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draft shall be accompanied by a transmittal letter and certification substantially in the format shown in §101-45.4805.

(e) Final payments shall be acceptable in the same forms as for bid deposits, with the exception of deposit bonds.

(f) Potential buyers shall be notified as to the exact organizational entity to the order of which the prescribed form of deposit is to be made payable. In no event shall a bid be rejected solely on the grounds that the instrument of deposit is made payable to the Treasurer of the United States when the offering specifies that it be made payable to the Government agency conducting the sale, or conversely, as the case may be.

[30 FR 2930, Mar. 6, 1965, as amended at 35 FR 12121, July 29, 1970; 42 FR 40854, Aug. 12, 1977]

§ 101-45.304-11 Deposit bonds.

(a) *Standard forms.* The following standard forms, as applicable, shall be used when a bond, in lieu of cash or other acceptable form of bid deposit, is permitted by the sales invitation.

(1) Standard Form 150, Deposit Bond—Individual Invitation, Sale of Government Personal Property. (See §101-45.4901-150.)

(2) Standard Form 151, Deposit Bond—Annual, Sale of Government Personal Property. (See §101-45.4901-151.)

(3) Standard Form 28, Affidavit of Individual Surety. (See §101-45.4901-28.)

(b) *Instructions and procedures.* (1) Comprehensive instructions for the execution and use of Standard Form 150, Deposit Bond—Individual Invitation; Standard Form 151, Deposit Bond—Annual; and Standard Form 28, Affidavit of Individual Surety, are provided on the reverse of each form. Implementing instructions shall be consistent therewith.

(2) Standard Form 151, Deposit Bond—Annual, contains the following provision:

Upon the making of an award to the principal, or within a reasonable period of time thereafter, the Government shall transmit, in writing, the following information to the surety at the above address:

- (i) Name and address of the principal(s);
- (ii) number of the invitation for bids; (iii) name and address of the department or agen-

cy making the award; (iv) date of the award; and (v) total purchase price covered by the award. The phrase, "or within a reasonable period of time thereafter", shall, for practicable purposes, be construed to mean within 15 days following the making of the award. Optional Form 20, Notice to Surety—Deposit Bond—Annual (illustrated at §101-45.4903-20) is a form of written notice available for this purpose.

(3) In the event a bidder whose bid deposit is secured by a deposit bond attempts to withdraw his bid in violation of paragraph 3, General Sale Terms and Conditions, Standard Form 114C, and such bid is determined to be the high bid acceptable to the Government, a formal notice of award shall be issued to inform the bidder of his contractual obligations.

(4) In the event of default by a bidder whose bid deposit has been secured by a deposit bond, a notice of such default should be sent to the bidder (principal) and the surety.

[30 FR 2930, Mar. 6, 1965, as amended at 42 FR 40854, Aug. 12, 1977]

§ 101-45.304-12 Sales to State and local governments.

(a) *General.* (1) State and local governments may purchase Government personal property by:

(i) Negotiation through their State agencies for surplus property as prescribed in this §101-45.304-12;

(ii) Negotiation at fixed prices through their State agencies for surplus property as prescribed in this §101-45.304-12;

(iii) Participation in public sales of Government personal property on a competitive bid basis by having their names maintained on appropriate mailing lists.

(2) No fees or monies will be paid by the Government to State agencies for surplus property for handling these transactions. The State agencies for surplus property may impose a fee on purchasers for costs incurred.

(3) When sales are made to State and local governments, the requirements for bid deposits and payments for property prior to removal shall be waived. However, payment must be made within 30 calendar days after purchase. If payment is not made within this time-frame, simple interest may be charged at the rate which has been established

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by the Secretary of the Treasury as provided in section 12 of the Contract Disputes Act of 1978 (Pub. L. 95-563), from the date of first written demand until paid.

(b) *Definitions.* The following terms shall have the meanings set forth in this §101-45.304-12:

(1) *Estimated fair market value.* The selling agency's best estimate of what the property would be sold for if offered for public sale.

(2) *State agency.* *State agency* means the agency in each State designated under State law as responsible for the distribution within the State of all donations of surplus property to public agencies and eligible nonprofit tax-exempt activities. This agency will also be responsible for administering the program in their State whereby eligible activities may purchase Government personal property by negotiation or negotiation at fixed prices.

(3) *State and local government.* A State, territory, possession, political subdivision thereof, or tax-supported agency therein.

(4) *Want lists.* Lists of items, submitted by State agencies to selling agencies, of personal property State and local governments desire to purchase by negotiation or fixed prices.

(c) *Submission of State agency requests for property.* State agency requests to selling agencies for purchasing property by negotiation and negotiation at fixed prices shall include, at the minimum, the following information for each type of property requested:

(1) Name, title, address, and telephone number of official person(s) authorized to obligate funds and enter into an agreement to purchase.

(2) Geographical area(s) within which they would be willing to inspect and purchase property;

(3) Complete description of each item desired; i.e., electric typewriter not office equipment, dump truck not vehicular equipment, compact sedan not sedan;

(4) Number of days the request should be maintained on the "want list" pending availability, not to exceed 60 days (selling agencies may extend the expiration date when property is subject to seasonal availability); and

(5) Minimum poorest acceptable condition; i.e., good (usable without repairs), fair (repairable), poor (extensive repairs required).

(d) *Nonwithdrawal.* Property listed in invitation for bids that has been offered for sale to the general public at the time requests are received from State agencies will not be withdrawn from sale under this §101-45.304-12.

(e) *Negotiated sales.* Personal property may be sold by negotiation to State and local governments through their State agencies subject to obtaining such competition as is feasible under the circumstances provided that the estimated fair market value and other satisfactory terms of disposal are obtained (see §101-45.304-2(a)(1)(iv) and §101-46.303(b)(1)). When two or more State agencies have indicated a desire to purchase the same item, quotations should be obtained from such interested parties. When only one State agency wants the property, and no further competition is feasible under the circumstances and all other conditions for negotiation have been met, the sale may be made.

(1) With the exception of items having an estimated fair market value of less than \$100, selling agencies may honor requests by State agencies for State and local governments to purchase property by negotiation prior to offering the property for public sale.

(2) When requested property is available for purchase, the selling agency shall take appropriate action to notify the State agency that the property is available for sale and, when appropriate, consummate the sale in accordance with this §101-45.304-12(e).

(3) When requested property is not presently available for purchase, selling agencies shall:

(i) Establish a "want list" system reflecting State agencies' requests for property being offered by negotiated sale.

(ii) Screen property reported for sales action against established "want lists."

(4) When a desired item becomes available for sale, the interested State agency(s) shall be advised of:

(i) The complete item description;

(ii) The condition of the item;

(iii) The item location;

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(iv) Full information concerning inspection; and

(v) The estimated fair market value when only one State agency is involved.

(5) A reasonable period of time not to exceed 15 days shall be given the State agency to indicate its desire to purchase the property.

(6) Satisfactory arrangements must be made with State agencies for payment, pickup, handling, and transportation charges, when necessary. (See §101-45.304-12(a)(3) for timeframes for payments.)

(f) Negotiated sales at fixed prices. Property approved to be sold at fixed prices may be offered through State agencies to State and local governments (see §101-45.304-2(b)) at fixed prices prior to public sale.

(1) When property is available at the time of request, the selling agency shall notify the requesting State agency and, when appropriate, consummate the sale in accordance with this §101-45.304-12(f).

(2) When requested property is not presently available for purchase, selling agencies shall:

(i) Establish a "want list" system reflecting State agencies' requests for property being sold at fixed prices, to include approved exchange/sale categories of property (see §101-46.303(b)).

(ii) Screen property to be offered by fixed prices against established "want lists."

(3) When requested property becomes available, interested State agencies shall be advised of:

(i) The complete item description;

(ii) The condition of the item;

(iii) The item location;

(iv) Full information concerning inspection; and

(v) The fixed price established for the item.

(4) A reasonable period of time not to exceed 15 days shall be given the State agency(s) to indicate its desire to purchase the item. However, when more than one State agency has indicated interest in the item, the sale will be on a "first-come, first-served" basis.

[55 FR 17610, Apr. 26, 1990]

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§ 101-45.305 [Reserved]

§ 101-45.306 Contractor inventory.

Except for contractor inventory where retention by the contractor is authorized by the terms of the contract, and after compliance with the applicable requirements of §101-45.310, contractor inventory shall be sold in the same manner as surplus personal property.

[53 FR 16121, May 5, 1988]

§ 101-45.307 Proceeds from sales.

Section 201(c) of the Act, authorizes any executive agency to apply the proceeds from sale of exchange/sale property in whole or in part payment for similar items acquired for replacement purposes. Section 204(a) of the Act requires, except in certain specified instances, that proceeds from sale of surplus personal property shall be covered into the Treasury as miscellaneous receipts. The exceptions are where property sold was originally acquired by funds not appropriated from the general fund of the Treasury, or appropriated therefrom and by law reimbursable from assessments, taxes, or other revenues; and where any contract entered in to by any executive agency or any subcontract under such contract authorizes the proceeds of any sale of contractor inventory to be credited to the price or cost of the work covered by such contract or subcontract. In these cases, the gross proceeds from the sale of such property will be deposited by the selling agency or by contractor or subcontractor to the reimbursable fund or appropriation or paid to the Federal agency accountable for the property. In all other cases, the gross proceeds from the sale of property will be deposited by the selling agency to the Treasury as miscellaneous receipts. Therefore, it is essential that the Standard Form 120, Report of Excess Personal Property, or Standard Form 126, Report of Personal Property for Sale, be properly completed to identify the appropriate appropriation or fund symbol, title, and station deposit symbol or station account number, or other manner in which payment is desired.

[31 FR 5001, Mar. 26, 1966]