§ 102–38.100 Negotiated Sales

§ 102–38.100 What is a negotiated sale?
A negotiated sale is a sale where the selling price is arrived at between the seller and the buyer, subject to obtaining such competition as is feasible under the circumstances.

§ 102–38.105 Under what conditions may we negotiate sales of personal property?
You may negotiate sales of personal property when—
(a) The personal property has an estimated fair market value that does not exceed $15,000;
(b) The disposal will be to a State, territory, possession, political subdivision thereof, or tax-supported agency therein, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation;
(c) Bid prices after advertising are not reasonable and re-advertising would serve no useful purpose;
(d) Public exigency does not permit any delay such as that caused by the time required to advertise a sale;
(e) The sale promotes public health, safety, or national security;
(f) The sale is in the public interest under a national emergency declared by the President or the Congress. This authority may be used only with specific lot(s) of property or for categories determined by the Administrator of General Services for a designated period but not in excess of three months;
(g) Selling the property competitively would have an adverse impact on the national economy, provided that the estimated fair market value of the property and other satisfactory terms of disposal can be obtained by negotiation, e.g., sale of large quantities of an agricultural product that impact domestic markets; or
(h) Otherwise authorized by Title 40 of the U.S. Code or other law.

§ 102–38.110 Who approves our determinations to conduct negotiated sales?
The head of your agency (or his/her designee) must approve all negotiated sales of personal property.

§ 102–38.115 What are the specific reporting requirements for negotiated sales?
For negotiated sales of personal property, you must—
(a) In accordance with 40 U.S.C. 545(e), and in advance of the sale, submit to the oversight committees for the General Services Administration (GSA) in the Senate and House, explanatory statements for each sale by negotiation of any personal property with an estimated fair market value in excess of $15,000. You must maintain copies of the explanatory statements in your disposal files. No statement is needed for negotiated sales at fixed price or for any sale made without advertising when authorized by law other than 40 U.S.C. 546; and
(b) Report annually to GSA, Personal Property Management Policy Division (MTP), 1800 F Street, NW., Washington, DC, 20405, within 60 calendar days after the close of each fiscal year, a listing and description of all negotiated sales of personal property with an estimated fair market value in excess of $5,000. You may submit the report electronically or manually (see §102–38.330).

§ 102–38.120 When may we conduct negotiated sales of personal property at fixed prices (fixed price sale)?
You may conduct negotiated sales of personal property at fixed prices (fixed price sale) under this section when:
(a) The items are authorized to be sold at fixed price by the Administrator of General Services, as reflected in GSA Bulletin FMR B–10 (located at http://www.gsa.gov/fmrbulletin). You may also contact the GSA Office of Travel, Transportation, and Asset Management (MT) at the address listed in §102–38.115 to determine which items are on this list of authorized items;
(b) The head of your agency, or designee, determines in writing that such sales serve the best interest of the Government. When you are selling property on behalf of a holding agency, you must consult with the holding agency in determining whether a fixed price sale meets this criterion; and
(c) You must publicize such sales to the extent consistent with the value and nature of the property involved, and the prices established must reflect...
the estimated fair market value of the property. Property is sold on a first-come, first-served basis. You or the holding agency may also establish additional terms and conditions that must be met by the successful purchaser in accordance with §102–38.75.

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§ 102–38.125 May we sell personal property at fixed prices to State agencies?
Yes, before offering to the public, you may offer the property at fixed prices (through the State Agencies for Surplus Property) to any States, territories, possessions, political subdivisions thereof, or tax-supported agencies therein, which have expressed an interest in obtaining the property. For additional information, see subpart G of this part.

ADVERTISING

§ 102–38.130 Must we publicly advertise sales of Federal personal property?
Yes, you must provide public notice of your sale of personal property to permit full and open competition.

§ 102–38.135 What constitutes a public advertisement?
Announcement of the sale using any media that reaches the public and is appropriate to the type and value of personal property to be sold is considered public advertising. You may also distribute mailings or flyers of your offer to sell to prospective purchasers on mailing lists. Public notice should be made far enough in advance of the sale to ensure adequate notice, and to target your advertising efforts toward the market that will provide the best return at the lowest cost.

§ 102–38.140 What must we include in the public notice on sale of personal property?
In the public notice, you must provide information necessary for potential buyers to participate in the sale, such as—
(a) Date, time and location of sale;
(b) General categories of property being offered for sale;
(c) Inspection period;
(d) Method of sale (i.e., spot bid, sealed bid, auction);
(e) Selling agency; and
(f) Who to contact for additional information.

PRE-SALE ACTIVITIES

§ 102–38.145 Must we allow for inspection of the personal property to be sold?
Yes, you must allow for an electronic or physical inspection of the personal property to be sold. You must allow prospective bidders sufficient time for inspection. If inspection is restricted to electronic inspections only, due to unusual circumstances prohibiting physical inspection, you must notify your General Services Administration Regional Personal Property Office in writing, with the circumstances surrounding this restriction at least 3 days prior to the start of the screening period.

§ 102–38.150 How long is the inspection period?
The length of the inspection period allowed depends upon whether the inspection is done electronically or physically. You should also consider such factors as the circumstances of sale, volume of property, type of property, location of the property, and accessibility of the sales facility. Normally, you should provide at least 7 calendar days to ensure potential buyers have the opportunity to perform needed inspections.

OFFER TO SELL

§ 102–38.155 What is an offer to sell?
An offer to sell is a notice listing the terms and conditions for bidding on an upcoming sale of personal property, where prospective purchasers are advised of the requirements for a responsive bid and the contractual obligations once a bid is accepted.

§ 102–38.160 What must be included in the offer to sell?
The offer to sell must include—
(a) Sale date and time;
(b) Method of sale;
(c) Description of property being offered for sale;
(d) Selling agency;