

STATEMENT OF

BECKY RHODES
DEPUTY ASSOCIATE ADMINISTRATOR

OFFICE OF TRAVEL, TRANSPORTATION
AND ASSET MANAGEMENT

U.S. GENERAL SERVICES ADMINISTRATION

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ORGANIZATION, AND PROCUREMENT

UNITED STATES HOUSE OF REPRESENTATIVES

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Good afternoon. Chairman Towns, Ranking Member Bilbray, and Members of the Subcommittee, thank you for the opportunity to participate in today's hearing. I am Becky Rhodes from the General Services Administration (GSA).

I am the Deputy Associate Administrator for the Office of Travel, Transportation, and Asset Management in GSA's Office of Governmentwide Policy. My Office carries out the GSA Administrator's role in promulgating policy and regulations that govern how Federal agencies manage seven administrative functions:

- Official Travel,
- Transportation,
- Employee Relocation,
- Mail,
- Personal property in general,
- Vehicles, and
- Aircraft.

Generally speaking, "personal property" is defined as any property except buildings and land, agency records, and naval vessels.

Before I mention specifics, I will outline the basic process that Federal agencies go through to dispose of property that they no longer need, as described in Title 40 of the United States Code. This is important so that we have a common level of understanding about the current process.

- First, a Federal agency declares that a piece of property is excess to their needs and reports it to GSA.
- GSA offers the excess property to other Federal agencies using the GSAXcess website.
- If no Federal agency claims it within 21 days the property is deemed to be "surplus" to the needs of the Federal government. The property is then made available to the State Agencies for Surplus Property (SASPs) for donation to eligible organizations within their states – please note that at this point, the property is no longer "excess" property but now the property is "surplus" to the Federal Government.
- If no SASP wants the surplus property, then the Federal government decides whether to sell it or declare it scrap.

With regard to H.R. 752, the Federal Electronic Equipment Donation Act, I am advised that GSA and the Administration are studying the bill.

However, I would like to mention that GSA already is running the successful Computers for Learning program. The Computers for Learning program was established in accordance with Executive Order 12999, which allows Government agencies to transfer excess computer equipment to schools and educational nonprofit organizations, giving special consideration to those with the greatest need. EO 12999 includes citations to GSA's Title 40 authorities, as well as to the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3701, *et. seq.*), to allow agencies to transfer excess computers directly to schools, rather than first making them available to other Federal agencies. Transferring computers to schools gives students the resources to succeed - and build a successful future for America. GSA has made many improvements to the Computers for Learning program since taking it over in 1999.

Please note that computer equipment transferred to schools under EO 12999 is excess, not surplus. It has not traveled far enough through the process to be considered surplus.

Next, I would like to turn to the proposed revisions to Part 102-38 of the Federal Management Regulation which deals with the Sale of Personal Property.

Under the Federal Property and Administrative Services Act of 1949 (now subtitle I of title 40, United States Code), Congress gave the Administrator of General Services the authority to manage the use and disposal of Federal property, including the authority to issue regulations governing the disposal of Federal personal property (40 U.S.C. 121) . Those implementing regulations are in the FMR.

The Federal Management Regulation (FMR) is located in Chapter 102 of title 41 of the Code of Federal Regulations. In my testimony today, I will be referring to the FMR's Sale of Personal Property provisions as "FMR 102-38." I want to emphasize that these proposed provisions have not yet been put into effect – they are still in the regulations-development process.

The proposed changes to the FMR 102-38 are intended to bring the Federal regulation into line with the existing Federal Asset Sales (eFAS) policies. These policies have been developed through a collaborative process that involved Federal agencies and OMB.

The eFAS initiative is part of the President's Management Agenda, under the overall objective of expanding service delivery to the American people using electronic technology.

The guiding principles of the eFAS initiative are:

- Unify and Simplify - Make it easy to find, buy, and sell assets;
- Results Oriented - Leverage economies of scale to increase return on assets sold, decrease cost of sale, and reach a broader customer base ;
- Best Practices - Take advantage of market driven practices and solutions; and
- Transparency – Make it easy for agencies and the public to see what the Federal government is selling, what is sold, and how well its sales activities are performed.

In short, the eFAS initiative seeks to provide citizens with an efficient and easy-to-use method of finding and buying assets for sale by the Government, and to assist agencies in selling their assets in an effective manner with maximum return to our taxpayers. GSA is the managing partner for this initiative.

GSA and its partner agencies launched GovSales.gov on October 1, 2006. When you visit this website, you will find a searchable catalog of property available for sale by the Government that is linked to various sales sites that conduct both on-line and off-line sales of:

- Personal Property: including business equipment, vehicles, furniture, and various other items that are surplus to the Government's needs or have been forfeited or abandoned or are eligible for an exchange/sale transaction..
- Real Property: including residential, industrial, commercial, agricultural, and other types of real estate that is surplus, forfeited, or foreclosed.

Ultimately, citizens will be able to search and shop for all assets available for sale by the Government through this one centralized website.

One of the key characteristics of the eFAS initiative is the use of recognized sales experts, including experts from the Federal government and private sector. We have worked with Federal agencies to encourage them to offer the most effective and efficient solutions, regardless of whether those solutions are government-managed or contractor-managed.

All of the eFAS Sales Centers are self-nominated. A Federal agency's bid to become a Sales Center is reviewed by an interagency subcommittee of the eFAS Executive Steering Committee. All recommendations of this subcommittee must be approved by the Office of Management and Budget.

The eFAS initiative has conducted two rounds of this process. Four Sales Centers were approved after the first round, and they are operating today. The second round yielded two additional potential Sales Centers, which we are in the process of developing. To date, all agencies that submitted and pursued a bid through the selection process have been recommended to be Sales Centers. I mention this to point out that the GSA is not eliminating any agency from seeking to become a Sales Center.

Agencies that are not already Sales Centers, but that believe that they can obtain a better sales solution than available from an existing Sales Center, are encouraged to apply for a waiver to test whether they can truly obtain a better solution (I will discuss the waiver process shortly). If the agency is indeed able to obtain a better sales solution than otherwise available, they will be given the opportunity to become a Sales Center so that all agencies can benefit from the better solution.

The eFAS initiative judges "best available" sales solutions as those solutions making the property available to the widest audience of potential buyers, selling the property in the shortest amount of time, getting the highest net return for the property sold (i.e., maximizing the sales price and minimizing the fees charged by the sales solution and other costs to the holding agencies, such as storage, transportation, etc.), and reporting performance measures on items sold to assure transparency of the sales process.

We have high expectations for these sales solutions. All sales opportunities (with a few exceptions) will be posted on the common website to maximize visibility to potential buyers and, therefore, to maximize the sales price. Sales centers are required to report to GSA key information about the items sold and the related sales performance metrics. Examples of our metrics include cycle time to sale, gross sales proceeds, transaction costs, and net proceeds. The transparency into the sales process that these metrics provide is essential to achieving the accountability that we seek.

Regarding private sector participation in the eFAS initiative, any sale of Federal **surplus** personal property must, by law, be conducted by a Federal agency, as only an authorized Federal official may approve a sale and bind the Government. However, in addition to that Federal sales official, the Sales Center may be composed of any mix of Federal employees or private sector contractors supporting the sales process. Agencies that are Sales Centers are encouraged to continually survey the solutions offered by the private sector and upgrade their current solutions when beneficial to do so.

The eFAS initiative also deals with forfeited, foreclosed, and exchange/sale property. Since these are not categories of **surplus** property, Sales Centers selling these assets may be composed of Federal employees or private contractors.

Our proposed changes to FMR 102-38 will make it clearer that Sales Centers must provide the best and most effective solutions and should consider, and even encourage, private sector participation in the agency sales process. Private sector entities interested in participating in the Federal sales process must only (1) demonstrate their effectiveness to an existing Sales Center or to an agency interested in becoming a Sales Center, and (2) agree to a service contract with that Sales Center.

The eFAS initiative focuses on maximizing Sales Center performance. Agencies have already embraced the participation of the private sector to help in providing effective solutions. Three of the four Sales Centers that are currently approved and operational use private sector partners in the sales process. The only exception is one Sales Center which only services the Metropolitan Washington, DC area and realizes approximately \$100,000 in sales proceeds annually.

There is much confusion about the eFAS waiver process, so let me explain. If an agency wants to take exception to anything in the entire FMR (so long as their exception would not violate the law), the agency may request a *deviation*. This *deviation* process already exists in the FMR; it is described in FMR 102-2.60 through 102-2.110. In the property arena, for example, we recently granted a *deviation* to allow donation of flu vaccine

without prior testing by the USDA Food and Drug Administration (FDA). The FMR requires testing, but the FDA said that, in this case, testing was not required because the vaccine was still under the control of the original manufacturer.

The eFAS initiative has developed a separate process, under which an agency may request a *waiver* from requirements or milestones that are part of the eFAS process. Working with the agencies, GSA has defined this waiver process and established procedures for it. The proposed regulatory change would incorporate the eFAS waiver process into FMR 102-38.

Ten agencies have applied for waivers. One example is an agency that sells a specific type of property to a limited pool of buyers, and there is little likelihood of finding new buyers. A waiver could be the right answer, in this example, because there would be little to be gained from requiring the agency to restructure its process.

GSA and its eFAS partners have developed this *waiver* process to encourage the best solutions to rise to the surface. In the *waiver* process, as with the Sales Centers, we are encouraging the agencies to seriously consider private sector participation to make their solutions as efficient and effective as possible. All *waivers* will have a time limit, with the possibility of renewal.

In conclusion, Mr. Chairman, I would like to say that the eFAS initiative has made dramatic progress toward its goals of unifying and simplifying the sales process, while being results-oriented, adopting best practices, and maintaining transparency. We have learned a lot along the way, and we have solid plans for the future.

Thank you again for this opportunity to speak to the Subcommittee. I am happy to answer any questions you may have.