMIS is available, information must be obtained by the reporting activity and furnished with the reporting document. A certification by a duly authorized agency official that the item has been clearly labeled as prescribed in § 101–42.202(e) should be included in the description of the hazard. The agency official must also certify that the containers and/or packaging meet or exceed Department of Transportation specifications for a hazardous material container (49 CFR parts 178–180).

(c) Hazardous wastes shall not be reported to GSA for disposal, and shall be disposed of by the holding agency or the reporting activity only under the Environmental Protection Agency (EPA) and State and local regulations. Holding agencies shall contact the manufacturer, the agency's technical staff, or the local State EPA office for assistance in this matter if needed.

§ 101–42.205 Exceptions to reporting.

(a) When the actual or potential hazard is such that an item is determined by the holding agency to be extremely hazardous property, the item shall not be reported on Standard Form (SF) 120, Report of Excess Personal Property, unless so directed by a GSA regional office or GSA Central Office. Other items identified as hazardous shall be reported to GSA on SF 120 unless otherwise excepted by §§ 101–43.304 and 101–43.305.

(b) When an item determined to be extremely hazardous property becomes excess, the holding agency shall notify the appropriate GSA regional personal property office, identify the item, and describe the actual or potential hazard associated with the handling, storage, or use of the item. On a case-by-case basis, the GSA regional office will determine the utilization, donation, sales, or other disposal requirements, and provide appropriate guidance to the holding agency.

(c) When EPA, under its authorities, transfers accountability for hazardous materials to Federal, State, and local agencies, to research institutions, or to commercial businesses to conduct research or to perform the actual cleanup of a contaminated site, the item is not required to be reported.

§ 101–42.206 Special requirements for utilization of hazardous materials and certain categories of property.

Special utilization requirements for certain categories of property are provided in § 101–42.1102. Many hazardous materials require special storage and handling. It is the responsibility of the holding agency to properly store hazardous materials and ensure the use of appropriate safeguards such as warning signs, labels, and use of protective clothing and equipment by utilization screeners who are inspecting excess hazardous materials.

§ 101–42.207 Transfer of hazardous materials and certain categories of property.

(a) Excess hazardous materials may be transferred among Federal agencies under § 101–43.309–5, except that the Standard Form (SF) 122, Transfer Order Excess Personal Property, or any other transfer order form approved by GSA, shall contain a complete description of the actual or potential hazard associated with the handling, storage, or use of the item. Such description shall consist either of a written narrative, complying with the requirements of 29 CFR 1910.1200, in block 13c or as an addendum, or an MSDS or HMIS data. In the absence of an MSDS, the HMIS data which fulfills the MSDS requirements must be attached if the receiving activity does not have the HMIS readily available. Otherwise, citation to the HMIS shall be provided. A certification by a duly authorized official that the item has been clearly labeled and its packaging meets OSHA and DOT requirements as set forth in §§ 101–42.202(e) and 101–42.204 respectively, shall be included in the description of the hazard. The transferee shall prepare the SF 122, or any other transfer order form approved by GSA, under § 101–43.4901–122.

(b) The transferee agency shall document the inventory or control record of the transferred hazardous item to clearly reflect the actual or potential hazard associated with the handling, storage, or use of the item. If available, an MSDS or a citation or copy of the HMIS data must be filed with the SF 122 or automated requisitions on approved forms. Such visibility shall be maintained in the item record and on the property (labeled) to the extent required by Federal regulations to ensure the continued identification of the item as hazardous material.

§ 101–42.208 Custody of hazardous materials.

Custody of extremely hazardous materials shall be the responsibility of the owning or holding Federal agency. Custody of other hazardous materials may be transferred in whole or in part to another Federal agency with that agency's consent.

§ 101–42.209 Cost of care and handling of hazardous materials and certain categories of property.

The special handling requirements associated with many hazardous materials often increase the cost of core and handling of hazardous materials well above the usual costs incurred while holding excess personal property pending disposition. As provided in § 101–43.310–1, each holding agency shall be responsible for, and bear the cost of, care and handling of excess property pending disposition, including those special costs associated with hazardous materials. Only the cost of transportation and handling incurred incident to the transfer of hazardous materials are borne by the transferee agency if billed by the holding agency in accordance with § 101–43.309–3.

Subpart 101–42.3—Donation of Hazardous Materials and Certain Categories of Property

§ 101–42.300 Scope of subpart.

This subpart prescribes the special policies and methods governing the donation of hazardous materials and certain categories of property in addition to the requirements of part 101–44.

§ 101–42.301 General.

Surplus personal property identified as hazardous material not required for transfer as excess personal property to Federal agencies shall normally be made available for donation. However, State agencies shall not acquire hazardous materials without first ensuring that there are eligible known donees for such property. Surplus property identified as hazardous may be donated provided the donee:

(a) Is informed, via MSDS, HMIS data, or written narrative, that the item is hazardous and is furnished special handling and/or other appropriate information; and

(b) Signs the following certification:

I (We) hereby certify that the donee has knowledge and understanding of the hazardous nature of the property hereby donated and will comply with all applicable Federal, State, and local laws, ordinances, and regulations with respect to the care, handling, storage, shipment, and disposal of the hazardous material(s). The donee agrees

and certifies that the Government shall not be liable for personal injuries to, disabilities of, or death of the donee or the donee's employees, or any other person arising from or incident to the donation of the hazardous material(s) or its final disposition. Additionally, the donee agrees and certifies to hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the donation of the hazardous material(s), its use, or final disposition.

§ 101–42.302 Responsibilities for donation of hazardous materials.

(a) *Holding agencies.* Holding agencies shall be responsible for the identification and reporting of hazardous materials as set forth in §§ 101–42.202 and 101–42.203. Pending transfer for donation, each holding agency shall be responsible for performing, and shall bear the cost of, care and handling of its hazardous materials.

(b) *State agencies.* State agencies or the donee when applicable, shall prepare Standard Form (SF) 123, Transfer Order Surplus Personal Property, under § 101–44.4901–123–1. A full description of the actual or potential hazard associated with handling, storage, or use of the item must be made available by providing an MSDS, HMIS data, or a narrative description in block 12c or included as an addendum to the SF 123. Such description shall comply with the requirements of 29 CFR 1910.1200. The State agency and/or donee shall sign the certification in § 101–42.301(b). Any applicable requirements and restrictions shall be forwarded with the SF 123 to the GSA regional office.

(c) *General Services Administration.* GSA, through its regional offices, shall be responsible for approving the transfer for donation of hazardous materials. Before approving any donation of a hazardous material, the GSA regional office shall make sure all required certifications and agreements accompany the SF 123.

§ 101–42.303 Hazardous materials distributed to donees by State agencies.

Donation of surplus personal property designated as hazardous material shall be accomplished by the use of State agency distribution document as set forth in § 101–44.208. In addition to the terms, conditions, and restrictions in the distribution document, the donee shall certify to the conditions in § 101–42.301(b).

§ 101–42.304 Special requirements for donation of certain hazardous materials.

Special donation requirements for specific hazardous materials are provided in § 101–42.1102. Many hazardous materials require special storage and handling. It is the responsibility of the Federal holding agency or State agency to properly store hazardous materials, ensure the use of appropriate safeguards, and provide instructions for personal protection to donation screeners who are inspecting surplus hazardous materials. It is the responsibility of the State agency and/or donee to comply with DOT regulations (49 CFR part 171 *et seq.*) when transporting hazardous materials. Any costs incident to repacking or recontainerization will be borne by the State agency and/or donee. State agencies and/or donees will comply with EPA's Resource Conservation and Recovery Act (40 CFR part 261 *et seq.*) including its application to transporters, storers, users, and permitting of hazardous wastes. Such requirements may be administered by various States instead of the EPA.

Subpart 101–42.4—Sale, Abandonment, or Destruction of Surplus Hazardous Materials and Certain Categories of Property

§ 101–42.400 Scope of subpart.

This subpart prescribes the special policies and procedures governing the sale, abandonment, or destruction of hazardous materials and certain categories of property in addition to the requirements of part 101–45.

§ 101–42.401 Sales responsibilities for hazardous materials.

(a) *General Services Administration.* GSA, through its regional offices, shall be responsible for the sale of hazardous materials for holding agencies except for the Department of Defense, which is delegated authority to sell property under its control, and agencies granted approval by GSA. Holding agency sales

of hazardous materials conducted in accordance with §101–45.304 must meet or exceed the requirements in §101–42.403.

(b) *Holding agencies.* Holding agencies shall be responsible for preparation of hazardous materials for sale as provided for in §101–45.103–2. Pending disposal, each holding agency shall be responsible for performing and bearing the cost of care and handling of its hazardous materials, including posting appropriate warning signs and rendering extremely hazardous property innocuous, or providing adequate safeguards.

§101–42.402 Reporting hazardous materials for sale.

Holding agencies shall report hazardous materials to be sold by GSA to the appropriate GSA regional office for the region in which the property is physically located in the manner outlined below:

(a) *Reportable property.* Hazardous materials are required to be reported to the GSA regional offices for utilization screening as set forth in subparts 101–42.2 through 101–42.4 and 101–42.11. If the hazardous materials are not transferred or donated, the hazardous materials will be programmed for sale by the GSA regional office without further documentation from the holding agency.

(b) *Nonreportable property.* Under §101–42.202, Federal holding agencies are required to identify and label hazardous materials. Hazardous materials not required to be reported for utilization screening, and for which any required donation screening has been completed, shall be reported to the appropriate GSA regional office on Standard Form (SF) 126, Report of Personal Property for Sale, as provided in §101–45.303.

(c) *Description and certification.* The SF 126 shall contain a certification, executed by a duly authorized agency official, in block 16c or as an addendum, that the item has been clearly labeled and packaged as required in §§101–42.202(e) and 101–42.204. The SF 126 shall also contain or be accompanied by a full description of the actual or potential hazard associated with handling, storage, or use of the item. Such description shall be furnished by providing:

(1) An MSDS or copy thereof; or

(2) A printed copy of the record, corresponding to the hazardous material being reported, from the automated HMIS; or

(3) A written narrative, included in either block 16c or as an addendum, which complies with the requirements of 29 CFR 1910.1200.

§101–42.403 Sales methods and procedures.

Hazardous materials are sold in accordance with the provisions of §101–45.304 and the following special methods and procedures.

(a) Sales which offer hazardous materials shall be conducted separately from other sales. Sale catalogs or listings which offer hazardous materials shall not be mailed to all persons on the general sales mailing list but shall be sent to only those persons and entities which have expressed an interest in purchasing such materials.

(b) Sale catalogs, listings, and invitations for bids, with respect to hazardous materials, shall:

(1) Limit the materials in each lot for sale to a single Federal supply group;

(2) Indicate, in the item description, if an MSDS has been issued for the property being sold; and

(3) Indicate, in the item description, if an item is being sold only for its material content.

(c) For a bid to be considered for award, the bidder must sign the following certification:

> The bidder hereby certifies that if awarded a contract under this invitation for bids, the bidder will comply with all applicable Federal, State, and local laws, ordinances, and regulations with respect to the care, handling, storage, shipment, resale, export, or other use of the material hereby purchased. The bidder will hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or other claims of any nature arising from or incident to the handling, use, storage, shipment, resale, export, or other disposition of the hazardous items purchased.

(d) MSDSs, printed HMIS records, where applicable, or a written description in compliance with the requirements of 29 CFR 1910.1200 shall be sent

to purchasers of hazardous materials with their notice of award.

(e) Unless authorized by the appropriate GSA regional office, a holding agency shall not sell extremely hazardous property unless the property is rendered innocuous or adequate safeguards are provided. Such property shall be rendered innocuous in a manner so as to preserve the utility or commercial value of the property.

§ 101–42.404 Special requirements for the sale of hazardous materials.

Special sales requirements for certain hazardous materials are provided in § 101.42.1102. Hazardous items generally require special storage and handling. It is the responsibility of the holding agency to properly store hazardous items, to provide all necessary information to ensure that prospective bidders are informed of hazards, and to list the precautions bidders should take to protect themselves.

§ 101–42.405 Transportation of hazardous materials.

The transportation of hazardous materials is governed by the hazardous materials regulations (49 CFR parts 170–180) issued by the Department of Transportation. Except as otherwise provided below, an agency official, prior to the transportation of hazardous materials, shall certify on the shipping document, based on his/her own examination, that the materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation in accordance with the hazardous materials regulations. The shipper shall provide such certification in duplicate and give one copy to the originating carrier and retain the other for no less than 1 year. Hazardous materials sold by the Department of Defense (DOD) in packings not marked under the hazardous materials regulations may be shipped from DOD installations, provided DOD certifies in writing on a certificate or equivalency (COE) that the packing meets or exceeds requirements of the hazardous materials regulations.

§ 101–42.406 Abandonment or destruction of surplus hazardous materials and certain categories of property.

In addition to the requirements for the abandonment or destruction of surplus property prescribed in subpart 101–45.9, hazardous materials, including empty hazardous material containers, shall be abandoned or destroyed under Federal, State, and local waste disposal and air and water pollution control standards. Additional requirements for the abandonment and destruction of certain specific hazardous materials are contained in § 101–42.1102.

Subparts 101–42.5—101–42.10 [Reserved]

Subpart 101–42.11—Special Types of Hazardous Materials and Certain Categories of Property

§ 101–42.1100 Scope of subpart.

This subpart prescribes disposal procedures for certain hazardous items and lists specific Federal supply classes which may contain hazardous items.

§ 101–42.1101 Federal supply classification (FSC) groups and classes which contain hazardous materials.

(a) Hazardous material identification is required for all material which, by virtue of its potentially dangerous nature, requires controls to assure adequate safety to life, property, and the environment, and which is therefore defined as a hazardous material.

(b) The tables in paragraph (c) of this section list those FSC classes composed predominantly of hazardous materials and those FSC classes which contain a significant number of hazardous materials. Those classes that contain munitions list items (MLI) which require demilitarization are not identified in the tables because the items in those classes must be identified by the appropriate demilitarization code and processed under the procedures in § 101–42.1102–8.

(c) The tables as listed in Federal standard 313 are as follows:

FEDERAL SUPPLY CLASSES COMPOSED PREDOMINANTLY OF HAZARDOUS ITEMS

Federal Supply Class (FSC)

6810 Chemicals
6820 Dyes
6830 Gases: Compressed and liquified
6840 Pest control agents and disinfectants
6850 Miscellaneous chemical specialties
7930 Cleaning and polishing compounds and preparations
8010 Paints, dopes, varnishes, and related products
8030 Preservative and sealing compounds
8040 Adhesives
9110 Fuels, solid
9130 Liquid propellants and fuels, petroleum case
9135 Liquid propellant fuels and oxidizers, chemical base
9140 Fuel oils
9150 Oils and greases: Cutting, lubricating, and hydraulic
9160 Miscellaneous waxes, oils, and fats

FEDERAL SUPPLY CLASSES AND GROUPS WHICH CONTAIN A SIGNIFICANT NUMBER OF HAZARDOUS ITEMS

NOTE: If an item is determined to be hazardous as defined in §101–42.001, a material safety data sheet (or equivalent) should accompany the item even though the Federal supply class is not listed in this table.

Federal supply class/grp	Title	Examples of hazardous materials requiring identification
1370	Pyrotechnics	Warning fuse, fire starter.
1375	Demolition materials	Explosive device.
2520	Vehicular power transmission components	Items containing asbestos.
2530	Vehicular brake steering, axle, wheel, and track components.	Items containing asbestos.
2540	Vehicular furniture and accessories	Items containing asbestos.
2640	Tire rebuilding and tire and tube repair materials.	Items containing flammable or toxic compounds.
Group 28	Engines, turbines, and components	Engine valves containing metallic sodium.
Group 29	Engine accessories	Engine valves containing metallic sodium.
Group 30	Mechanical power transmission equipment	Equipment containing hazardous hydraulic fluids including PCBs.
Group 34	Metalworking machinery	Equipment containing hazardous hydraulic fluids including PCBs.
3433	Gas welding, heat cutting, and metalizing equipment.	Compressed gases.
3439	Miscellaneous welding, soldering and brazing supplies and accessories.	Hazardous items such as cleaners, acids, flux and supplies that contain or produce hazardous fumes.
3610	Printing, duplicating, and bookbinding equipment.	Flammable or toxic lithographic solutions.
3655	Gas generating and dispensing systems, fixed or mobile.	Items that produce hazardous fumes.
3680	Foundry machinery, related equipment and supplies.	Flammable or toxic casting compounds.
4240	Safety and rescue equipment	Items which involve oxygen, or compressed gases, or contain emitting charges.
5610	Mineral construction materials, bulk	Hazardous items such as cutback asphalt, deck and floor covering, deck and surface underlay compound, sealing compound, flight deck compound.
5660	Wallboard, building paper, and thermal insulation materials.	Asbestos cloth which has loose fibers or particles that may become airborne and materials containing formaldehyde.
5820	Radio and television communication equipment, except airborne.	Circuit cooler items that contain gases that are regarded as hazardous to the earth's ozone layer.
5835	Sound recording and reproducing equipment	Recording tape cleaners that contain hazardous cleaning fluids.
5910	Capacitors	Items that contain polychlorinated biphenyls (PCBs) or sulfuric acid.
5915	Filters and networks	Items that contain polychlorinated biphenyls (PCBs).
5920	Fuses and lightning arresters	Items that contain radioactive material.
5925	Circuit breakers	Items that contain radioactive material.
5930	Switches	Items containing radioactive materials.
5935	Connectors, electrical	Kits that contain flammable chemicals.
5950	Coils and transformers	Items containing polychlorinated biphenyls (PCBs).
5960	Electron tubes and associated hardware	Tubes which contain radioactive isotopes and require warning labels and megnetron tubes which require special precautions when being prepared for air shipment.
5965	Headsets, handsets, microphones, and speakers.	Items containing magnetic material.
5970	Electrical insulators and insulating materials	Items containing flammable solvents.
5975	Electrical hardware and supplies	Items containing asbestos.
5985	Antennas, waveguide, and related equipment	Kits that contain flammable chemicals.
5999	Miscellaneous electrical and oxide electronic components.	Contact plates that contain beryllium.
Group 61	Electric wire and power and distribution equipment.	Power factor capacitors containing PCBs.
6120	Transformers: Distribution and power station	Transformers containing PCBs.

Federal supply class/grp	Title	Examples of hazardous materials requiring identification
6135	Batteries, primary	Lead-acid, lithium and mercury batteries and alkaline (with electrolyte).
6140	Batteries, secondary	Items that are wet or moist containing corrosive or other hazardous compounds.
6145	Wire and cable, electrical	Insulated wire containing asbestos.
6220	Electric vehicular lights and fixtures	Items that contain mercury.
6230	Electric portable and hand lighting equipment	Items that contain wet batteries.
6240	Electric lamps	Items that contain mercury.
6260	Nonelectrical lighting fixtures	Items that contain mercury.
6350	Miscellaneous signal and security detection systems.	Items that contain wet batteries or radioactive material.
6505	Drugs, biologicals and official reagents	Hazadous items as defined in § 101–42.001.
6508	Medicated cosmetics and toiletries	Hazardous items as defined in § 101–42.001 subject to DOT Hazardous Materials Regulations.
6510	Surgical dressing materials	Items containing flammable solvents.
6520	Dental instruments, equipment, and supplies	Items containing flammable solvents, mercury, or asbestos.
6525	X-ray equipment and supplies: medical, dental, veterinary.	Items containing hazardous chemicals, solvents.
6625	Electrical and electronic properties measuring and testing instruments.	Items containing radioactive materials.
6640	Laboratory equipment and supplies	Items containing flammable compounds, mercury, or asbestos.
6685	Pressure, temperature, and humidity and measuring and controlling instruments.	Items containing mercury or compressed gases.
6740	Photographic	Items containing radioactive compounds.
6750	Photographic supplies	Items containing hazardous chamicals, solvents, thinners, and cements.
6780	Photographic sets, kits and outfits	Items containing hazardous chemicals, solvents, thinners, and cements.
7360	Sets, kits, and outfits; food preparation and serving.	Items containing compressed gases such as fire extinguishers.
7510	Office supplies	Hazardous items, such as thinners, cleaning fluids, flammable inks, and varnishes.
8405	Outerwear, men's	Maintenance kits containing flammable solvents.
8410	Outerwear, women's	Maintenance kits containing flammable solvents.
8415	Clothing, special purpose	Maintenance kits containing flammable solvents.
8465	Individual equipment	Maintenance kits containing flammable solvents.
8510	Perfumes, toilet preparations, and powders	Shipping containers, and pressurized containers with flammable or nonflammable propellants.
8520	Toilet soap, shaving preparations, and dentifrices.	Shipping containers, pressurized containers with flammable or nonflammable propellants.
8720	Fertilizers	Items containing weed and pest control or other harmful ingredients or because of their composition, are hazardous.
9390	Miscellaneous fabricated nonmetallic materials.	Items containing fammable solvents or asbestos.
9920	Smokers' articles and matches	Ligher fuel and matches only.
9930	Memorials; cemeterial and mortuary equipment and supplies.	Items containing formaldehyde or its solutions.

§ 101–42.1102 Special requirements for utilization, donation, sale, and abandonment or destruction of hazardous materials and certain categories of property.

§ 101–42.1102–1 Asbestos.

(a) *General.* (1) Asbestos is the common name for a group of natural minerals that occur as masses of compact or relatively long silky fibers. The Environmental Protection Agency classified asbestos as a hazardous air pollutant in 1972.

(2) Friable asbestos materials contain more than one percent asbestos by weight and can, by hand pressure, be crumbled, pulverized, or reduced to powder, thus allowing for potential release of asbestos fibers into the air.

(3) Nonfriable asbestos materials cannot, when dry, be crumbled, pulverized, or reduced to powder by hand pressure and contain asbestos which is bonded or otherwise rendered unavailable for release into the atmosphere through normal usage. However, cutting, sanding, crushing, or performing some other disruptive action on items containing nonfriable asbestos can release asbestos fibers into the air.

(4) As noted in this § 101–42.1102–1, property containing friable asbestos

normally shall not be transferred, donated, or sold. Notwithstanding these provisions, holding agencies may, on a case-by-case basis, request approval from the GSA Central Office (which will consult with EPA) to transfer, donate, or sell such property if, in the judgement of the holding agency, special circumstances warrant such action.

(b) *Utilization requirements.* (1) Excess personal property known to contain friable asbestos shall not be reported to GSA nor transferred among Federal agencies except as noted in §101–42.205(c) or paragraph (a)(4) of this section. GSA regional offices shall return any reports of excess property containing friable asbestos to the holding agency with instructions to dispose of the property under paragraph (e) of this section.

(2) Excess personal property containing nonfriable asbestos shall be reported and processed in the normal manner, as provided for in part 101–43, except that:

(i) The Standard Form (SF) 120, Report of Excess Personal Property, and SF 122, Transfer Order, Excess Personal Property, and any other appropriate documentation shall include the following warning:

WARNING

This property contains asbestos. Inhaling asbestos fibers may cause cancer. Do not release fibers by cutting, crushing, sanding, disassembling, or otherwise altering this property. End users and new owners, if transferred, should be warned. OSHA standards for personnel protection are codified at 29 CFR 1910.1001. EPA disposal standards are codified at 40 CFR part 763.

(ii) Immediately after excess determination, all items of personal property known to contain nonfriable asbestos shall be labeled with a warning substantially as follows:

WARNING

This property contains asbestos. Inhaling asbestos fibers may cause cancer. Do not release fibers by cutting, crushing, sanding, disassembling, or otherwise altering this property.

(c) *Donation requirements.* (1) Surplus personal property containing friable asbestos shall not be donated. Such property shall be disposed of under paragraph (e) of this section.

(2) Surplus personal property containing nonfriable asbestos may be donated in the normal manner as provided for in part 101–44, except that:

(i) The Standard Form (SF) 123, Transfer Order Surplus Personal Property, and any other appropriate documentation shall include the warning as provided by paragraph (b)(2)(i) of this section.

(ii) All items of personal property to be donated which contain nonfriable asbestos shall be labeled as provided by paragraph (b)(2)(ii) of this section.

(d) *Sales requirements.* (1) Surplus personal property containing friable asbestos shall not be sold. Such property shall be disposed of under paragraph (e) of this section.

(2) Surplus personal property containing nonfriable asbestos may be sold as provided for in part 101–45, except that:

(i) Any documentation which lists the property to be sold and which is prepared incident to the sale, and any printed matter which advertises the sale of personal property containing nonfriable asbestos shall include the warning as provided by paragraph (b)(2)(i) of this section.

(ii) All items of personal property to be sold which contain nonfriable asbestos shall be labeled as provided by paragraph (b)(2)(ii) of this section.

(e) *Abandonment and destruction.* (1) Excess or surplus personal property which contains friable asbestos shall be disposed of by burial in a site which meets the requirements of 40 CFR 61.156. Holding agencies should contact the nearest office of the Environmental Protection Agency for assistance with regard to disposal of asbestos containing materials (with the exception of Department of Defense activities which should contact the Defense Logistics Agency).

(2) Personal property containing nonfriable asbestos which is not transferred, donated, or sold shall be abandoned or destroyed as provided for in subpart 101–45.9. However, if the holding agency judges that the nonfriable asbestos contained in the property has the potential of becoming friable for

any reason during the process of abandonment or destruction, such property shall be disposed of as provided in paragraph (e)(1) of this section.

§ 101–42.1102–2 Polychlorinated biphenyls.

(a) *General.* (1) Polychlorinated biphenyls (PCBs) are one member of a class of chlorinated aromatic compounds which have been determined to be hazardous to health and the environment. They are used, among other things, as insulators and coolants for electric cables and components such as transformers and capacitors, as additives for extreme pressure lubricants, and as coatings in foundry use.

(2) Substances containing PCBs are divided into three classes according to the concentration of PCBs present, as measured by parts per million (ppm).

(i) Zero through 49 ppm is classified as an *excluded PCB product*.

(ii) Fifty through 499 ppm PCB is classified as *PCB item*.

(iii) Five hundred or greater ppm PCB is classified as *PCB*.

(3) Excluded PCB products (0–49 ppm PCB) are not subject to Federal restrictions and may be transferred, donated, sold, or otherwise processed under parts 101–43 through 101–46 of this chapter provided such processing conforms to the provisions of this section and all applicable State and local laws. Some States regulate PCB concentrations at a stricter level than does the Federal Government.

(4) All PCBs and PCB items to be transferred, donated, or sold shall be labeled or marked conspicuously with a warning substantially as follows:

> Caution—This item contains PCBs (polychlorinated biphenyls), a toxic environmental contaminant requiring special handling and disposal in accordance with the U.S. Environmental Protection Agency regulation (40 CFR 761), applicable State laws, and 41 CFR 101–42.1102–2. For proper disposal information, contact the nearest EPA office. For transportation requirements, see 49 CFR Parts 171–180.

(5) Unmarked or unlabeled items containing PCBs or PCB items with an unknown level of concentration of PCBs shall not be transferred, donated, or sold.

(b) *Utilization requirements.* (1) PCBs and PCB items are reported for utilization screening in accordance with § 101–42.204.

(2) Transfers of excess PCBs or PCB items shall not be approved by GSA unless:

(i) The items are intact, non-leaking, and totally enclosed.

(ii) The SF 122, Transfer Order Excess Personal Property, or other transfer document cites the specific provision in 40 CFR Part 761 that permits continued use of the item, and contains a certification that the property has been inspected by the transferee and complies with all the use, inspection, labeling, and other provisions of 40 CFR part 761.

(3) When a PCB or PCB item is transferred as excess to another agency, the receiving agency shall annotate its property accountability records to reflect the nature and extent of the PCB content and shall list the provisions of 40 CFR part 761 authorizing use of the item. If tests are conducted to ascertain the nature and extent of PCB contamination, the receiving agency shall furnish the GSA regional office with a copy of the test results. Such information shall be perpetuated on any notification or release documents when the agency disposes of the property.

(c) *Donation requirements.* (1) No PCB or PCB-contaminated items shall be approved by GSA for donation under part 101–44 unless:

(i) The certification required by § 101–42.1102(a)(4) appears on the SF 123, Transfer Order Surplus Personal Property;

(ii) The specific donee has been determined; and

(iii) A justification from the recipient is attached stating the proposed use of the property and citing the specific provision in 40 CFR part 761 that permits continued use of the item.

(2) All PCBs and PCB items must be in usable condition and in working order to be eligible for donation. Such items that are not in usable condition will not be approved for donation.

(3) Items to be donated must be intact, totally enclosed, and non-leaking.

(4) If PCBs or PCB items are donated to service educational activities or to

public airports, the Department of Defense or the Federal Aviation Administration, respectively, shall obtain the following signed warning and certification from the donee. State agencies for surplus property shall have the warning and certification typed or stamped on the face of each copy of the distribution document and signed and dated by the authorized representative of the donee organization at the time the property is issued.

Warning and certification:

The donee is aware that the item(s) listed as containing polychlorinated biphenyls (PCBs), a toxic environmental contaminant, require(s) special handling and disposal in accordance with U.S. Environmental Protection Agency regulation (40 CFR part 761) and U.S. Department of Transportation regulations codified in 49 CFR parts 171–180. The donee certifies that this item will be handled and disposed of in accordance with applicable Federal statutes and regulations and applicable State laws.

(d) *Sales requirements.* (1) Surplus PCBs or PCB items normally shall not be sold by GSA or holding agencies. These items are regarded as extremely hazardous and are to be disposed of by the holding agency under the Environmental Protection Agency regulations.

(2) Agencies may request the authority to sell, or that GSA sell, a specific PCB or PCB item. Such requests shall cite the provision in 40 CFR part 761 that authorizes sale and continued use of the specific item. Any such requests shall also include a justification for sale of the item rather than disposal under the EPA regulations.

(3) If PCBs or PCB items are to be sold, the corresponding invitation for bids (IFB), any Standard Form (SF) which lists such items, and any printed matter which advertises the sale of such items shall contain the warning as provided in paragraph (a)(4) of this section.

(e) *Abandonment and destruction.* (1) PCBs and PCB items of personal property not disposed of via utilization, donation, or sale shall be destroyed or otherwise disposed of in accordance with the Environmental Protection Agency regulation (40 CFR part 761) and applicable State laws.

(2) Holding agencies shall contact the nearest office of the EPA for assistance in complying with the provisions of 40 CFR part 761.

§ 101–42.1102–3 Controlled substances.

(a) *Utilization requirements.* (1) Excess controlled substances are not required to be reported to GSA, but are subject to the utilization screening requirements of § 101–43.311–2. Holding agencies shall make reasonable efforts to obtain utilization of excess controlled substances by offering them to those Federal agencies which certify that they are registered with the Drug Enforcement Administration (DEA), Department of Justice, and are authorized to procure the particular controlled substances requested for transfer. The certification shall include the registration number on the DEA Form 223, Certificate of Registration, issued by DEA.

(2) Holding agencies shall arrange for transfers of controlled substances under §§ 101–43.309–5 and 101–42.207.

(3) All controlled substances that a holding agency determines to be excess shall become surplus after the holding agency has complied with the utilization requirements of paragraph (a)(1) of this section.

(b) *Donation requirements.* Controlled substances shall not be donated.

(c) *Sales requirements.* Surplus controlled substances which are not required to be destroyed as provided in paragraph (d) of this section may be offered for sale by sealed bid under subpart 101–45.3 provided:

(1) The invitation for bids (IFB):

(i) Consists only of surplus controlled substances;

(ii) Requires the normal bid deposit prescribed in § 101–45.304–10;

(iii) Is distributed only to bidders who are registered with the DEA, Department of Justice, to manufacture, distribute, or dispense the controlled substances for which the bid is being submitted; and

(iv) Contains the following special condition of sale:

The bidder shall complete, sign, and return with his/her bid the certificate as contained in this invitation. No award will be made or sale consummated until after this agency has obtained from the Drug Enforcement Administration, Department of Justice, verification that the bidder is registered to manufacture, distribute, or dispense those

controlled substances which are the subject of the award.

(2) The following certification shall be made a part of the IFB (and contract) to be completed and signed by the bidder and returned with the bid:

The bidder certifies that he/she is registered with the Drug Enforcement Administration, Department of Justice, as a manufacturer, distributor, or dispenser of the controlled substances for which a bid is submitted and that the registration number is _____.

_____
Name of bidder (print or type)

_____
Signature of bidder

_____
Address of bidder (print or type)

_____
City, State, Zip code

(3) As a condition precedent to making an award for surplus controlled substances, the following shall be submitted to the Drug Enforcement Administration (DEA), Department of Justice, Washington, DC 20537, Attn: Regulatory Support Section (ODR):

(i) The name and address of the bidder(s) to whom an award is proposed to be made and the bidder(s) registration number(s);

(ii) The name and address of both the holding activity and the selling activity;

(iii) A description of the controlled substances, how those substances are packaged, and the quantity of substances proposed to be sold to the bidder;

(iv) The identification of the IFB by its number, and date on which such bid(s) expire(s); and

(v) A request for advice as to whether the bidder is a registered manufacturer, distributor, or dispenser of controlled substances.

(d) *Destruction of controlled substances.* Controlled substances shall not be abandoned, and destruction of controlled substances must be accomplished in accordance with the terms and conditions applicable to drugs, biologicals, and reagents under § 101–42.1102–5(d).

(1) The following shall be destroyed by the holding agency or State agency:

(i) Controlled substances determined surplus at one time and one place with an acquisition cost of less than $500;

(ii) Controlled substances in a deteriorated condition or otherwise unusable;

(iii) Controlled substances for sale in accordance with § 101–42.1102–3(c) but for which no satisfactory or acceptable bids were received.

(2) In addition to the requirements set forth herein, each executive agency and State agency shall comply with the DEA regulations, 21 CFR 1307.21, which provide procedures for disposing of controlled substances, or with equivalent procedures approved by DEA.

(3) Destruction of controlled substances shall be performed by an employee of the holding agency or State agency in the presence of two additional employees of the agency as witnesses to that destruction unless the special agent in charge (SAC) of the DEA Divisional Office directs otherwise.

§ 101–42.1102–4 Nuclear Regulatory Commission-controlled materials.

(a) *General.* The Nuclear Regulatory Commission (NRC) has exclusive control over licensing, use, transfer, and disposition of NRC-controlled materials.

(b) *Transfer of NRC-controlled materials.* NRC-controlled materials shall not be reported to GSA as excess personal property, nor shall they be made available for excess and surplus screening as nonreportable property. Transfer and disposition of such materials do not require GSA approval and shall be accomplished only under the applicable regulations of the NRC (see 10 CFR parts 30 through 35, 40, and 70).

(c) *Information and inquiries.* All inquiries for further information or specific instructions regarding the licensing, use, transfer, or disposition of NRC-controlled materials shall be directed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555.

§ 101–42.1102–5 Drugs, biologicals, and reagents other than controlled substances.

In addition to the requirements of subparts 101–42.2 through 101–42.4, drugs, biologicals, and reagents which are fit for human use shall be reported as provided in this § 101–42.1102–5. Drugs, biologicals, and reagents that

are controlled substances are subject to the provisions of § 101–42.1102–3.

(a) *Utilization requirements.* Excess drugs, biologicals, and reagents shall be reported or otherwise made available to GSA as provided in § 101–42.204 and subpart 101–43.3. Drugs, biologicals, and reagents other than controlled substances may be separately packaged or may be components of a drug kit. Drug kits shall be clearly labeled to identify components unfit for human use. The holding agency shall destroy, as provided in paragraph (d) of this section, both separately packaged items and kit components which have been determined by the holding agency to be unfit for human use. However, items determined unfit because of expired shelf life may be transferred for animal experimental use on a case-by-case basis subject to prior approval by GSA.

(b) *Donation requirements.* Surplus drugs, biologicals, and reagents other than controlled substances which are not required to be destroyed as provided in paragraph (d) and which are not transferred pursuant to paragraph (a) of this section may be donated to eligible organizations as provided in subpart 101–42.3 and part 101–44. Drugs, biologicals, and reagents which are unfit for human use will not be offered for donation. However, items determined unfit because of expired shelf life may be donated for animal experimental use on a case-by-case basis subject to prior approval by GSA.

(1) When surplus drugs, biologicals, and reagents are considered for donation, a letter of clearance shall be obtained by the State agency or designated donee from the Food and Drug Administration (FDA) indicating that the items requested may be safely donated. The letter of clearance must accompany the SF 123. Items which do not fall within the purview of FDA, or which FDA indicates are unsuitable, will not be considered by GSA for donation.

(2) For purposes of obtaining the letter of clearance from FDA, the State agency or designated donee shall be responsible for obtaining samples from the holding agency, providing these samples to FDA, and ensuring the security of the samples while in transit. Before laboratory examinations are undertaken by FDA, an estimate of the expected cost of the quality assurance examination shall be furnished by FDA to the State agency or donee. Payment of any costs for laboratory examinations for quality assurance of samples shall be arranged by the State agency or donee.

(3) Surplus drugs, biologicals, and reagents requested for donation by State agencies shall not be transported by the State agency or stored in its warehouse prior to distribution to donees. Arrangements will be made by the State agency for the donee to make direct pickup at the holding agency after approval by GSA and after notification by the holding agency that the property is ready for pickup.

(4) Standard Forms 123 from a State agency requesting surplus drugs, biologicals, and reagents for donation shall not be processed or approved by GSA until it has been determined by the GSA donation representative that the specific donee is legally licensed to administer, dispense, store, or distribute such property.

(5) The SF 123 shall also contain a statement that:

(i) The property is being requested for donation to a specific donee whose complete name and address, including the name and telephone number of the donee's authorized representative, appear on the front of the SF 123 in block 12, and that a copy of the donee's license, registration, or other legal authorization to administer, dispense, store, or distribute such property is attached and made a part of the SF 123;

(ii) The items will be distributed only to institutions licensed and authorized to administer and dispense such items or to organizations authorized to store such items; and

(iii) In addition to the normal certifications required to be executed by authorized representatives of donee institutions or organizations when property is acquired by donation, the State agency shall obtain a certification from the donee indicating that:

(A) The items transferred to the donee institution or organization will be safeguarded, dispensed, and administered under competent supervision;

(B) Adequate facilities are available to effect full accountability and proper

storage of the items under the Federal, State, and local statutes governing their acquisition, storage, and accountability;

(C) The administration or use of the items requested shall be in compliance with the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 301–394).

(c) *Sales requirements.* Surplus drugs, biologicals, and reagents other than controlled substances which are not required to be destroyed as provided in paragraph (d) and which are not transferred pursuant to paragraph (a) or (b) of this section may be offered for sale by sealed bid under the provisions of subparts 101–45.3 and 101–42.4. The following safeguards and instructions shall be observed to ensure stability, potency, and suitability of the product and its labeling for use in civilian channels:

(1) Before reporting the surplus drugs, biologicals, and reagents to the selling agency pursuant to the provisions of §§ 101–45.303 and 101–42.402, holding agencies shall request that an examination be made by the Field Scientific Coordination Staff, ACFA-CF–30, located in the appropriate FDA district office, of surplus unexpired drugs and reagents, having an acquisition cost of $500 or more per manufacturer's lot/batch number.

(i) When requesting such an examination, FDA requires the submission of a list and one sample of each of the drugs to be examined.

(ii) Additional samples may be requested if necessary for laboratory examination. Reimbursement for examination of the surplus drugs or reagents may be required by FDA. Before laboratory examinations are undertaken, FDA will give the inquiring agency an estimate of the expected costs. If, under subpart 101–45.9, the cost of the quality assurance is not justified by the value of the material involved, the lot or lots may be destroyed.

(iii) The reporting document prescribed in § 101–45.303(b) shall have attached to it a copy of the letter received by the reporting agency from FDA stating that the articles offered have been reviewed and may appropriately be distributed or sold, subject when necessary to specified limitations.

(2) Surplus drugs, biologicals, and reagents normally shall not be physically transferred to the selling agency but should remain at the holding agency for precautionary and safety measures.

(3) Surplus drugs, biologicals, and reagents shall be sold only to those entities which are legally qualified to engage in the sale, manufacture, or distribution of such items.

(4) Sales of surplus drugs, biologicals, and reagents other than controlled substances shall be processed as follows:

(i) The invitation for bids (IFB) shall:

(A) Consist only of surplus drugs, biologicals, and reagents;

(B) Contain the expiration date of material being offered for sale;

(C) Describe the composition of the material being offered for sale;

(D) Require the normal bid deposit prescribed in § 101–45.304–10; and

(E) Contain the following special condition of sale:

The bidder shall complete, sign, and return with his/her bid the certification as contained in this invitation. No award will be made or sale consummated until after this agency has determined that the bidder is legally licensed to engage in the manufacture, sale, or distribution of drugs.

(ii) The following certification shall be made a part of the invitation for bids (and contract), to be completed and signed by the bidder, and returned with the bid with a copy of his/her license. Failure to sign the certification may result in the bid being rejected as nonresponsive.

The bidder certifies that he/she is legally licensed to engage in the manufacture, sale, or distribution of drugs, and proof of his/her license to deal in such materials is furnished with this bid.

Name of bidder (print or type)

Signature of bidder

Address of bidder (print or type)

City, State, ZIP code

(d) *Destruction of surplus drugs, biologicals, and reagents.* (1) Surplus drugs, biologicals, and reagents shall

not be abandoned under any circumstances. The following shall be destroyed by the holding agency under the provisions of this paragraph (d):

(i) Surplus drugs, biologicals, and reagents determined by the holding agency to be unsafe because of deterioration or overage condition, in open or broken containers, recommended for destruction by FDA, unfit for human consumption, or otherwise unusable; and

(ii) Surplus drugs, biologicals, and reagents which have been offered for sale under the provisions of paragraph (c) of this section but for which no satisfactory or acceptable bid or bids have been received.

(2) When surplus drugs, biologicals, and reagents are required to be destroyed by the holding agency or State agency, they shall be destroyed in such a manner as to ensure total destruction of the substance to preclude the use of any portion thereof. When major amounts are to be destroyed, the action shall be coordinated with local air and water pollution control authorities.

(3) Destruction of surplus drugs, biologicals, and reagents shall be performed by an employee of the holding agency or State agency in the presence of two additional employees of the agency as witnesses to that destruction.

(i) Disposal of Resource Conservation and Recovery Act (RCRA) regulated, noncontrolled, condemned hazardous substances in Federal supply class (FSC) 6505 shall be destroyed without the witnessing by two employees of the agency. The controls which the Environmental Protection Agency places upon the disposal of RCRA regulated noncontrolled drugs, 40 CFR part 260 *et seq.,* are sufficiently stringent to ensure that these drugs will be destroyed without agency witnessing.

(ii) It is the holding agency's responsibility to take all necessary measures to ensure that contractor performance is in accordance with the provisions of this §101–42.1102–5.

(4) When surplus drugs, biologicals, and reagents have been destroyed, the fact, manner, and date of the destruction and type and quantity destroyed shall be so certified by the agency employee charged with the responsibility for that destruction. The two agency employees who witnessed the destruction shall sign the following statement, except as noted in paragraph (d)(3) of this section, which shall appear on the certification below the signature of the certifying employee:

I have witnessed the destruction of the (drugs, biologicals, and reagents) described in the foregoing certification in the manner and on the date stated herein:

Witness	Date
Witness	Date

(5) Items mentioned parenthetically in the statement contained in paragraph (d)(5) of this section which are not applicable at the time of destruction shall be deleted from the statement. The signed certification and statement of destruction shall be made a matter of record and shall be retained in the case files of the holding agency or State agency.

§101–42.1102–6 Noncertified and certified electronic products.

(a) *Utilization requirements.*(1) Excess electronic items for which radiation safety performance standards are prescribed by FDA under 21 CFR Part 1000 shall be reported or otherwise made available for transfer to Federal agencies under subparts 101–43.3 and 101–42.2. Excess reports shall identify noncertified electronic products and shall contain a statement that the items may not be in compliance with applicable radiation safety performance standards prescribed by FDA under 21 CFR Part 1000. Certified electronic products may be reported and transferred under the procedures in part 101–43.

(2) Transfers of noncertified electronic products among Federal agencies shall be accomplished as set forth in §§101–42.207, 101–43.309, and paragraph (a) of this section. The transfer order must contain a certification that the transferee is aware of the potential danger in using the item without a radiation test to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standard prescribed for the item under 21 CFR Part 1000 and agrees to accept the item from

the holding agency under these conditions.

(b) *Donation requirements.* (1) Surplus noncertified and certified electronic products not required for transfer as excess personal property to Federal agencies under paragraph (a) of this section shall be made available for donation screening as provided in subpart 101–42.3 and part 101–44 and as follows:

(i) Under paragraph (b)(2) of this section in the case of:

(A) Noncertified color television receivers;

(B) Certified and noncertified diagnostic X-ray systems and their major components;

(C) Certified and noncertified cabinet X-ray systems;

(D) Noncertified laser products; or

(E) Any other electronic products subject to an FDA performance standard.

(ii) Only under conditions of destructive salvage in the case of noncertified cold-cathode gas discharge tubes, noncertified black and white television receivers, and noncertified microwave ovens.

(2) Donation of electronic products designated in paragraph (b)(1)(i) of this section shall be accomplished as provided in § 101–44.109 provided the State agency, Department of Defense (DOD), or Federal Aviation Administration (FAA):

(i) Provides the applicable State radiation control agency (see § 101–45.4809) with a copy of the SF 123 and the name and address of the donee; and

(ii) Requires the donee to certify on the SF 123 that it:

(A) Is aware of the potential danger in using the product without a radiation test to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standard prescribed for the item under 21 CFR part 1000, and agrees to accept the item from the holding agency for donation under those conditions;

(B) Agrees the Government shall not be liable for personal injuries to, disabilities of, or death of the donee or the donee's employees, or any other person arising from or incident to the donation of the item, its use, or its final disposition; and

(C) Agrees to hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the donation of the item, its use, or its final disposition.

(c) *Sales requirements.* (1) The sale of the following certified and noncertified surplus electronic products which are not required for transfer or donation shall be accomplished under § 101–45.304, subpart 101–42.4, and the special conditions of sale in this paragraph (c).

(i) Noncertified color and black and white television receivers;

(ii) Noncertified microwave ovens;

(iii) Noncertified and certified diagnostic X-ray systems and their major components;

(iv) Noncertified and certified cabinet X-ray systems;

(v) Noncertified laser products;

(vi) Noncertified cold-cathode gas discharge tubes under conditions of scrap or destructive salvage; and

(vii) Any other noncertified electronic product for which FDA may promulgate a performance standard.

(2) The IFB shall contain a notice to bidders substantially as follows:

> Purchasers are warned that the item purchased herewith may not be in compliance with Food and Drug Administration radiation safety performance standards prescribed under 21 CFR part 1000, and use may constitute a potential for personal injury unless modified. The purchaser agrees that the Government shall not be liable for personal injuries to, disabilities of, or death of the purchaser, the purchaser's employees, or to any other persons arising from or incident to the purchase of this item, its use, or disposition. The purchaser shall hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to purchase or resale of this item. The purchaser agrees to notify any subsequent purchaser of this property of the potential for personal injury in using this item without a radiation survey to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standard prescribed for the item under 21 CFR part 1000.

(3) Within 30 calendar days following award, the selling agency shall provide the State radiation control agency for the State in which the buyer is located (see § 101–45.4809) with a written notice of the award that includes the name

and address of the purchaser and the description of the item sold.

(d) *Abandonment or destruction.* Noncertified and certified electronic products shall be abandoned under the provisions of subpart 101–45.9 and §101–42.406.

§101–42.1102–7 Lead-containing paint and items bearing lead-containing paint.

(a) *General*—(1) *Health hazard.* Lead is a cumulative toxic heavy metal which, in humans, exerts its effects on the renal, hematopoietic, and nervous systems. Lead poisoning occurs most commonly when lead-containing paint chips in the environment are chewed or ingested by children or when lead-containing paint is burned off.

(2) *Banned hazardous products.* The following consumer products, in accordance with 16 CFR part 1303 and exemptions stated therein unless exempted by 16 CFR part 1303, are banned hazardous products:

(i) Paint and other similar surface coating materials for consumer use which are included within the definition of lead-containing paint.

(ii) Toys and other articles intended for use by children that bear lead-containing paint.

(iii) Furniture articles that bear lead-containing paint.

(3) *Disposal of banned hazardous products.* When a banned hazardous product described in paragraph (a)(2) of this section becomes excess to a holding agency, it shall be destroyed under paragraph (e) of this section except that those furniture articles that bear lead-containing paint may be stripped and refinished with a nonhazardous coating in lieu of destruction. Stripping shall be in conformance with Occupational Safety and Health Administration (OSHA) regulations at 29 CFR 1910.1025 which specify maximum permissible levels of exposure to airborne concentrations of lead particles and set forth methods of protection.

(4) *Exemptions.* (i) The categories of products listed in paragraph (a)(4)(ii) of this section are exempted from the scope of the ban established by 16 CFR Part 1303, provided that before any utilization, donation, or sales action:

(A) These products bear on the main panel of their label, in addition, to any labeling that may be otherwise required, the signal word *Warning* and the following statement: *Contains Lead. Dried Film of This Paint May be Harmful If Eaten or Chewed.*

(B) These products also bear on their label the following additional statement or its practical equivalent:

> Do not apply on toys and other children's articles, furniture, or interior surfaces of any dwelling or facility which may be occupied or used by children. Do not apply on exterior surfaces of dwelling units, such as window sills, porches, stairs, or railings, to which children may be commonly exposed.
>
> KEEP OUT OF REACH OF CHILDREN

(C) The additional labeling requirements contained in 16 CFR 1303.3 and 16 CFR 1500.121 are followed.

(ii) The following products are exempt from the scope of the ban established by 16 CFR part 1303, provided they comply with the requirements of paragraph (a)(4)(i) of this section:

(A) Agricultural and industrial equipment refinish coatings.

(B) Industrial (and commercial) building and equipment maintenance coatings, including traffic and safety marking coatings.

(C) Graphic art coatings (i.e., products marketed solely for application on billboards, road signs, and similar uses and for identification marking in industrial buildings).

(D) Touchup coatings for agricultural equipment, lawn and garden equipment, and appliances.

(E) Catalyzed coatings marketed solely for use on radio-controlled model-powered aircraft.

(iii) The following products are exempt from the scope of the ban established by 16 CFR part 1303 (no cautionary labeling is required):

(A) Mirrors which are part of furniture articles to the extent that they bear lead-containing backing paint.

(B) Artists' paints and related materials.

(C) Metal furniture articles (but not metal children's furniture) bearing factory-applied (lead) coatings.

(b) *Utilization requirements.* (1) Excess lead-containing paint and consumer products bearing lead containing paint which are exempt from the scope of the

ban and are properly labeled as required by 16 CFR part 1303 and paragraph (a)(4) of this section shall be reported or otherwise made available to GSA under §§ 101–43.311 and 101–42.204.

(2) Lead-containing paint and consumer products bearing lead-containing paint available for further Federal use as provided in paragraph (b)(1) of this section may be transferred under §§ 101–43.309 and 101–42.207. The warning statement on the transfer order shall be substantially the same as the label statements required by paragraphs (a)(4)(i) (A) through (C) of this section, and such information shall be made a part of the accountable record of the transferee agency.

(c) *Donation requirements.* (1) Surplus lead-containing paint and consumer products bearing lead-containing paint which are exempt from the scope of the ban, and are properly labeled as required by 16 CFR part 1303 and paragraph (a)(4) of this section may be donated.

(2) The hazardous warning statement on the SF 123 shall be the same as the label statements required by paragraphs (a)(4)(i) (A) through (C) of this section. The recipient shall maintain the hazardous warning statements in the inventory records for the property and furnish appropriate warning information to subsequent recipients. The SF 123 and any other transaction documentation for such property shall contain a certification substantially as follows:

> The property requested herein shall be used only as specified in 16 CFR 1303.3 and in no case shall be contacted by children. I agree the Government shall not be liable for personal injuries to, disabilities of, or death of the donee's employees, or any other person arising from or incident to the donation of this property, its use, or its final disposition; and to hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions or claims of any nature arising from or incident to the donation of this property, its use, or its final disposition.

(d) *Sales requirements.* (1) Lead-containing paint and consumer products bearing lead-containing paint which are exempt from the scope of the ban and are properly labeled as required by 16 CFR part 1303 and paragraph (a)(4) of this section may be sold under § 101–45.304, Subpart 101–42.4, and the special requirements of this paragraph (d).

(2) IFBs for such property shall clearly state the hazardous warning statements contained in paragraphs (a)(4)(i) (A) through (C) of this section and appropriate agreement clauses. The bid page shall contain a certification substantially as follows which must be properly executed. Failure to sign the certification may result in the bid being rejected as nonresponsive.

> I certify that I have read and fully comprehend the aforementioned terms and conditions of this sale. I shall comply with the applicable Consumer Product Safety Commission regulations set forth in 16 CFR part 1303 if I am the successful bidder. I further agree the Government shall not be liable for personal injuries to, disabilities of, or death of any persons arising from or incident to the sale of this property, its uses, or its final disposition; and to hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the sale of this property, its use, or its final disposition.

(3) Lead-containing paint and consumer products bearing lead-containing paint shall not be sold under the limited sales by holding agencies authority in § 101–45.304.

(e) *Abandonment and destruction.* In no case shall lead-containing paint or consumer products bearing lead-containing paint be abandoned in a manner that would allow acquisition and use of such property. Such products shall be disposed of under § 101–42.406. Empty cans/drums in which lead-containing paint was stored shall also be disposed of in accordance with this § 101–42.1102–7.

§ 101–42.1102–8 United States Munitions List items which require demilitarization.

(a) *General.* The United States Munitions List is located in 22 CFR part 121. A system of demilitarization codes has been developed and an appropriate code assigned to each Munitions List Item (MLI) to describe what, if any, restrictions or actual demilitarization requirements apply to each item. These codes, in addition to demilitarization policy and procedures for all surplus military items which are owned, procured by, or under the control of the

Department of Defense, are contained in the Defense Demilitarization Manual (DoD 4160.21–M–1). This §101–42.1102–8 applies only to MLIs and is to be used in conjunction with guidance in parts 101–42, 101–44, and 101–45.

(b) *Utilization requirements.* (1) Federal agencies acquiring MLIs which require demilitarization shall perpetuate the demilitarization codes in their property records and on subsequent reports of excess personal property submitted to GSA. Demilitarization shall be a condition of transfer of excess MLIs.

(2) Utilization without demilitarization of other than classified material is authorized only under the conditions cited in the Defense Demilitarization Manual, DoD 4160.21–M–1.

(c) *Donation requirements.* (1) Donation without demilitarization of other than classified material is authorized only under the conditions cited in the Defense Demilitarization Manual, DoD 4160.21–M–1.

(2) A State agency requesting the transfer of donation of MLIs identified as requiring demilitarization shall include the appropriate demilitarization code on the SF 123, and a statement that the State agency will obtain from the donee a certification that prior to further disposition, demilitarization of the property shall be performed by the donee under the demilitarization instructions for the code as set forth in the Defense Demilitarization Manual, DoD 4160.21–M–1. In the case of MLIs requested for donation by service educational activities or public airports pursuant to the provisions of subparts 101–44.4 and 101–44.5 respectively, the donee shall include a statement on the SF 123 certifying that appropriate demilitarization of the property will be accomplished under the requirements of the codes before further disposition.

(3) Before disposing of MLIs identified as requiring demilitarization, donees may request demilitarization instructions from GSA through the State agency if the donation was made pursuant to subpart 101–44.2. Demilitarization instructions for such items donated to public airports, under subpart 101–44.5, may be requested through the Federal Aviation Administration. Demilitarization instructions for such items donated to service educational activities under subpart 101–44.4 may be obtained directly from the Item Technical Manager within DOD for the item involved.

(4) Demilitarization of property to be donated to public bodies under subpart 101–44.7 shall be accomplished in a manner to preserve so far as possible any civilian use or commercial value of the property, as prescribed in the minimum demilitarization requirements of the Defense Demilitarization Manual, DoD 4160.21–M–1.

(d) *Sales requirements.* (1) Except for sales authorized by statute, sales of ''explosives'' and ''ammunition components'' authorized by paragraphs (d) (2) and (3) of this section, or specialized sales authorized by the Secretary of Defense, MLIs identified as requiring demilitarization shall not be reported for public sale without first being demilitarized under the requirements of the assigned code in the Defense Demilitarization Manual, DoD 4160.21–M–1 or requiring demilitarization under the terms and conditions of sale. GSA will, as necessary, refer technical questions on demilitarization to the Department of Defense.

(2) *Explosives.* For the purpose of this section, the term *explosive* means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, igniters, and any other items appearing in the explosives list issued by the Secretary of the Treasury (18 U.S.C. 841(d)). The explosives list is published and revised at least annually in the Federal Register by the Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, as required by 27 CFR 55.23. The following procedures shall apply in any disposal of explosives:

(i) All explosives offered for sale shall be properly identified in the offering with respect to their hazardous characteristics.

(ii) All explosives shall be labeled by the holding agency before shipment so that their hazardous or dangerous

character will be immediately evident upon inspection.

(iii) Purchasers of explosives shall be required, as a condition of sale, to execute the following certification:

It is hereby certified that the purchaser will comply with all applicable Federal, State, and local laws, ordinances, and regulations with respect to the care, handling, storage, shipment, resale, export, and other use of the materials, hereby purchased, and that he/she is a user of, or dealer in, said materials and will comply with all applicable Federal, State, and local laws. This certification is made in accordance with and subject to the penalties of Title 18, Section 1001, the United States Code, Crime and Criminal Procedures.

(3) *Ammunition components.* The term ''ammunition components'' means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm. The transportation of primers or propellent powder is governed by the Hazardous Materials Regulations (49 CFR parts 170–189) promulgated by the Department of Transportation. Purchasers of such materials are responsible to certify, based on their own examination, that the materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation in accordance with the Hazardous Materials Regulations. So that bidders will be notified of the special requirements concerning the purchase and transportation of usable ammunition components, the following statement shall be included in the IFBs and shall be made a part of the contract by including in it the bid form to be submitted by the bidders:

Item No. _____ contains ammunition components offered for sale in this invitation. The undersigned certifies that he/she will comply with all applicable local, State, and Federal laws and regulations concerning ammunition components.

(4) *Scrap ammunition components.* Ammunition components not usable or suitable for reuse as components of ammunition shall be reported and may be sold as scrap (for basic material content). With regard to such sale, the following statement shall be included in the invitation for bid and shall be made a part of the contract:

I, _____, certify that ammunition components purchased by me as Item No. _____, will not be used for the original manufactured purpose.

(e) *Abandonment and destruction requirements.* Besides the requirement of subpart 101–45.9, surplus munitions list items which require demilitarization shall be abandoned or disposed of under the requirements of § 101–42.406, but only after performance of demilitarization under the requirements of the assigned code in the Defense Demilitarization Manual, DoD 4160.21–M–1.

§ 101–42.1102–9 Acid contaminated and explosive contaminated property.

(a) *Utilization requirements.* (1) Acid contaminated or explosive contaminated property shall be considered extremely hazardous property, and as such is not to be reported to GSA as excess personal property. Such property may be available for transfer to qualified recipients; i.e., those who are able to submit valid justifications as required by paragraph (a)(3) of this section.

(2) Excess acid contaminated or explosive contaminated property shall be properly labeled under the labeling requirements of § 101–42.204.

(3) With the authorization of the appropriate GSA regional office, holding activities may transfer acid contaminated or explosive contaminated property in conformance with the requirements of §§ 101–43.309–5 and 101–42.207. In addition, the requesting agency must submit a written justification with the transfer order explaining the specific need for and the anticipated uses of the requested acid or explosive contaminated property, and certify that personnel in contact with the property shall be informed of the hazard and shall be qualified to safely handle or use it.

(4) The degree of decontamination and the responsibility for performance and costs of any decontamination shall be upon such terms as agreed to by the owning agency and the receiving agency.

(5) The receiving agency is responsible for all transportation arrangements and costs of acid contaminated or explosive contaminated property approved for transfer. Such property

shall be transported in compliance with § 101–42.405.

(b) *Donation requirements.* Acid contaminated and explosive contaminated property may be donated only with the authorization of the appropriate GSA regional office.

(c) *Sales requirements.* (1) With the authorization of the appropriate GSA regional office, holding activities may sell acid contaminated or explosive contaminated property under § 101–45.304, subpart 101–42.4, and the additional special requirements of this paragraph (c). Agencies shall include in reports of such property for sale on SF 126, a statement of the degree of contamination and any decontamination that has been performed, such as a washdown.

(2) Acid or explosive contaminated property shall be considered extremely hazardous property as defined in § 101–42.001, and shall be described as such in sales offerings. Normally, acid or explosive contaminated property shall be sold with a condition that the purchaser sufficiently decontaminate the property to the degree that it is no longer extremely hazardous.

(3) IFBs for acid or explosive contaminated property shall clearly state the specific hazards associated with the items offered, along with known special handling, transportation, and personnel protection requirements. The bid page shall contain a certification substantially as follows which must be properly executed by the bidder in order for the bid to be responsive:

CERTIFICATION: It is hereby certified that the purchaser will comply with all the applicable Federal, State, and local laws ordinances and regulations with respect to the care, handling, storage, and shipment, resale, export, and other use of the materials, hereby purchased, and that he/she is a user of, or dealer in, said materials and will comply with all applicable Federal, State, or local laws and regulations. This certification is made in accordance with and subject to the penalties of Title 18, Section 1001, the United States Code, Crime and Criminal Procedures.

(d) *Abandonment and destruction.* Acid contaminated or explosive contaminated property shall not be abandoned, and when destroyed, such destruction shall be accomplished under the provisions of subparts 101–45.9 and § 101–42.406.

§ 101–42.1102–10 Firearms.

(a) *Utilization requirements.* (1) In accordance with § 101–43.4801(c) of this chapter, reports of excess reportable firearms and requests for their transfer must be submitted to the:

General Services Administration (7FP–8), Denver, CO 80225–0506.

(2) Firearms may be transferred only to those Federal agencies authorized to acquire firearms for official use. Such transfers must be executed under § 101–43.309–5 of this chapter and, when applicable, § 101–42.1102–8(b). Additional written justification from the requesting agency may be required.

(b) *Donation requirements.* (1) Only handguns, rifles, shotguns, and individual light automatic weapons, all less than .50 caliber in FSC 1005, and rifle and shoulder fired grenade launchers in FSC 1010, assigned a disposal condition code of 4 or better, as defined in § 101–43.4801(e) of this chapter, may be offered by GSA (7FP–8) to State agencies for donation to eligible law enforcement entities for law enforcement purposes only. Donations are limited to only those eligible law enforcement entities whose primary function is the enforcement of applicable Federal, State, and/or local laws, and whose compensated law enforcement officers have powers to apprehend and arrest. Such donations must be executed under § 101–42.1102–8(c) as applicable.

(2) Each SF 123 submitted to GSA must be accompanied by a conditional transfer document, signed by both the intended donee and the State agency, and containing the special terms, conditions, and restrictions prescribed by GSA, and any other required forms or information.

(3) The restrictions on donated firearms shall be in perpetuity, and they may not be released by the State agency without prior written approval from GSA. The donee must notify the State agency when donated firearms are no longer needed. The State agency may, with GSA approval, reassign firearms from one donee to another donee within the state or to another SASP (see

§101–44.205(f) of this chapter); otherwise, firearms must be delivered directly to the place of destruction to be destroyed by either the donee or the State agency. Destruction must be such that each complete firearm is rendered completely inoperable and incapable of being made operable for any purpose except for the recovery of basic material content in accordance with paragraph (c) of this section. The donee and a representative from the State agency, or designee, must both state in writing that the firearms were so destroyed and the original signed statement must be maintained by the State agency.

(4) Surplus firearms approved for donation must be shipped or transported directly from the holding Federal agency to the donee, and may not be stored in the State agency warehouse; or, arrangements may be made by the State agency for the designated donee to make a direct pickup at the holding agency.

(5) Firearm ammunition may not be donated.

(c) *Sales requirements.* Surplus firearms may be sold only for scrap after total destruction by crushing, cutting, breaking, or deforming to be performed in a manner to ensure that the firearms are rendered completely inoperative and to preclude their being made operative. Such sale shall be conducted under subpart 101–45.3.

(d) *Foreign gifts of firearms.* Firearms reported to GSA as foreign gifts may be offered for transfer to Federal agencies, including law enforcement activities. Foreign gifts of firearms shall not be donated. Such gifts not required for Federal use may be sold only to the gift recipient at the discretion of GSA. A certification that the purchaser shall comply with all State and local laws regarding purchase and possession of firearms must be received by GSA prior to release of such firearms to the purchaser. Firearms not transferred to a Federal agency or sold to the recipient shall be disposed of in accordance with paragraph (c) or (e) of this section.

(e) *Abandonment and destruction of firearms.* Firearms shall not be abandoned. Destruction of firearms is subject to the requirements set forth in paragraph (c) of this section. Such destruction shall also be accomplished under the provisions of subpart 101–45.9, §101–42.406 and, when applicable, §101–42.1102–8.

(f) *Abandoned and forfeited firearms.* In addition to the requirements of this part 101–42, forfeited or voluntarily abandoned firearms shall be subject to the provisions of part 101–48.

[57 FR 39121, Aug. 28, 1992, as amended at 64 FR 40772, July 28, 1999]

PART 101–43—UTILIZATION OF PERSONAL PROPERTY

AUTHORITY: 40 U.S.C. 486(c); Sec. 205(c), 63 Stat. 390.

SOURCE: 65 FR 31218, May 16, 2000, unless otherwise noted.

§101–43.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For information on the disposition of excess personal property previously contained in this part, see FMR part 36 (41 CFR part 102–36).

PART 101–44—DONATION OF SURPLUS PERSONAL PROPERTY

AUTHORITY: 40 U.S.C. 486(c); Sec. 205(c), 63 Stat. 390.

SOURCE: 67 FR 2584, Jan. 18, 2002, unless otherwise noted.

§101–44.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For information on donation of surplus personal property previously contained in this part, see FMR part 102–37 (41 CFR part 102–37).

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).

SOURCE: 68 FR 51420, Aug. 26, 2003, unless otherwise noted.

§ 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 contractor or the Defense Logistics Agency.

§ 101–45.003 Vehicle reconditioning.

(a) For the purpose of this section, vehicle reconditioning means restoring or improving the appearance of any motorized passenger or cargo vehicle designed primarily for highway use that is to be disposed of through surplus or exchange/sale procedures to the general public.

(b) To produce the maximum net proceeds, holding agencies shall determine, prior to sale, the appropriate level of reconditioning commensurate with the estimated fair market value of each vehicle scheduled for sale.

(c) Holding agencies shall arrange for the reconditioning to be accomplished just prior to the dates scheduled for public inspection and sale.

(d) For all motor vehicles above salvage condition or value, the minimum level of reconditioning required is as follows:

(1) For the driver and passenger compartment—

(i) Remove debris;

(ii) Vacuum floors and seats;

(iii) Clean dashboard, instrument panel, armrests, door panels, and rear shelf;

(iv) Remove Government stickers or decals without marring surface;

(v) Clean ashtrays and glove compartment; and

(vi) Wash windows.

(2) For the trunk—

(i) Remove debris;

(ii) Vacuum; and

(iii) Position spare tire and tools.

(3) For the engine compartment—

(i) Remove debris;

(ii) Replenish lubricants and coolant to required levels and replace missing caps/covers; and

(iii) Charge battery, if necessary.

(4) For the exterior—

(i) Remove Government stickers or decals without marring paint finish;

(ii) Wash exterior, including glass, door jambs, tires, and wheel rims/covers; and

(iii) Inflate tires to recommended pressure.

(e) Additional reconditioning of selected motor vehicles should be considered when such action is expected to substantially improve the return on the sale of a vehicle. Generally, a return of $2 for each dollar invested should be estimated to justify additional reconditioning. Additional reconditioning should include some or all of the following:

(1) For the driver and passenger compartment—

(i) Shampoo seats, dashboard, headliner, door panels, and floor covering;

(ii) Spray-dye floor carpets and mats;

(iii) Polish where appropriate;

(iv) Apply vinyl/rubber reconditioners where appropriate; and

(v) Replace missing knobs, nameplates, and light lenses and/or bulbs.

(2) For the trunk—

(i) Wash interior surface; and

(ii) Spray-dye mats.

(3) For the engine compartment—

(i) Clean major surface areas (air cleaner cover, battery, *etc.*);

(ii) Wash or steam clean, when necessary;

(iii) Replace air and fuel filters; and

(iv) Make minor adjustments and/or replacements to engine systems (electrical, fuel, cooling, *etc.*) to ensure that the vehicle will start and idle correctly during inspection by prospective purchasers.

(4) For the exterior—

(i) Rotate tires, including the spare, to ensure that the best tires are displayed on the vehicle. Properly inflate, clean, and apply rubber conditioner or black tire paint to all tires;

(ii) Wash and blacken wheel splash shields;

(iii) Apply touch-up paint to nicks and scratches;

(iv) Wax and polish;

(v) Replace missing or damaged molding, nameplates, lenses, caps, mirrors, antennas, and wheel covers;

(vi) Repaint exterior of vehicle to original factory color if scrapes, dings, *etc.*, are excessive;

(vii) Repair minor body damage;

(viii) Apply decorative molding and/or striping to add eye appeal; and

(ix) Obtain State safety and/or emission control inspections, if required.

(f) Reconditioning, when possible, should be accomplished no earlier than the calendar week prior to the scheduled sale date.

(g) Agencies should contact the nearest General Services Administration Federal Supply Service Bureau office for information regarding the availability of reconditioning services.

(h) The expense of reconditioning is the responsibility of the holding agency.

§ 101–45.004 All terrain vehicles.

(a) Three-wheeled all terrain vehicles (ATVs) may be offered for public sale only after they have been mutilated in a manner to prevent operational use.

(b) Four-wheeled ATVs no longer needed by the Government can be exchanged with a dealer under the provisions of part 102–39 of the Federal Management Regulation. If the unit cannot be exchanged, four-wheeled ATVs may be offered for public sale only after they have been mutilated in a manner to prevent operational use.

PART 101–46—REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

AUTHORITY: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

SOURCE: 67 FR 48614, Sept. 21, 2001, unless otherwise noted.

§ 101–46.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For information on replacement of personal property pursuant to the exchange/sale authority previously contained in this part, see FMR part 39 (41 CFR part 102–39).

PART 101–47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

AUTHORITY: 40 U.S.C. 486(c); The Federal Property and Administrative Services Act of 1949, as amended, Sec. 205(c), 63 Stat. 390.

SOURCE: 67 FR 76883, Dec. 13, 2002, unless otherwise noted.

§ 101–47.0 Cross-reference to the Federal Management Regulation (FMR) 41 CFR chapter 102 parts 1 through 220).

For information on utilization and disposal of real property, *see* FMR part 102–75 (41 CFR part 102–75).

PART 101–48—UTILIZATION, DONATION, OR DISPOSAL OF ABANDONED AND FORFEITED PERSONAL PROPERTY

Sec.

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101–48.4901 [Reserved]
101–48.4902 GSA forms.
101–48.4902–18 GSA Form 18, Application of Eleemosynary Institution.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 42 FR 55813, Oct. 19, 1977, unless otherwise noted.

§ 101–48.000 Scope of part.

This part prescribes the policies and methods governing the utilization, donation, and disposal of abandoned and forfeited personal property under the custody or control of any Federal agency in the United States, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands. In addition to the requirements of this part 101–48, the disposition of

abandoned and forfeited hazardous materials shall be accomplished in accordance with part 101–42.

[57 FR 39137, Aug. 28, 1992]

§ 101–48.001 Definitions.

For the purposes of this part 101–48, the following terms shall have the meanings set forth in this section.

§ 101–48.001–1 Abandoned or other unclaimed property.

Abandoned or other unclaimed property means personal property that is found on premises owned or leased by the Government and which is subject to the filing of a claim therefor by the former owner(s) within 3 years from the vesting of title in the United States.

§ 101–48.001–2 Distilled spirits.

Distilled spirits, as defined in the Federal Alcohol Administration Act (27 U.S.C. 211), as now in force or hereafter amended, means ethyl alcohol; hydrated oxide of ethyl; or spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof.

§ 101–48.001–3 Eleemosynary institution.

Eleemosynary institution means a nonprofit institution organized and operated for charitable purposes whose net income does not inure in whole or in part to the benefit of shareholders or individuals and which shall have filed with the GSA National Capital Region a satisfactory statement establishing such status.

[56 FR 40260, Aug. 14. 1991]

§ 101–48.001–4 Firearms.

Firearms, as defined in 18 U.S.C. 921, as now in force or hereafter amended, means any weapon (including a starter gun) which will, or is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon or any firearm muffler or firearm silencer; or any destructive device. This term does not include an antique firearm.

§ 101–48.001–5 Forfeited property.

Forfeited property means personal property acquired by a Federal agency either by summary process or by order of a court of competent jurisdiction pursuant to any law of the United States.

§ 101–48.001–6 Malt beverages.

Malt beverages, as defined in the Federal Alcohol Administration Act (27 U.S.C. 211), as now in force or hereafter amended, means beverages made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops or their parts or products and with or without other malted cereals; and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared therefrom; and with or without the addition of carbon dioxide; and with or without other wholesome products suitable for human food consumption.

§ 101–48.001–7 Property.

Property means all personal property, including but not limited to vessels, vehicles, aircraft, distilled spirits, wine, and malt beverages.

§ 101–48.001–8 Voluntarily abandoned property.

Voluntarily abandoned property means personal property abandoned to a Federal agency in such a manner as to vest title thereto in the United States.

§ 101–48.001–9 Wine.

Wine means any of the wines defined in sections 5381 and 5385 of the Internal Revenue Code of 1954 (26 U.S.C. 5381, 5385), as now in force or hereafter amended, and other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine; wine made from condensed grape must; wine made from agricultural products other than the juice of sound, ripe grapes; imitation wine; compounds sold as wine; vermouth; cider; perry; and sake. The alcoholic content of these beverages shall not contain less than 7 percent nor more than 24 percent of alcohol by

volume and shall not be for industrial use.

§ 101–48.001–10 Drug paraphernalia.

Drug paraphernalia means any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Controlled Substances Act (title II of Pub. L. 91–513). It includes items primarily intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as:

(1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(2) Water pipes;

(3) Carburetion tubes and devices;

(4) Smoking and carburetion masks;

(5) Roach clips: Meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

(6) Miniature spoons with level capacities of one-tenth cubic centimeter or less;

(7) Chamber pipes;

(8) Carburetor pipes;

(9) Electric pipes;

(10) Air-driven pipes;

(11) Chillums;

(12) Bongs;

(13) Ice pipes or chillers;

(14) Wired cigarette papers; or

(15) Cocaine freebase kits.

[56 FR 40260, Aug. 14, 1991]

Subpart 101–48.1—Utilization of Abandoned and Forfeited Personal Property

§ 101–48.100 Scope of subpart.

This subpart 101–48.1 prescribes the policies and methods for utilization and transfer within the Government of forfeited or voluntarily abandoned personal property subject to the provisions of 40 U.S.C. 304f through m, and abandoned and other unclaimed property found on premises owned or leased by the Government subject to the provisions of 40 U.S.C. 484(m), which may come into the custody or control of any Federal agency in the United States, the Commonwealth of Puerto Rico, American Samoa, Guam, and Trust Territory of the Pacific Islands, or the Virgin Islands. Property in this category located elsewhere shall be utilized and transferred in accordance with the regulations of the agency having custody thereof. This subpart also governs seized and forfeited drug paraphernalia under the provisions of 21 U.S.C. 857(c).

[56 FR 40260, Aug. 14, 1991]

§ 101–48.101 Forfeited or voluntarily abandoned property.

Forfeited or voluntarily abandoned property, subject to the provisions of 40 U.S.C. 304(f) through m, except as otherwise indicated in this subpart 101–48.1, shall be reported and handled in the same manner as excess property under subpart 101–43.3.

§ 101–48.101–1 Sources of property available for utilization.

Property available for utilization under § 101–48.101 is property which is in the custody or under the control of any agency of the U.S. Government, as a result of forfeiture or voluntary abandonment.

§ 101–48.101–2 Custody of property.

(a) GSA generally will not take possession of property that is forfeited or voluntarily abandoned. Such property shall remain in the custody of and be the responsibility of the holding agency.

(b) GSA will direct the disposition of forfeited firearms that are subject to the disposal provisions of 26 U.S.C. 5872(b). GSA authorizes the retention of any such firearm by the Secretary of the Treasury or his delegate for official use.

(c) GSA will direct the disposition of distilled spirits, wine, and malt beverages that are forfeited other than by court decree or by order of a court:

(1) By transfer to Government agencies which have a need for such beverages for medicinal, scientific, or mechanical purposes, or for any other purpose for which appropriated funds may be expended by a Government agency;

(2) By donation to eleemosynary institutions (as defined in § 101–48.001–3) which have a need for such beverages for medicinal purposes; or

(3) By destruction.

(d) GSA will direct the disposition of forfeited drug paraphernalia that is subject to the disposal provisions of 21 U.S.C. 857(c) by ordering such paraphernalia destroyed or by authorizing its use for law enforcement or educational purposes by Federal, State, or local authorities.

[42 FR 55813, Oct. 19, 1977, as amended at 56 FR 40260, Aug. 14, 1991]

§ 101–48.101–3 Cost of care and handling.

Each holding agency shall be responsible for performing care and handling of forfeited or voluntarily abandoned personal property pending disposition.

§ 101–48.101–4 Retention by holding agency.

(a) Subject to the limitations on certain types of passenger vehicles (see § 101–43.307–9), a Federal agency may retain and devote to official use any property in its custody that is forfeited other than by court decree or determined by the agency to be voluntarily abandoned. Large sedans and limousines may be retained by an agency and devoted to official use only if such retention is clearly authorized by the provisions of subpart 101–38.1.

(b) A holding agency, when reporting property pursuant to § 101–48.101–5, which is subject to pending court proceedings for forfeiture, may at the same time file a request for that property for its official use. A request for only components or accessories of a complete and operable item shall contain a detailed justification concerning the need for the components or accessories and an explanation of the effect their removal will have on the item. Upon receipt of a request, GSA will make application to the court requesting delivery of the property to the holding agency, provided that, when a holding agency has requested only components or accessories of a complete and operable item, GSA determines that their removal from the item is in the best interest of the Government.

(c) Except where otherwise specifically provided, any property that is retained by a Federal agency for official use under this subpart 101–48.1 shall thereupon lose its identity as forfeited or voluntarily abandoned property. When such property is no longer required for official use, it shall be reported as excess in accordance with § 101–43.304.

(Sec. 307, 49 Stat. 880; 40 U.S.C. 304l)

[42 FR 55813, Oct. 19, 1977, as amended at 44 FR 42202, July 19, 1979; 56 FR 40260, Aug. 14, 1991]

§ 101–48.101–5 Property required to be reported.

(a) A Federal agency shall promptly report, in accordance with § 101–43.304, property in its custody that is forfeited other than by court decree or voluntarily abandoned and not desired for retention by that agency for its official use and property on which proceedings for forfeiture by court decree are being started or have begun, except that:

(1) Reports shall be submitted to the GSA National Capital Region (mailing address: General Services Administration (3FBP-W), Washington, DC 20407) in lieu of being submitted to the GSA regional office for the region in which the property is located.

(2) The reporting agency's internal documents containing information relevant to the property may be used in lieu of the Standard Form 120, Report of Excess Personal Property; and

(3) Distilled spirits, wine and malt beverages fit for human consumption in quantities of 5 wine gallons or more shall be reported regardless of acquisition cost.

(b) The following information shall be furnished:

(1) Whether property was:

(i) Abandoned;

(ii) Forfeited other than by court decree; or

(iii) The subject of a court proceeding and, if so, the name of the defendant and the place and judicial district of

the court from which the decree has been or will be issued;

(2) Existence or probability of a lien or claim of lien, or other accrued or accruing charges, and the amount involved; and

(3) If the property is distilled spirits, wine, or malt beverages: Quantities and kinds (rye or bourbon or other whiskey and its brand, if any; sparkling or still wine and its color or brand; cordial, brandy, gin, etc.), proof rating, and condition for shipping.

(c) In addition to the exceptions and special handling described in §§ 101–43.305 and 101–43.307, the following forfeited or voluntarily abandoned property need not be reported:

(1) Forfeited arms or munitions of war which are handled pursuant to 22 U.S.C. 401;

(2) Forfeited firearms which are transferable by the holding agency to the Secretary of Defense;

(3) Abandoned, condemned, or forfeited tobacco, snuff, cigars, or cigarettes which the holding agency estimates will not, if offered for sale by competitive bid, bring a price equal to the internal revenue tax due and payable thereon; and which is subject to destruction or delivery without payment of any tax to any hospital maintained by the United States for the use of present or former members of the military or naval forces of the United States;

(4) Forfeited distilled spirits (including alcohol), wine and malt beverages not fit for human consumption nor for medicinal, scientific, or mechanical purposes. (Domestic forfeited distilled spirits, wine, and malt beverages which were not produced at a registered distillery, winery, or brewery or which are in containers that have been opened or entered shall be regarded as not fit for human consumption. (See § 101–48.302 for disposition.));

(5) Distilled spirits, wine, and malt beverages in any one seizure of less than 5 wine gallons (see §§ 101–48.201–5 and 101–48.302 for disposition);

(6) Effects of deserters from the Coast Guard or the military services, or of deceased persons of the Coast Guard or the military services, or of deceased inmates of naval or soldiers' homes or Government hospitals;

(7) Seeds, plants, or misbranded packages seized by the Department of Agriculture pursuant to authorities provided by law;

(8) Game and equipment (other than vessels, including cargo) seized by the Department of the Interior pursuant to authorities provided by law;

(9) Files of papers, all dead and undeliverable mail matter, and nonmailable matter in the custody of the Postmaster General;

(10) Infringing articles in the custody of the Patent Office, Department of Commerce;

(11) Unclaimed and abandoned personal property subject to applicable customs laws and regulations;

(12) Collection seizures to satisfy tax liens and property acquired by the United States in payment of or as security for debts arising under the internal revenue laws;

(13) Property, the vesting and disposition of which is controlled by the provisions of 38 U.S.C. 5201 (*et seq.*), Disposition of deceased veterans' personal property; and

(14) Motor vehicles which are 4 or more years old.

(d) The general rule for reporting specified in this § 101–48.101–5 is modified with respect to the following:

(1) Controlled substances (as defined in § 101–43.001–3), regardless of quantity, condition, or acquisition cost, shall be reported to the Drug Enforcement Administration, Department of Justice, Washington, DC 20537;

(2) Forfeited firearms not desired for retention by the seizing agency, except those covered by paragraphs (c) (1) and (2) of this section, shall be reported provided such firearms are in excellent serviceable condition and known to be used for law enforcement or security purposes or are sufficiently unusual to be of interest to a Federal museum. Forfeited firearms not reportable in accordance with the foregoing criteria shall be destroyed and disposed of pursuant to § 101–48.303;

(3) Property forfeited other than by court decree which is suitable for human consumption or which may be used in the preparation of food may be immediately transferred by the agency having custody to the nearest Federal agency known to be a user of such

property, without specific authorization from GSA;

(4) Vessels of 1,500 gross tons or more which the Maritime Administration determines to be merchant vessels or capable of conversion to merchant use shall be reported to the Maritime Administration;

(5) Property seized by one Federal agency but adopted by another for prosecution under laws enforced by the adopting Federal agency shall be reported by the adopting agency to the extent and in the manner required by this subpart 101–48.1;

(6) Lost, abandoned, or unclaimed personal property controlled by the provisions of 10 U.S.C. 2575 shall be disposed of as provided by 10 U.S.C. 2575 and regulations issued thereunder by appropriate authority; and

(7) Drug paraphernalia seized and forfeited under the provisions of 21 U.S.C. 857, which is not retained for official use by the seizing agency or transferred to another Federal agency under seizing agency authorities, or such drug paraphernalia retained for official use but no longer required by the agency, shall be reported on Standard Form 120 to the General Services Administration, Property Management Division (FBP), Washington, DC 20406.

(e) Property not required to be reported pursuant to this §101–48.101–5 and not excepted or modified with respect to reporting pursuant to this §101–48.101–5 shall be handled as set forth in §101–43.305.

[42 FR 55813, Oct. 19, 1977, as amended at 56 FR 40260, Aug. 14, 1991]

§101–48.101–6 Transfer to other Federal agencies.

(a) Normally, the transfer of forfeited or voluntarily abandoned personal property shall be accomplished by submitting for approval a Standard Form 122, Transfer Order Excess Personal Property (see §101–43.4901–122), or any other transfer order form approved by GSA, to the General Services Administration (3FBP-W), Washington, DC 20407, for approval.

(b) Except for property which is subject to court action, the transfer order shall indicate the agency having custody of the property, the location of the property, the report or case number on which the property is listed, the property required, and the fair value, if applicable.

(c) Property subject to court action may be requested by submitting a transfer order or a letter setting forth the need for the property by the agency. If proceedings for the forfeiture of the property by court decree are being started or have begun, application will be made by GSA to the court, prior to entry of a decree, for an order requiring delivery of the property to an appropriate recipient for its official use.

(d) Transfers of forfeited or voluntarily abandoned distilled spirits, wine, and malt beverages shall be limited to those for medicinal, scientific, or mechanical purposes or for any other official purposes for which appropriated funds may be expended by a government agency. Transfer orders shall be signed by the head of the requesting agency or a designee. Where officials are designed to sign, the General Services Administration (3FBP-W), Washington, DC 20407, shall be advised of designees by letter signed by the head of the agency concerned. No transfer order will be acted upon unless it is signed as provided herein.

(e) Transfer orders requesting the transfer of forfeited or voluntarily abandoned firearms shall set forth the need for the property by the requesting agency.

(f) Transfer orders requesting the transfer of reportable forfeited drug paraphernalia shall be submitted to the General Services Administration, Property management Division (FBP), Washington, DC 20406, for approval. Transfers will not be approved unless the Standard Form 122 or other transfer document contains a certification that the paraphernalia will be used for law enforcement or educational purposes only.

(g) Any property transferred for official use under this subpart 101–48.1, with the exception of drug paraphernalia, shall thereupon lose its identify as forfeited or voluntarily abandoned property. When no longer required for official use, it shall be reported as excess in accordance with §101–43.304. Drug paraphernalia shall

not lose its identity as forfeited property. When no longer required for official use, it shall be reported in accordance with §101–48.101–5(d)(7).

[42 FR 55813, Oct. 19, 1977, as amended at 56 FR 40261, Aug. 14, 1991]

§101–48.101–7 Reimbursement and costs incident to transfer.

(a) Reimbursement upon transfer of personal property forfeited or voluntarily abandoned other than by court decree shall be in accordance with §101–43.309–3.

(b) Reimbursement for judicially forfeited property shall be in accordance with provisions of the court decree.

(c) Commercial charges incurred at the time of and subsequent to forfeiture or voluntary abandonment but prior to transfer shall be borne by the transferee agency when billed by the commercial organization.

(d) The direct costs incurred by the holding agency prior to the transfer of forfeited or voluntarly abandoned property shall be borne by the transferee agency when billed by the holding agency. Overhead or administrative costs or charges shall not be included. Only costs set forth in 40 U.S.C. 304j, such as storage, packing, preparation for shipment, loading, and transportation shall be recovered by the holding agency.

[42 FR 55813, Oct. 19, 1977, as amended at 56 FR 40261, Aug. 14, 1991]

§101–48.101–8 Billing.

(a) Each holding agency shall be responsible for billing and collecting the costs of care and handling, as well as the fair value of property transferred to other agencies, when such reimbursement is required in accordance with §101–43.309–3.

(b) Commercial organizations accruing charges prior to transfer shall be responsible for billing and collecting these charges from the transferee agency.

[42 FR 55813, Oct. 19, 1977, as amended at 56 FR 40261, Aug. 14, 1991]

§101–48.101–9 Disposition of proceeds.

Where reimbursement for fair value is to be made in accordance with §101–43.309–3, the fair value proceeds shall be deposited in the Treasury to miscellaneous receipts or in the appropriate agency account by the transferor agency.

[56 FR 40261, Aug. 14, 1991]

§101–48.102 Abandoned or other unclaimed property.

§101–48.102–1 Vesting of title in the United States.

Abandoned or other unclaimed property, subject to the provisions of section 203(m) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(m)), shall remain in the custody of and be the responsibility of the agency finding such property. The property shall be held for a period of 30 days from the date of finding such property. Upon expiration of this 30-day period, title to such property vests in the United States, except that title reverts to the owner where a proper claim is filed by the owner prior to official use or transfer for official use and, if there is no official use or transfer for official use, prior to sale of the property.

§101–48.102–2 Reporting.

(a) Abandoned or other unclaimed property not utilized by the holding agency shall be reported and handled in the same manner as excess property under subpart 101–43.3, except as provided in §101–48.102–2(b).

(b) Abandoned for other unclaimed property which, by the provisions of §101–43.304, is not required to be reported and which is not otherwise transferred pursuant to subpart 101–43.3, shall be subject to the provisions of subpart 101–48.3.

[42 FR 55813, Oct. 19, 1977, as amended at 56 FR 40261, Aug. 14, 1991]

§101–48.102–3 Reimbursement.

Reimbursement of fair market value, as determined by the head of the finding or transferor agency, shall be required in connection with official use by the finding agency or transfer for official use of abandoned or other unclaimed property. Fair market value as used herein does not mean fair value as determined under §101–43.309–3.

[56 FR 40261, Aug. 14, 1991]

§ 101–48.102–4 Proceeds.

Reimbursement for official use by the finding agency or transfer for official use of abandoned or other unclaimed property shall be deposited in a special fund by the finding or transferor agency for a period of at least 3 years. A former owner may be reimbursed from the special fund, based upon a proper claim made to the finding or transferor agency and filed within 3 years from the date of vesting of title in the United States. Such reimbursement shall not exceed fair market value at the time title was vested in the United States, less the costs incident to the care and handling of such property as determined by the head of the agency concerned.

Subpart 101–48.2—Donation of Abandoned and Forfeited Personal Property

§ 101–48.200 Scope of subpart.

This subpart 101–48.2 prescribes the policies and methods governing the donation by Federal agencies of abandoned and forfeited property in their custody or control in the United States, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, or the Virgin Islands.

§ 101–48.201 Donation of forfeited distilled spirits, wine, and malt beverages.

§ 101–48.201–1 General.

Forfeited distilled spirits, wine, and malt beverages for which there is no Federal utilization shall be made available to appropriate eleemosynary institutions prior to other disposition.

§ 101–48.201–2 Establishment of eligibility.

Eleemosynary institutions desiring to obtain available distilled spirits, wine, and malt beverages shall submit GSA Form 18, Application of Eleemosynary Institution (see § 101–48.4902–18), to the General Services Administration (3FBP-W), Washington, DC 20407. The Office of Management and Budget Approval Number 3090–0001 has been assigned to this form.

[56 FR 40261, Aug. 14, 1991]

§ 101–48.201–3 Requests by institutions.

Eligible institutions desiring to obtain available distilled spirits, wine, and malt beverages shall show on the GSA Form 18, Application of Eleemosynary Institution, the kind and quantity desired. The GSA National Capital Region will inform the eligible institution when these alcoholic beverages become available, request confirmation that the institution's requirement is current, and inform the institution that shipment will be initiated upon this confirmation.

[56 FR 40261, Aug. 14, 1991]

§ 101–48.201–4 Filling requests.

The GSA National Capital Region will authorize the seizing agency to fill such requests as the region may determine proper to ensure equitable distribution among requesting institutions.

[56 FR 40262, Aug. 14, 1991]

§ 101–48.201–5 Donation of lots not required to be reported.

Forfeited distilled spirits, wine, and malt beverages not required to be reported under § 101–48.101–5 may be donated to eleemosynary institutions known to be eligible therefor if the beverages are determined by the seizing agency to be suitable for human consumption. The holding agency shall promptly report these donations by letter to the General Services Administration (3FBP-W), Washington, DC 20407. This report shall state the quantity and type donated, the name and address of the donee institution, and date of the donation.

[56 FR 40262, Aug. 14, 1991]

§ 101–48.201–6 Packing and shipping costs.

The receiving institution shall pay all costs of packing, shipping, and transportation.

§ 101–48.202 Donation of forfeited drug paraphernalia.

(a) Forfeited drug paraphernalia for which there is no Federal utilization may be made available through State agencies, at the discretion of GSA, to State and local governments for law enforcement or educational purposes only. Donations will be made in accordance with part 101–44, except as otherwise provided in this subpart 101–48.2.

(b) All transfers of drug paraphernalia to the State agencies for donation to State and local governments shall be accomplished by use of SF 123, Transfer Order Surplus Personal Property (see §101–44.4901–123). The SF 123 shall be accompanied by a letter of justification, signed and dated by the authorized representative of the proposed donee, setting forth a detailed plan of utilization for the property and certifying that the donee will comply with all Federal State, and local laws, regulations, ordinances, and requirements governing use of the property. The SF 123, with the letter of justification, shall be submitted for approval to the General Services Administration, Property Management Division (FBP), Washington, DC 20406.

(c) A State agency shall not pick up or store drug paraphernalia in its distribution centers. This property shall be released from the holding agency directly to the designated donee.

[56 FR 40262, Aug. 14, 1991]

Subpart 101–48.3—Disposal of Abandoned and Forfeited Personal Property

§ 101–48.300 Scope of subpart.

This subpart 101–48.3 prescribes the policies and methods governing the disposal of abandoned or other unclaimed, voluntarily abandoned, or forfeited personal property which may come into the custody or control of any Federal agency in the United States, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, or the Virgin Islands. Property in this category located elsewhere shall be disposed of under the regulations of the agency having custody thereof.

§ 101–48.301 General.

Any property in the custody of a Federal agency which is not desired for retention by that agency nor utilized within any Federal agency in accordance with subpart 101–48.1 nor donated in accordance with subpart 101–48.2 shall be disposed of in accordance with the provisions of this subpart 101–48.3

§ 101–48.302 Distilled spirits, wine, and malt beverages.

(a) Distilled spirits, wine, and malt beverages (as defined in §101–48.001) which are not required to be reported under §101–48.101–5(c)(4) shall be destroyed as prescribed in §101–48.302(b); distilled spirits, wine, and malt beverages which are not required to be reported under §101–48.101–5(c)(5) and which have not been donated as prescribed in subpart 101–48.2 shall be destroyed in like manner.

(b) When reportable abandoned or forfeited distilled spirits, wine, and malt beverages are not retained by the holding agency, transferred to another agency, or donated to an eligible eleemosynary institution by GSA, the GSA National Capital Region will issue clearance to the agency which submitted the report as prescribed by §101–48.101–5 for destruction of the distilled spirits, wine, and malt beverages. A record of the destruction showing time, place, and nomenclature and quantities destroyed shall be filed with papers and documents relating to the abandonment or forfeiture.

[42 FR 55813, Oct. 19, 1977, as amended at 56 FR 40262, Aug. 14, 1991]

§ 101–48.303 Firearms.

Abandoned or forfeited firearms or voluntarily abandoned firearms shall not be sold as firearms. They may be disposed of by sale as scrap in the manner prescribed in §101–45.309–4.

§ 101–48.304 Drug paraphernalia.

(a) When forfeited drug paraphernalia is neither utilized within any Federal agency in accordance with subpart 101–48.1 nor donated in accordance with subpart 101–48.2, GSA will issue clearance to the reporting agency to destroy the items. The destruction shall be performed by an employee of the holding

agency in the presence of two additional employees of the agency as witnesses to the destruction. A statement of certification describing the fact, manner, date, type, and quantity destroyed shall be certified to by the agency employee charged with the responsibility for that destruction. The two agency employees who witnessed the destruction shall sign the following statement which shall appear on the certification below the signature of the certifying employee:

''I have witnessed the destruction of the (list the drug paraphernalia) described in the foregoing certification in the manner and on the date stated herein:''

Witness Date

Witness Date

(b) The signed certification and statement of destruction shall be made a matter of record and shall be retained in the case files of the holding agency.

[56 FR 40262, Aug. 14, 1991]

§ 101–48.305 Property other than distilled spirits, wine, malt beverages, firearms, and drug paraphernalia.

(a) Property forfeited other than by court decree or voluntarily abandoned, except distilled spirts, wine, malt beverages, firearms, and drug paraphernalia, which is not returned to a claimant, retained by the agency of custody, or transferred in accordance with subpart 101–48.1 may be released to the holding agency by the GSA National Capital Region for public sale, except as otherwise provided by law.

(b) Abandoned or other unclaimed property which is not retained by the holding agency, not transferred to another agency, or not required to be reported by the provisions of § 101–48.102, may be reported for sale to the appropriate selling activity at any time after title vests in the United States as provided in § 101–48.102–1.

(c) Voluntarily abandoned, abandoned, or other unclaimed property and, in the absence of specific direction by a court, forfeited property, normally shall be sold by competitive bid as prescribed in § 101–45.304–1, subject to the same terms and conditions as would be applicable to the sale of surplus personal property. Voluntarily abandoned, abandoned, or other unclaimed property and forfeited property may be sold also by negotiation at the discretion of the selling agency but only under the circumstances set forth in § 101–45.304–2. Such property shall be identified by the holding agency as abandoned or other unclaimed, voluntarily abandoned, or forfeited property, and shall be reported for sale to the appropriate GSA regional office or to such other agency as otherwise is responsible for selling its surplus personal property unless specifically required by law to be sold by the holding agency.

[56 FR 40262, Aug. 14, 1991]

§ 101–48.306 Disposition of proceeds from sale.

§ 101–48.306–1 Abandoned or other unclaimed property.

(a) Proceeds from sale of abandoned or other unclaimed property shall be deposited in a special fund by the finding agency for a period of 3 years. A former owner may be reimbursed for abandoned or other unclaimed property which had been disposed of in accordance with the provisions of this subpart 101–48.3 upon filing a proper claim with the finding agency within 3 years from the date of vesting of title in the United States. Such reimbursement shall not exceed the proceeds realized from the disposal of such property less disposal costs and costs of the care and handling of such property as determined by the head of the agency concerned.

(b) Records of abandoned or other unclaimed property shall be maintained in such a manner as to permit identification of the property with the original owner, if known, when such property is offered for sale. Records of proceeds received from the sale of abandoned or other unclaimed property shall be maintained as part of the permanent file and record of sale until the 3-year period for filing claims has elapsed.

[56 FR 40262, Aug. 14, 1991]

§ 101–48.306–2 Forfeited or voluntarily abandoned property.

Proceeds from sale of property which has been forfeited other than by court decree, by court decree, or which has been voluntarily abandoned, shall be deposited in the Treasury of the United States as miscellaneous receipts or in such other agency accounts as provided by law or regulations.

[56 FR 40262, Aug. 14, 1991]

Subparts 101–48.4—101–48.48 [Reserved]

Subpart 101–48.49—Illustrations of Forms

§ 101–48.4900 Scope of subpart.

This subpart illustrates forms prescribed for use in connection with subject matter covered in this part 101–48.

§ 101–48.4901 [Reserved]

§ 101–48.4902 GSA forms.

(a) GSA Form 18, Application of Eleemosynary Institution, is illustrated in this §101–8.4902 to show the text, format, and arrangement of the form and to provide a ready source of reference.

(b) Copies of the GSA Form 18 may be obtained from the General Services Administration (WDP), Washington, DC 20407.

[42 FR 55813, Oct. 19, 1977, as amended at 46 FR 39593, Aug. 4, 1981]

§ 101–48.4902–18 GSA Form 18, Application of Eleemosynary Institution.

NOTE: The form illustrated at §101–48.4902–18 is filed with the original document.

PART 101–49—UTILIZATION, DONATION, AND DISPOSAL OF FOREIGN GIFTS AND DECORATIONS

AUTHORITY: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); sec. 515, 91 Stat. 862 (5 U.S.C. 7342).

SOURCE: 65 FR 45539, July 24, 2000, unless otherwise noted.

§ 101–49.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For information on utilization, donation, and disposal of foreign gifts and decorations previously contained in this part, see FMR part 42 (41 CFR part 102–42).

APPENDIX TO SUBCHAPTER H—TEMPORARY REGULATIONS [RESERVED]

FINDING AIDS

A list of CFR titles, subtitles, chapters, subchapters and parts and an alphabetical list of agencies publishing in the CFR are included in the CFR Index and Finding Aids volume to the Code of Federal Regulations which is published separately and revised annually.

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