

Parts 101-43 and 101-46

[FPMR Temp. Reg. H-28]

RIN : 3090 -AGO 1

RELOCATION OF FIRMR PROVISIONS RELATING TO GSA'S ROLE IN THE
DISPOSAL OF EXCESS AND EXCHANGE/S= INFORMATION TECHNOLOGY
(IT) EQUIPMENT

AGENCY: Office of Policy Planning and Evaluation, GSA.

ACTION: Temporary regulation.

SUMMARY: This regulation redesignates certain provisions of the Federal Information Resources Management Regulation (FIRMR) to the Federal Property Management Regulation (FPMR). The regulation also makes a few changes to existing parts of the FPMR to update old references to the FIRMR. This change is necessary because the Information Technology Management Reform Act of 1996, effectively disestablishes the FIRMR. The referenced FIRMR provisions that apply to the transfer and disposal of excess IT equipment, will be maintained in the FPMR after August 7, 1996.

DATES: This rule is effective August 8, 1996. Comments are solicited and are due: [Insert 60 days after publication in the FEDERAL REGISTER.]

Expiration Date: December 31, 1997.

ADDRESSES: *Comments may be mailed to General Services Administration, Office-of Policy, Planning and Evaluation, Strategic IT Analysis Division (MKS), 18th and F Streets, NW., Room 3224, Washington, DC 20405.*

FOR FURTHER INFORMATION CONTACT: R. Stewart Randall, GSA, Office of Policy, Planning and Evaluation, Strategic IT Analysis Division (MKS), 18th and F Streets, NW., Room 3224, Washington, DC 20405, telephone FTS/Commercial (202) 501-3194 (v) or (202) 501-0657 (told), or Internet (stewart.randall@gsa.gov).

SUPPLEMENTARY INFORMATION: (1) The President signed the National Defense Authorization Act (NDAA) For Fiscal Year 1996, Pub.L. 104-106, on February 10, 1996. Included in the NDAA was Division E, the Information Technology Management Reform Act of 1996. Section 5101 of the Act repeals section 111 of the Federal Property and Administrative Services Act of 1949, as amended (the Brooks Act) (40 U.S.C. 759). The Brooks Act was the authority for many of the provisions in GSA's Federal Information Resources Management Regulation; its repeal effectively results in the disestablishment of the FIRMR. Any FIRMR provisions not affected by the repeal of the Brooks Act, such as part 201-23 - Disposition, concerned with the utilization of excess IT equipment, are being removed from the FIRMR and reestablished in the Federal property Management Regulation or other documents, as appropriate.

(2) Most of the provisions now contained in part 101-43 of the FPMR were moved almost verbatim from part 201-23 of the FIRMR except for changes in terminology, e.g., Federal information processing to information technology. Such change was needed to make the regulation consistent with relevant legislation. A few provisions were added to include essential information from FIRMR Bulletin C-2, which will be discontinued when the FIRMR is disestablished in August 1996. Additionally, a few changes were made to existing provisions of part of 101-43 and to part 101-46 to correct or remove out of date references to FIRMR parts.

(3) GSA has determined that this rule is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993, because it is not likely to result in any of the impacts noted in Executive Order 12866, affect the rights of specified individuals, or raise issues arising from the policies of the Administration. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs; has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society. List of Subjects *in* 41 CFR Parts 101-43 and 101-46

Archives and records, Computer technology, Information technology, Government procurement, Property management, Records management, and Telecommunications .

GENERAL SERVICES ADMINISTRATION

Washington, DC 20405

FEDERAL PROPERTY MANAGEMENT REGULATIONS

TEMPORARY REGULATION H-28

TO: Heads of Federal agencies

SUBJECT: Relocation of FIRMR provisions relating to GSA's role
in the disposal of excess and exchange/sale information
technology (IT) equipment

1. Purpose. This regulation moves certain provisions in 41 CFR part 201-23 of the Federal Information Resources Management Regulation (FIRMR) to 41 CFR Part 101-43.6 of the Federal Property Management Regulations (FPMR).

2. Effective date. This regulation is effective on August 8, 1996.

3. Expiration date. This regulation expires on December 31, 1997, unless sooner superseded or canceled.

4. Background. The President signed the National Defense Authorization Act (NDAA) For Fiscal Year 1996, Pub.L. 104-106, on February 10, 1996. Included in the NDAA was Division E, the Information Technology Management Reform Act of 1996. Section 5101 of the Act repeals section 111 of the Federal Property and Administrative Services Act of 1949, as amended (the Brooks Act) (40 U.S.C. 759). The Brooks Act was the authority for many of the provisions in GSA's FIRMR; its repeal effectively results in the disestablishment of the FIRMR. Any FIRMR provisions not affected by the repeal of the Brooks Act, such as Part 201-23 - Disposition, concerned with the disposal of excess IT equipment, are being removed from the FIRMR and reestablished in the FPMR or other documents, as appropriate. Most of the provisions now -contained in part 101-43 of the FPMR were moved almost verbatim from part 201-23 of the FIRMR except for changes in terms, i.e., Federal information processing to information technology. That change was needed to make the regulation consistent with relevant legislation. A few sentences were added to include essential information from FIRMR Bulletin C-2, which will be discontinued when the FIRMR is disestablished in August 1996. Additionally, changes were made to existing provisions of part 101-43 and to part 101-46 to correct or remove out of date FPMR references to FIRMR parts.

5. Agency Comments. Comments concerning this regulation should be submitted to the General Services Administration, Office of Policy, Planning and Evaluation, Strategic IT Analysis Division(MKS), 18th and F Streets, NW., Room 3224, Washington/ DC 20405, no later than [60 days after publication of temporary regulation.]

6. Explanation of changes.

For the reasons set forth in the preamble, 41 CFR Part 101 is amended to read as follows:

PART 101-43--UTILIZATION OF PERSONAL PROPERTY

1. The authority citation for part 101-43 continues to read as follows:

AUTHORITY: 40 U.S.C. 486(c) and 1412.

2. Section 101-43.000 is revised to read as follows:

§ 101-43.000 Scope of part.

This part prescribes the policies and methods governing the economic and efficient utilization of personal property located within and outside 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. Section 101-43.6 prescribes the specific policies and procedures governing the worldwide utilization of excess information technology resources. Additional guidelines regarding reutilization of hazardous materials are prescribed in part 101-2.

3. Subpart 101-43.6 is added to read as follows:

Subpart 101-43.6--Disposition of IT Excess Personal Property

101-43.600 Scope of subpart.

101-43.601 General.

101-43.602 Policies.

101-43.603 Procedures.

Subpart 101-43.6--Disposition of IT Excess Personal Property

§ 101-43.600 Scope of subpart.

This subpart prescribes policies and procedures to be followed by agencies for disposing of Government-owned information technology (IT) equipment and software that is no longer needed for the purpose for which it was acquired. *Information technology* means any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management movement, control, display, switching, interchange, transmission Or reception of data or information by an executive agency. The term includes computers, ancillary equipment software, firmware and similar procedures, services (including support services), and related resources.

§ 101-43.601 General.

(a) Government-owned IT equipment that is no longer needed for the purpose for which it was acquired is either--

(1) Reassigned within the agency;

(2) Declared excess to the agency's needs and made available for transfer to another agency;

(3) Exchanged or sold as part of a transaction to acquire replacement IT equipment; or

(4) Declared surplus and made available for donation.

(b) IT software that is no longer needed for the purpose for which it was acquired is either--

(1) Reassigned within the agency consistent with the limitations of any applicable license; or

(2) Otherwise disposed of consistent with the limitations of any applicable license.

§ 101-43.602 Policies.

Agencies shall--

(a) Use IT equipment or IT software that is available for reassignment within the agency or by transfer from another agency when such use is the most advantageous alternative to satisfy the agency's requirements.

(b) Make available for reassignment within the agency IT equipment that is not outdated and that is no longer needed for the purpose for which it was acquired.

(c) Make available for interagency screening and transfer to another agency, excess IT equipment that is not outdated and has an original acquisition cost (OAC) per component of \$1 million or more. *Outdated IT equipment* means any IT equipment over six years old, based on the initial commercial installation date of that model of equipment, and that is no longer in current production. Interagency transfer of IT equipment that is not outdated with an OAC per component of less than \$1 million, is permitted if the holding agency learns of a potential user outside of the screening process. Agencies may interagency screen and transfer excess IT equipment without GSA approval.

(d) Make available for surplus donation or subsequent sale, excess IT equipment not exchanged, sold, reassigned or transferred.

(e) Consistent with the limitations of any applicable license--

(1) Make available for reassignment within the agency IT software that is no longer needed for the purpose for which it was acquired;

(2) Make available for interagency transfer, excess IT software not exchanged or sold, if the holding agency learns of a potential user outside of the screening process (GSA does not require interagency screening of IT software) ;

(3) For excess IT software not reassigned, transferred, exchanged, or sold, either:

(i) Return it to the licensor, or

(ii) Destroy it after a duly authorized agency official determines in writing that destruction is the most cost-effective disposal approach.

§ 101-43.603 Procedures.

(a) Each agency head shall designate an agency point of contact for managing the disposition of IT equipment and software. Each agency shall submit the name, address, and phone number of this individual to the General Services Administration/

MKS, 18th & F Streets, NW., Washington, DC 20405. GSA will maintain a list of these coordinators on the IT Policy Home Page. The URL is <http://www.itpolicy.gsa.gov>.

(b) GSA will convene meetings with agency points of contacts periodically to discuss emerging issues relating to the disposition of excess IT resources.

(c) Agencies shall---

(1) Establish procedures for the reassignment of IT equipment and software within the agency; and

(2) Obtain approval from the agency Chief Information Officer before reassigning outdated IT equipment.

(d) Agencies shall offer excess IT equipment that is not outdated and has an OAC per component of \$1 million or more to other Federal agencies by:

(1) Notifying other excess IT coordinators of the availability of the IT equipment;

(2) Fully and accurately describing the IT excess equipment by providing the following information:

(i) Condition code as defined in 41 CFR 101-43.4801;

(ii) Manufacturer's name;

(iii) Equipment type and model;

(iv) Description, including the supplier's nomenclature for the component;

(v) List of elements removed from each component, if applicable;

(vi) Description of available software, engineering drawings, manuals, etc; and

(vii) Contractor-held equipment, if applicable.

(3) Allowing agencies 15 days to assess their need for the excess IT equipment.

(e) Agencies may conduct exchange/sale transactions of IT equipment and software not transferred to another agency without GSA approval. (Exchange/sale transactions for IT equipment may be initiated in parallel with interagency screening, but screening of exchange/sale transactions with an OAC per component of \$1 million or more shall be completed prior to concluding an exchange/sale transaction.) When an agency determines that IT equipment will be replaced by exchanging or selling it, the agency shall follow the contracting policies and procedures in the Federal Acquisition Regulation (FAR) and the policies and procedures on exchange/sale contained in 41 CFR part 101-46. IT software transactions must be consistent with the limitations of any applicable license.

(f) Agencies shall make available for surplus donation or subsequent sale, in accordance with 41 CFR parts 101-44 and 101-45, excess IT equipment not exchanged, sold, reassigned, or transferred.

(g) Agencies shall apply the policies and procedures of this subpart 101-43.6 to IT equipment used by grantees and contractors when IT equipment is--

(1) Acquired by the contractor or grantee under a contract or grant and the terms vest title in the Government or the Government is obligated or has the option to take over title;

(2) Furnished to the grantee or contractor by the Government (Transfer of excess IT equipment to agency project

grantees shall be conducted in accordance with 41 CFR 101-43.314.); or

(3) Operated by the grantee or contractor as part of a Government-owned or Government-controlled facility.

(h) Agencies may request GSA to review another agency's decision to transfer excess IT equipment. Requests shall be sent to the General Services Administration/MKS, 18th & F Streets, NW., Washington, DC 20405.

§ 101-43.4801 [Amended]

4. Section 101-43.4801 is amended by removing paragraph (c) and redesignating existing paragraphs (d), (e) and (f) as paragraphs (c), (d) and (e), respectively.

PART 101-46--UTILIZATION AND DISPOSAL OF PERSONAL PROPERTY
PURSUANT TO EXCHANGE/SALE AUTHORITY

5. The authority citation for part 101-46 continues to read as follows:

AUTHORITY: 40 U.S.C. 1412; Sec. 205(c), 63 Stat.390; (40 U.S.C. 486(c)).

§ 101-46.201 [Amended]

6. Section 101-46.201-2 is amended in paragraph (a) by removing the last sentence.

Dated: July 31, 1996