

REVIEW OF CERTAIN POLICIES AND PROCEDURES
RELATING TO DISPOSAL OF PERSONAL PROPERTY BY
EXCHANGE OR SALE UNDER SECTION 201(c) OF THE
FEDERAL PROPERTY ACT

68062771

HEARING
BEFORE A
SUBCOMMITTEE OF THE
COMMITTEE ON
GOVERNMENT OPERATIONS
HOUSE OF REPRESENTATIVES

NINETIETH CONGRESS

SECOND SESSION

JULY 9, 1968

Printed for the use of the Committee on Government Operations



GOV. DOC.

y4

.674/7

:p94/7

453770

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1968

SEP 30 1968
GOVERNMENT DEPOSITORY
PROPERTY OF RUTGERS, THE STATE UNIVERSITY
COLLEGE OF SOUTH JERSEY LIBRARY
CAMDEN, N. J. 08102

COMMITTEE ON GOVERNMENT OPERATIONS

WILLIAM L. DAWSON, Illinois, *Chairman*

CHESTER HOLIFIELD, California	FLORENCE P. DWYER, New Jersey
JACK BROOKS, Texas	OGDEN R. REID, New York
L. H. FOUNTAIN, North Carolina	FRANK HORTON, New York
PORTER HARDY, Jr., Virginia	DONALD RUMSFELD, Illinois
JOHN A. BLATNIK, Minnesota	JOHN N. ERLBORN, Illinois
ROBERT E. JONES, Jr., Alabama	JOHN W. WYDLER, New York
EDWARD A. GARMATZ, Maryland	CLARENCE J. BROWN, Jr., Ohio
JOHN E. MOSS, California	JACK EDWARDS, Alabama
DANTE B. FASCELL, Florida	GUY VANDER JAGT, Michigan
HENRY S. REUSS, Wisconsin	JOHN T. MYERS, Indiana
JOHN S. MONAGAN, Connecticut	FLETCHER THOMPSON, Georgia
TORBERT H. MACDONALD, Massachusetts	WILLIAM O. COWGER, Kentucky
J. EDWARD ROUSH, Indiana	MARGARET M. HECKLER, Massachusetts
WILLIAM S. MOORHEAD, Pennsylvania	GILBERT GUDE, Maryland
CORNELIUS E. GALLAGHER, New Jersey	PAUL N. McCLOSKEY, Jr., California
WILLIAM J. RANDALL, Missouri	
BENJAMIN S. ROSENTHAL, New York	
JIM WRIGHT, Texas	
FERNAND J. ST GERMAIN, Rhode Island	

CHRISTINE RAY DAVIS, *Staff Director*

JAMES A. LANIGAN, *General Counsel*

MILES Q. ROMNEY, *Associate General Counsel*

J. P. CARLSON, *Minority Counsel*

WILLIAM H. COPENHAVER, *Minority Professional Staff*

SPECIAL SUBCOMMITTEE ON DONABLE PROPERTY

JOHN S. MONAGAN, Connecticut, *Chairman*

FERNAND J. ST GERMAIN, Rhode Island MARGARET M. HECKLER, Massachusetts

MILES Q. ROMNEY, *Counsel*

ANN E. McLACHLAN, *Clerk*

CONTENTS

Statement of—	
Elson, Sol, Director, Office of Surplus Property Utilization, Department of Health, Education, and Welfare; accompanied by William R. Lawrence, Chief, Personal Property Division, Office of Surplus Property Utilization.....	Page 30
Griffin, Robert T., Assistant Administrator, General Services Administration; accompanied by Lewis C. Tuttle, Acting Assistant Commissioner, Personal Property Disposal; and Byron Harding, Associate General Counsel.....	20
Riley, Paul H., Deputy Assistant Secretary of Defense (Supply and Services) accompanied by Col. Lester T. David, Office of Secretary of Defense, Military Staff, Supply Policy.....	4
Letters, statements, etc., submitted for the record by—	
Griffin, Robert T., Assistant Administrator, General Services Administration: Letter from L. C. Tuttle, Acting Assistant Commissioner for Personal Property Disposal, GSA, to Col. Lester T. David, Data Systems and Supply Policy Division, Office of Assistant Secretary of Defense (Installations and Logistics), Washington, D.C., dated July 3, 1968.....	21
Monagan, Hon. John S., a Representative in Congress from the State of Connecticut: Opening statement.....	2
Riley, Paul H., Deputy Assistant Secretary of Defense (Supply and Services): Statement.....	5

APPENDIX

Documents and correspondence relating to certain exchange/sale policies and procedures—Department of Defense and General Services Administration.....	33
---	----

APPENDIX

—

(11)

REVIEW OF CERTAIN POLICIES AND PROCEDURES
RELATING TO DISPOSAL OF PERSONAL PROPERTY
BY EXCHANGE OR SALE UNDER SECTION 201(c) OF
THE FEDERAL PROPERTY ACT

TUESDAY, JULY 9, 1968

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE ON DONABLE PROPERTY
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C.

The subcommittee convened at 10:10 a.m., in room 2154, Rayburn House Office Building, Hon. John S. Monagan presiding.

Present: Representatives John S. Monagan and Fernand J. St Germain.

Professional staff members present: Miles Q. Romney, counsel for the subcommittee; William H. Copenhaver, minority staff member.

Mr. MONAGAN. I will call the hearing to order.

I have a statement here, and I think that I will run through it rather briefly, but the full statement may be made a part of the record.

We are in a little more magisterial surroundings than we usually are due to the fact that the smaller committee rooms are not available, and you will just have to adjust yourselves to this cathedral.

The hearing that we have today is continuing our review of policies relating to disposal of personal property by exchange/sale under section 201(c). All of us here know what the significance of this provision is. Perhaps 95 percent of the surplus property is generated by the Department of Defense. And previously of course there was a policy that required prior screening of this property for transfer as excess to other Federal agencies or for transfer as surplus for donation. There were various regulations issued revising this disposal. GSA issued revised regulations in March 1966 which become effective on July 1, 1966. They did not require the Department of Defense to change its basic exchange/sale policy. However, the Department advised that it was making a change in August of 1966 and that the prior screening was no longer to be required.

We held a hearing on this matter shortly afterwards, and at that time, the Department agreed to keep the subcommittee informed as to developments that might take place and to furnish copies of additional instructions in the military departments and the Defense Supply Agency.

We made a report in October of 1966 on this subject and at that time called on the Department of Defense to hold its policy in abeyance until an analysis could be made of the relative merits of disposal by exchange/sale, transfer to other Federal agencies, or by donations.

I don't have to discuss the implications and the policy questions that are involved in these different methods.

The subcommittee became interested in one aspect, and that was the degree to which the impact of this policy on the donable program could be limited. In other words, that the supply of surplus property could be continued. And we requested that data be gathered on it for this purpose. On December 15, 1967, we requested the Department of Defense to consider suggestions regarding possible elimination from exchange/sale of some items showing a low rate of return on the basis of acquisition cost, and we have asked DOD to compile figures on proceeds and allowances resulting from exchange/sale so that there would be some reasonable basis for arriving at a general policy on this matter.

On January 31 of this year, the Department of Defense stated that it was going to require evaluation of each contemplated exchange/sale transaction to see whether the expected return would warrant the administrative and related costs. We also learned informally that an instruction to the service departments and the Defense Supply Agency was being prepared, and this was issued in a two-page memorandum on March 27 of this year. The purpose of this was to clarify misunderstandings which appeared to exist in certain programs.

Now, until 3 weeks ago, the March 27 memorandum was the latest document the subcommittee had received concerning DOD implementation of its exchange/sale policy. However, there has, we have learned, been considerable activity within the Department concerning such implementation, and it is this activity that we want to review at the hearing this morning.

One aspect of the exchange/sale procedure that we are interested in deals with the list of 30 categories and groups of property which the 1966 GSA regulations made ineligible for exchange/sale disposal. And we want to see also how the Federal agencies have handled special waivers releasing an agency from adherence to the restrictions imposed by the 30-category list.

We are, of course, as I have said, concerned with these categories and will be concerned if through inadequate supervision and coordination among agencies these exchange/sale transactions are to go beyond the prescribed or necessary limits with a damaging effect on the donable program.

And so we are meeting today to have testimony on these matters that I have discussed generally. We will have witnesses from the various agencies involved.

(The statement follows:)

OPENING STATEMENT OF HON. JOHN S. MONAGAN, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF CONNECTICUT

The hearing today by the Special Subcommittee on Donable Property is part of our continuing review of Federal policies and procedures governing the disposal of personal property by exchange or sale under section 201(c) of the Federal Property Act. Under this provision, when a Federal agency needs to acquire an item of personal property it may exchange or sell a similar item and apply the trade-in allowance or proceeds of sale against the cost of the property being acquired. The General Services Administration is authorized to prescribe regulations governing such exchange/sale transactions. The subcommittee has a special interest in such disposals because, when personal property is thus sold or exchanged, it no longer can become available for donation under the Federal dona-

ble property program. Through this program, the Government may donate to qualified educational, public health, and civil defense organizations personal property which the Government no longer needs.

Perhaps 95 percent of the Federal surplus property allocated under the Federal donable property program is generated by the Department of Defense. Until recently, it was the policy of the Defense Department that property eligible for exchange or sale under section 201(c) be given a prior screening, first for transfer as excess to other Federal agencies on a nonreimbursable basis, and second, for transfer as surplus for donation.

In March 1966, the General Services Administration issued revised regulations on the disposal of personal property by exchange or sale. The regulations became effective on July 1, 1966.

The GSA regulations did not require the Department of Defense to change its basic exchange/sale policy. However, in August 1966, the Department advised that it was making such a change and that the prior screening for further Federal use and donation was no longer to be required within the Department. Shortly thereafter, the subcommittee held hearings on this matter. During the hearings, the Department agreed to keep the subcommittee informed as to developments that might take place and to furnish copies of additional implementing instructions from the military departments and the Defense Supply Agency.

In October 1966, the Government Operations Committee treated the subject of exchange/sale disposals at length in its report entitled, "Evaluation of the Donable Surplus Property Program" (H. Rept. No. 2319, 89th Cong). One recommendation in this report called on the Department of Defense to hold its revised policy in abeyance until the Federal agencies concerned could furnish an analysis of the relative merits of disposal of Federal property by exchange/sale, by transfer to other Federal agencies for further Federal use, or by donation. The Department did in fact defer putting the change into effect. On October 27, 1967, however, the Assistant Secretary of Defense advised the chairman of the full Committee on Government Operations of DOD's determination that it would be prudent to discontinue offering exchange/sale property to other Federal agencies and eligible donees prior to attempting recoupment of funds or establishment of credit through the exchange/sale authority.

At this point, the subcommittee began to explore with DOD means whereby the impact of the revised policy on the donable property program could be limited, and the committee staff and the Deputy Assistant Secretary of Defense (Supply and Services) conferred on certain possible approaches to DOD implementation of the new policy. The subcommittee requested the Department of HEW and DOD to gather comparative data on the economies of exchange/sale and other disposal methods.

On December 15, 1967, the subcommittee formally requested the Department of Defense to consider certain suggestions regarding possible elimination from exchange/sale disposal of some items showing a low rate of return in prior disposals. The letter also suggested that DOD compile figures on proceeds and allowances resulting from exchange/sale transactions so that the rate of return on original acquisition cost for various categories of property could be accurately computed.

In a letter to the subcommittee dated January 31, 1968, the Department of Defense stated it was going to require careful evaluation of each contemplated exchange/sale transaction so as to determine in advance whether the return expected would warrant the administrative effort and related cost involved. The subcommittee also learned informally that a DOD instruction to the service departments and the Defense Supply Agency was being prepared in the Office of the Assistant Secretary of Defense (Installations and Logistics). That instruction was issued in a two-page memorandum to the Army, Navy, Air Force, and DSA dated March 27, 1968. The stated purpose of the memorandum was to "clarify certain misunderstandings which appeared to exist concerning the purpose and intent of DOD implementation of FPMR 101-46 as prescribed in DOD instruction 4160.1 dated August 10, 1966." The memorandum specifically required a case-by-case evaluation of proposed exchange/sale transactions to determine whether the return would justify the administrative effort and related costs involved. It suggested that to a large degree this could be ascertained through the average gross monetary return realized through past competitive sales or exchanges of similar items.

Until 3 weeks ago, the March 27 memorandum was the latest document the subcommittee had received concerning DOD implementation of its exchange/

sale policy. However, there has, we have learned, been considerable activity within the Department concerning such implementation. It is this activity which we will want to review at the hearing this morning.

A special aspect of exchange/sale procedure that the subcommittee will take up today deals with the list of 30 categories or groups of property which the GSA in its 1966 regulations made ineligible for exchange/sale disposal. Specifically, we want to examine how the Federal agencies concerned have handled special waivers releasing an agency from having to adhere to the restriction imposed by the 30-category list. The subcommittee takes no position with respect to the desirability or appropriateness of special exemptions from the list. But we are interested in the adequacy of procedures and practices in granting such exemptions.

Because property items within the 30 ineligible categories cannot be disposed of by exchange or sale, they have a greater chance of being declared surplus property and thus becoming available for use in the Federal donable property program. Certainly, we would be greatly concerned if through inadequate supervision and coordination among agencies most involved in the exchange/sale and donation programs, exchange/sale transactions were to range beyond prescribed or necessary limits.

Accordingly, the subcommittee is meeting today to hear testimony relating to the matters I have just touched on from representatives of the Department of Defense, the General Services Administration, and the Department of Health, Education, and Welfare.

Mr. MONAGAN. Our first witness is Mr. Paul H. Riley, Deputy Assistant Secretary of Defense for Supply and Services. Mr. Riley, would you come up to the table here. We very much appreciate your coming. I know that you are engaged in very important and urgent business, and we will try to finish as rapidly as we can.

Mr. Riley, you do have a statement here, I see. Would you like to read it?

STATEMENT OF PAUL H. RILEY, DEPUTY ASSISTANT SECRETARY OF DEFENSE (SUPPLY AND SERVICES); ACCOMPANIED BY COL. LESTER T. DAVID, OFFICE OF SECRETARY OF DEFENSE, MILITARY STAFF, SUPPLY POLICY

Mr. RILEY. I can do whatever suits your wishes, Mr. Chairman. I can present it—I can read the statement, leave it for the record; or very quickly, in order to save time, I can give you two or three of the highlights that are in the statement.

Mr. MONAGAN. This statement, Mr. Riley, may be made a part of the record at this point, and I think if you would summarize it, we all know enough about the details and the implications so that we can take it from there.

Mr. RILEY. All right, sir.

The first part of the statement does deal with some of the past actions which you, Mr. Chairman, have already covered. That is why I think it would be prudent at this time not to reiterate those. In response to your specific request, we have informed you in our statement that our implementing instructions on the program are out now, have been published by the military services, and all of our field activities should have them and should be operating under them. With respect to the dialog that you requested in connection with granting of certain exceptions for Federal supply classification groups 15 and 16—this is aircraft structural parts and aircraft components—we did request the General Services Administration to grant us authority to proceed to exchange/sale certain aircraft components. This came about as a result of a request of the Department of the Navy. It is my under-

standing there may have been some question in the committee's mind with respect to the military service activities in this connection. I have not been officially informed of this, but would like to inform you that, if there is a problem we and GSA will work this out and correct whatever the problem seems to be.

Another high point in the statement is to inform you that by this time next year we will be in a better position to come before you and tell you precisely the value of the exchange/sale program to the Department of Defense. We will during the year collect the actual sales proceeds that we require when we sell property or we will be able to document and aggregate for you the total value of the exchanges that we do receive when we trade in property. And this will, I think, strengthen the whole reporting system. And attached to my statement, Mr. Chairman, are two tables, one which shows the donation program by recipient beginning with fiscal year 1964 and on through the 9 months of the fiscal year 1968, which is as far as we have the figures to date.

The other table on the donation program shows the total program fiscal year 1964 through, again, the first 9 months of 1968 showing the total donation program, the value of the exchange/sale type property that was donated, the value of the exchange/sale type property that was sold, and then the total usable property that was sold by the Department of Defense in those years.

I am prepared to answer your questions.

(The statement follows:)

PREPARED STATEMENT OF PAUL H. RILEY, DEPUTY ASSISTANT SECRETARY OF
DEFENSE (SUPPLY AND SERVICES)

Mr. Chairman and members of the committee, I am appearing here today in response to the chairman's letter of July 3, addressed to the Secretary of Defense, which expressed a need for current information and status regarding the Department of Defense exchange/sale program, with particular emphasis on two specific points:

1. Status of implementing instructions relative to the new DOD exchange/sale policy.
2. Circumstances and dialog surrounding the recent partial exemption granted to DOD from observing the restrictions on Federal supply classification groups 15 and 16 imposed through GSA's list of 30 property categories ineligible for exchange/sale disposal.

As the committee is aware, section 201(c) of the Federal Property and Administrative Services Act of 1949, as amended, provides exchange/sale authority to Federal agencies, and the Federal property management regulations (FPMR) issued by GSA implements in detail the manner in which this authority can and cannot be used by Federal agencies. Although the use of this authority is permissive, the principal reason for the authority is to allow Federal agencies to exchange or sell Federal property that requires replacement and to apply the exchange allowance or proceeds from sale toward the acquisition of a new and similar replacement item.

On March 21, 1966, the FPMR was revised by GSA; among other changes, the number of categories ineligible for exchange/sale was increased from seven to 30 and the eligible categories were reduced from 69 to 41.

A revision of DOD instruction 4160.1, dated August 10, 1966, subject: "Non-excess Personal Property To Be Sold or Exchanged for Replacement Purposes," was issued to establish uniform policy and procedure throughout the DOD for compliance with the revised FPMR.

On September 27, 1966, the DOD acceded to the request of the chairmen of the Senate and House Government Operations Committees to defer implementation of the DOD instruction until the second session of the 89th Congress had had an opportunity to act upon Senate bill 2610. As you know, S. 2610 failed of enactment.

On October 27, 1967, with the approval of the Bureau of the Budget, the chairmen of the Senate and House Government Operations Committees were notified that action to implement DOD instruction 4160.1 was being initiated. Simultaneously, all DOD components were notified of the removal of the suspension and were told to initiate implementation action.

During the early phases of implementation there were some cases where a property disposal officer withdrew from the "eligible for donation" category items of property on which State surplus property screeners had already filed a claim. A joint DOD/GSA policy was quickly established whereby such personal property which had been spoken for would not be withheld from donation by holding activities even though the necessary paperwork had not reached the GSA regional office. There were also a few incidents of ineligible items being put up for exchange or sale; these were corrected in each case that was brought to our attention.

Detailed implementing instructions have now been disseminated to all military service field activities, and as of July 1 (fiscal year 1969) we will be in a position to obtain more exchange/sale data and to determine what effect, if any, this revised policy will have on the donation program.

With respect to the circumstances and dialog surrounding the granting of a partial exception to Federal supply classification groups 15 and 16, I am happy to provide this information. On February 21, 1968, representatives of the Naval Air Systems Command and the Office of the Navy General Counsel visited GSA to seek relief from, or an exception to subpart 101-46.4901, Federal supply classification group 16, aircraft components and accessories, and the airframe structural components portion of Federal supply classification group 15. As you are aware, subpart 101-46.4901 concerns itself with Federal supply classification groups which are not eligible under the provisions of the exchange/sale regulation.

The basis for the Navy request was that the Navy had acquired several Grumman TC-4C aircraft, commercially known as the Grumman Gulf Stream, and had established a provisioning plan which called for spare parts support to be provided by the manufacturer. Upon evaluating this support arrangement, GSA granted the Navy an interim exception to Federal supply classification group 16 and the airframe structural components portion of Federal supply classification group 15. This interim exception was to expire on August 31, 1968.

On February 23, 1968, GSA notified my office of the exception they had granted and suggested that perhaps the Army and the Air Force might also be operating commercial type aircraft and be dependent upon the manufacturer for spare parts support. It was ascertained that both the Army and Air Force had had, or anticipated having much the same problem as the Navy in connection with their commercially designed and manufactured aircraft. As a result of this determination, on March 15 we requested GSA to grant authority to exchange/sale the aforementioned items; on April 8 this request was approved by GSA. On April 16, the military departments and the Defense Supply Agency were advised of the exception granted by GSA, were furnished copies of the DOD/GSA correspondence on the subject, and were requested to initiate appropriate action to incorporate the exemption into their respective implementing instructions to their components.

It is my understanding that pursuant to your staff review of the departmental implementing instructions, it has been brought to GSA's attention that the military services may have in some instances interpreted the exemption authority more broadly than was intended by GSA. We have, however, received no formal notification to this effect. Upon receipt of such notification we will investigate the alleged misinterpretations and if they are substantiated corrective action will be taken.

SURPLUS PROPERTY DISPOSITION—DOD DONATION PROGRAM

[Acquisition value, in millions of dollars]

Fiscal year	Total donation	Exchange/sale donated	Exchange/sale sold	Total usable property sold
1964.....	273	56.0	45.0	980
1965.....	282	33.3	41.8	975
1966.....	285	24.7	66.1	804
1967.....	231	17.9	26.2	917
1968 (9 months).....	142	13.6	14.5	684

DOD DONATION PROGRAM, BY RECIPIENT, BEGINNING WITH FISCAL YEAR 1964
[In millions of dollars]

	Fiscal year 1964	Fiscal year 1965	Fiscal year 1966	Fiscal year 1967	9 months, fiscal year 1968
Department of Health, Education, and Welfare.....	251	260	264	206	134
Public airports.....	1	4	4	3	2
Special education activities.....	11	9	6	5	3
Public bodies.....	2	2	1	3	0
Other authorized donees.....	8	7	10	14	3
Total.....	273	282	285	231	142

Mr. MONAGAN. Just on these tables, the first table shows the total donation, and that is the same figure that appears at the bottom of the column in the next table; is it not?

Mr. RILEY. Yes; that is correct.

Mr. MONAGAN. Now, exchange/sale donations, just what does that mean?

Mr. RILEY. That means that this property was eligible for exchange/sale but under our previous procedures it was screened and then donated.

Mr. MONAGAN. I see. It actually went into the donation program.

Mr. RILEY. Yes, sir.

Mr. MONAGAN. The remaining amount was sold under the exchange/sale program; is that right?

Mr. RILEY. That is correct.

Mr. MONAGAN. \$45 million in the top column. And then is the final column the total amount of property that is available?

Mr. RILEY. The final column is the total amount of usable property that was sold. That is the acquisition value of the property that was sold.

Mr. MONAGAN. How does that figure relate to the preceding columns?

Mr. RILEY. It is a part of it. In other words, the total usable property sold by the Department of Defense in the first 9 months of fiscal year 1968 amounts to \$684 million. Now, of that, \$14.5 million was exchange/sale-type property that was sold, \$13.6 million was exchange/sale-type property that was donated, and \$142 million is the total donation program.

Mr. MONAGAN. Well, what about the remaining \$500 million?

Mr. RILEY. That was sold and went into the Defense Department's surplus disposal fund.

Mr. MONAGAN. Do you want to ask any questions?

Mr. ROMNEY. Mr. Riley, you said that after you had received data on the exchange/sale transactions you would be in a position to give the aggregate of exchange/sale proceeds. Does this mean that you would not be able to distinguish within that aggregate figure the proceeds attributable to specific categories of property?

Mr. RILEY. No; I believe I am correct in saying this, Mr. Romney, that we will continue to aggregate our figures by category of material so that we will be able to discuss with you the actual sales proceeds for exchange/sale property or the actual trade-in value by category.

Mr. ROMNEY. You have provided to us copies of the Defense Surplus Sales Office sales summary. The latest copy I have is for the

first half of fiscal 1968. In this sales summary is a section which analyzes selected categories of property, exchange/sale-type property. These disposals took place under the prior Defense Department policy, under which the further Federal utilization and donation screening occurred before selections out for exchange/sale disposal; is that correct?

Mr. RILEY. Yes; that is correct.

Mr. ROMNEY. My question then is, Will the Defense surplus sales summaries be essentially different now after the exchange/sale transactions go into effect?

Mr. RILEY. Well, I think in terms of the way we will display this, the reporting formats will remain about the same, except we will have this additional information. There will be additional information even though technically speaking the exchange/sale transaction will not involve surplus property. The only difference here will be the nature of the property that we are dealing with that will be reflected in our change in procedures. We will be giving you the actual sales value of the exchange/sale property or the trade-in value.

Mr. ROMNEY. Do you anticipate that will be incorporated into the subsequent issues of this summary booklet?

Mr. RILEY. Yes, sir; it will be.

Mr. MONAGAN. Mr. Riley, there is one important matter that I want to talk with you about before you leave, and that is the matter of coordination between this committee and the Department of Defense. It is also somewhat of a problem with other departments. And also I wish to discuss the coordination between departments.

One of the important functions of the Government Operations Committee is to oversee and stimulate exactly this sort of thing. And I believe that the situation we have run into here points up the importance of the committee function and also certain important deficiencies in the relationship between the committee and the Department of Defense.

Now, there have been both progressive elements and elements that we think are subject to criticism resulting from this continuing investigation. For instance, Secretary Morris, on October 27, wrote a letter to Chairman Dawson informing him about what was going on, and also wrote to me on January 31 of 1968 telling about proposed actions and decisions on the exchange/sale policy. This was helpful. But since the March 27 letter, a number of significant developments have taken place within the Department. In April, ASPR revision No. 27 was issued with part 2 on exchange/sale of personal property. In May, the Army and the Air Force issued special implementing instructions. In mid-June, the Navy issued special implementing instructions, and in early June GSA began circulating its revision of the Defense Disposal Manual. Last April your Office and GSA concluded an exchange of letters relating to commercial-type aircraft parts being exempted from the 30-category list, which was a significant permanent alteration of the prior restraints. No notification was sent to us.

So the point is that we should have had a liaison. We should have known about these developments for our own information and also for the coordination that we are seeking. Now, I just point out, during the prior hearings when you testified you were talking about the impact of the exchange/sale program on the total program, and Mr.

Romney requested at that time that the Department furnish the committee with copies of the implementing instructions which the departments and DSA are requested to supply DOD. I, at that time, said I wanted to reiterate the interest that Congress had in this program and the dismay we would feel if anything were done to affect it adversely, and I thought that this would be felt in the Congress and throughout the country. And I said that we were going to follow it closely and would appreciate your keeping us informed as to any developments that may take place.

So it is with a great deal of concern that we find that all these decisions have been taken and communications have been had without any reference to us.

Mr. RILEY. Mr. Chairman, I was not aware that we were not keeping your staff advised of our activities. It was my understanding that we had furnished the implementing instructions to you for your staff's review.

With respect to the most recent action where we have requested an exemption of two of the aircraft classes, I do not know whether you were advised of that or not.

Mr. MONAGAN. No, we were not.

Mr. RILEY. I will be happy to leave with your staff the correspondence that took place in connection with that.

Mr. MONAGAN. Well, I don't mean to suggest that we have any prior opinion as to any particular transaction or even as to a policy change. We might very well approve of the changes. In fact, I think from the information we have that in many ways, what has been done has been proper and has shown an attempt to adjust to the realities of the situation. At the same time, we do want to have this information furnished as we go along.

Mr. RILEY. Well, I personally had some discussions with members of your staff and the principal member of my staff, Col. Lester David, is always available at any time, and I think he and Mr. Romney have had several conversations.

Mr. MONAGAN. Well, there is no question that when a meeting has been held we have got the information, but what I want to emphasize is that there is an obligation on your part to keep us informed.

Mr. RILEY. Yes, sir.

Mr. MONAGAN. And to take the initiative to give us this information as we go along.

Mr. RILEY. I would like to assure you that I am sensitive to that commitment, and will follow up on it.

Mr. MONAGAN. It is in this failure and other aspects to follow along that we want to point up by this hearing today.

Mr. St Germain, would you like to ask any questions.

Mr. ST GERMAIN. No questions.

Mr. MONAGAN. Thank you very much, Mr. Riley.

Mr. RILEY. Thank you.

Mr. MONAGAN. Colonel David, we would like to have you stay here, sir.

Would you take the chair, please.

Colonel DAVID. Yes, sir.

Mr. MONAGAN. Would you identify yourself for the record, please.

Colonel DAVID. My name is Col. Lester T. David, Air Force. I am

a military staff adviser to the Assistant Secretary of Defense for installation and logistics—in particular, Mr. Riley, who is in charge of the particular area that I am involved in, supply policy, utilization and disposal.

Mr. ROMNEY. Colonel David, the chairman has just noted a number of implementing instructions relating to the exchange/sale policy, instructions which we did not learn about until very recently. I would like to know if you can provide us any additional references to implementing instructions that have been issued within the Department of Defense concerning the exchange/sale policy since Mr. Morris' letter of March 27, 1968.

Colonel DAVID. Since the March 27 memorandum, there has not been any additional action taken by me. There has, however, been action taken by the Defense Supply Agency in obtaining military service coordination on common procedures, applicable to the screening and disposition of exchange/sale property, for inclusion in the Defense Disposal Manual. There has also been action taken regarding the implementation of the policy on the ASPR. This latter change became effective April 15, 1968.

Mr. ROMNEY. Colonel, I wish you would comment on this, if you can. In a memorandum from the regional representative of HEW's Office of Surplus Property Utilization, dated June 7, 1968, the regional representative refers to the Air Force Logistics Command CMAL No. 68-21, which is one of the implementing instructions which have been issued by the service departments about exchange/sale. It was issued in May of this year. The memorandum goes on to say, and I quote, "We," meaning OGPU, San Francisco, "have had considerable discussion of this with our central office and in turn they have probed the matter with the Air Force. Given below are some of the facts in the case as received by us."

Then they proceed to state the purpose of the implementing instruction and then say, "No instructions have been sent by the Air Force to the purchasing people in the field variously known as the AFLC item managers or the owning units. In time, instructions will be sent to the AFLC item managers setting up guidelines for field determinations as to what property will be designated for exchange/sale disposal."

Can you give us any information with respect to any proposed instructions as to AFLC item managers setting out guidelines for field determinations on exchange/sale items?

Colonel DAVID. I am not familiar with the letter that you are quoting from, but there is a requirement for the services and DSA to notify them, including inventory managers—these are the people who deal in the wholesale side of supply management—to notify them of the policy and procedures for the execution of the exchange/sale authority, and to notify them of the items which are eligible and those items which are ineligible. To my knowledge, there is a piece of paper at the present time being developed within the Defense Supply Agency to effect coordination among the inventory control managers. Implementing instructions have not been put out as a DOD regulation or instruction at this time, other than the DOD instruction 4160.1, which you are familiar with.

Mr. ROMNEY. Would this piece of paper try to set out guidelines for determinations by field offices as to what should and should not be disposed of by exchange/sale?

Colonel DAVID. It would not be to field activities as we commonly talk about them. It would be the inventory managers, the people who have exchange/sale property in their warehouses under a wholesale-type operation, not down at the level whereby an individual wants to trade in a typewriter on a new one. This is the inventory manager who may have hundreds of items that he wants to dispose of by exchange/sale.

Mr. ROMNEY. This then brings me to the point that is emphasized in Secretary Morris' memorandum to the service departments and DSA on March 27, 1968. In it, he said that each exchange/sale transaction would be carefully evaluated to see whether the expected return would warrant the administrative effort and associated costs involved.

Now, among the departments and DSA, taking them one by one, if you can, who, and at what level makes the determinations as to whether a given item would not warrant the effort and cost involved in exchange/sale disposal?

Colonel DAVID. In order to explain this, I think I should break it into two parts, Mr. Romney.

If it is at the inventory manager level—let me give you an example, and this is an actual example. The Army had a requirement for the replacement of approximately 3,000 $\frac{3}{4}$ -ton trucks. And it was determined that they could trade these 3,000 $\frac{3}{4}$ -ton trucks in on a new vehicle and obtain approximately \$495 apiece. As a result of this transaction, which would save considerable numbers of dollars, Mr. Morris, Assistant Secretary for Installations and Logistics approached the Secretary of Defense, and in this particular case authority was granted to exchange/sale these 3,000 vehicles for approximately \$495 each. Subsequently, there was a situation whereby another 1,000 $\frac{3}{4}$ -ton trucks which needed replacement, and this time the highest trade-in allowance offered was \$75 per vehicle. This to us was considered scrap value, and in this particular case we declared the vehicles as surplus, and turned them in to the Property Disposal Office and did not execute an exchange/sale transaction because we did not feel that it would warrant the time, effort, and cost to move the vehicles and subsequently make them available to a contractor.

In the case of the retail level where an individual has a requirement, say, for 15 or 20 calculators on a particular base, he will discuss this matter with his procurement officer, who in turn will go out and make an inspection of the typewriters or calculators or whatever this may be, office machine equipment, and if it is determined that the trade-in allowance for all of the pieces of equipment is a reasonable trade-in allowance, then he will go ahead and execute a trade transaction or exchange transaction. He does this after he obtains in most cases three bids, or if he has had past experience, he will use his own judgment as to whether or not it is a reasonable trade-in or exchange allowance. If, however, there are three or four of the office machine equipments which are in pretty unserviceable condition and possibly are of no value to the contractor, in that case, he most likely would go ahead and withhold those three or four or whatever it may be, turning those into the PDO as surplus and exchange just the remaining portion of the equipment that is available.

Mr. MONAGAN. Could I ask something here. In the case of the trucks for which you were getting \$495, have you any figures there as to what percentage either of acquisition value or of market value that \$495 would represent?

Colonel DAVID. I really cannot answer that question specifically, but I will give you—the \$495 offer that we got from the company was the same company that offered us only \$75 on the group of vehicles; the reason for the low offer was that as a result of the first transaction the manufacturer determined that they were not worth \$495 and he couldn't sell them, and it cost too much to get them repaired. So in considering the second group of vehicles the best offer he would make was \$75 or scrap value.

Mr. MONAGAN. What you are saying is that this was probably close to a sort of market value of the equipment at that time. The reason I ask is that there is another consideration that we are interested in, and that is the possible use of equipment in the donable program. When the return falls to a certain level, it might well be more important from the public welfare point of view that it be donated and be sold, and that is why I wondered if you had any information as to that.

Colonel DAVID. Well, it turned out to be more than fair market value because he could not sell the same vehicles for the amount of money he gave us for the first group of vehicles.

Mr. MONAGAN. Mr. Copenhaver.

Mr. COPENHAVER. Colonel David, on the first item of the \$475 or \$490 per truck, was that offer for a sale or exchange under competitive bid?

Colonel DAVID. Yes, it was.

Mr. COPENHAVER. And the second also?

Colonel DAVID. Yes; it was.

Mr. ROMNEY. The implementing instructions which I have seen do not make clear who specifically determines whether in a given case the item would warrant the expense and effort of exchange/sale in view of the expected return, and I am still not clear as to what is the procedure now as these implementing instructions begin to move into effect. Who is going to make the specific decision, at what level?

Colonel DAVID. Mr. Romney, a contracting officer in the Department of Defense has a moral responsibility of obtaining the best prices that he can either if he is buying something or selling something. And we in accordance with the Armed Forces procurement regulations have actually delegated the responsibility of making this determination to a certified contracting officer, when it comes to the fair market value of a particular item. There may be other judgments taken into consideration, as I tried to explain on this 3,000 vehicle deal where it came all the way up to the Secretary of Defense level. But in most cases it is left to the judgment of the individuals who have the requirement and the person who has the selling responsibility, or the trade-in responsibility. When it comes to the sale, that is entirely different, because sales are accomplished by competitive bid through the normal invitation for bid procedures. The trade-in is the only area where judgment basically takes effect.

Mr. ROMNEY. You say it does not occur in the DOD sales because the history of the prior sales prices is a basis for making this decision?

Colonel DAVID. We don't normally sell an item other than through formal competitive-type bidding, and the highest bidder, as you know, would be the successful bidder, and that would be the price that we got for the items. It may be below or above the market price.

Mr. ROMNEY. But before you proceed into the competitive bid sale, determinations had to be made, evaluations had to be made of this proposed exchange/sale disposal as to whether it would warrant the cost and effort involved. I still don't see how this determination is going to be made.

Colonel DAVID. You have a booklet up there which tells us what we have been getting for property in the past.

Mr. ROMNEY. Yes.

Colonel DAVID. And I believe as an example it shows that the average return for a bus is 3.9 percent of acquisition cost. Now, the property that we have sold as exchange/sale in that booklet was property that had gone completely through the donation program and the Federal utilization program. No one wanted it, in other words. So based upon past experience, we know that the average return on buses is 3.9 percent. Now, we may have gotten as much as 20-percent return on specific buses that are in fair condition. In the future we will be able to know the return on buses that have gone through the offering stage to other Federal agencies and have not been made available to the donees. Based upon this information, we will know in the future the fair price for a reasonably conditioned bus. Now, I am not saying it is going to be more than 3.9 percent, but it could very well be.

Mr. ROMNEY. I would like to proceed now to the matter of coordination.

Colonel David, in your capacity as military staff, Assistant Secretary of Defense Office, did you receive advance copies of the implementation instructions by the Air Force, Army, and Navy before they were issued?

Colonel DAVID. I did not.

Mr. ROMNEY. When did you receive these copies?

Colonel DAVID. After your staff visit over to my office.

Mr. ROMNEY. Who has the responsibility within the Department for coordinating these various implementing instructions to see whether the Department's policies, GSA's regulations, are being carried out effectively and appropriately?

Colonel DAVID. The responsibility to see that DOD directives and DOD instructions as they pertain to exchange/sale or utilization or disposal are properly implemented is the responsibility of my office. The responsibility for the implementation to the field activities is a military and Defense Supply Agency responsibility.

Now, we have two situations here. The implementing instructions for DOD instruction 4160.1 as they relate to common functions are being developed by the Defense Supply Agency in conjunction with the military departments. The second situation—the military departments have put out necessary internal implementing instructions. The overall DOD implementing instruction being put out by the General Services Administration obtains our coordination after they have been coordinated with the military departments.

Do I make myself clear?

Mr. ROMNEY. How is GSA putting these out?

Colonel DAVID. GSA is putting the instructions out as a change of the Defense Disposal Manual, 4160.21-M. This is a manual—

Mr. ROMNEY. I beg your pardon. I misheard you, Colonel David. I thought you had said GSA and you meant DSA.

Colonel DAVID. Excuse me. I meant DSA if I said GSA. They are putting it out as a change to the Disposal Manual, 4160.21-M.

Mr. ROMNEY. These letters or memorandums and instructions that have been put out by the Navy, Air Force, and the Army all have slight variations. None of them seems to follow the previously prescribed format. Some are more detailed than others. I am wondering whether you feel that there should be some review, perhaps at the DOD level, to make sure that there are not interim inconsistencies of such a serious nature as to make disposal problems and the recipients of disposal property confused.

Colonel DAVID. In this particular case, it is my understanding that once the Disposal Manual instruction has been put out, that will be the guidance that all of the field activities will be using. As an internal procedure, however, the military departments have gone out with this guidance that you have copies of to inform the military field activities as to how to conduct the exchange/sale program since it is, as you know, a permissive program. Included are items which will be declared as ineligible and these two classes, 15 and 16, that have been given a full or partial exemption.

Mr. ROMNEY. I would point that the draft of the Defense Disposal Manual rewrite which was provided to us contains a relatively brief section dealing with the exchange/sale activity. By contrast, the Department of the Navy has issued NAVSUP Instruction 4540.1 which covers 10 pages. If the DSA Defense Disposal rewrite is to supplement this, then it would seem that much of what is contained in the Navy instruction would be superseded, is that right?

Colonel DAVID. No. It is, however, my understanding at the present time that the Navy during their coordination of the Defense Disposal proposed revision is submitting comments requesting changes to the Defense Disposal proposal.

Mr. ROMNEY. I see. You mentioned a short time ago, Colonel, that under the ASPR change, the procurement officers have certain responsibilities under an exchange/sale situation. This ASPR suggests that procuring or administrative contracting officers will actually be selling exchange/sale property, not simply exchanging it but selling it. Can you explain what this reference means?

Colonel DAVID. Yes, it basically pertains to that exchange/sale property in the hands of contractors. Property in the hands of contractors that is eligible for exchange/sale, is handled directly through the contracting officer or the administrative officer of the contract. Now, there may be actual cases also whereby we authorize a particular activity to conduct a local spot-bid sale, say, for instance, it may be 10 items of exchange/sale which does not warrant a national screening as we normally go through on the larger sales of property, and we authorize the contracting officer to conduct the sale.

Mr. ROMNEY. Colonel, I would like to go to a slightly different subject. We were advised that the Naval Supply Center in Oakland, Calif., on the first of May proceeded to move into full implementation of the new Defense Department exchange/sale policy, and did so on

the basis of an oral instruction from Washington. Did you know that this local activity had been directed by the Washington—

Colonel DAVID. I was not aware of it, but throughout the implementation of the exchange/sale authority we have had situations whereby people in the field had received verbal information and have taken it upon themselves to invoke restrictions on ineligible property and to refuse State agencies property that had previously been spoken for. I am not aware of the specific case. I was not aware of it at the time. I became aware of it since you had brought the subject matter up, but not in detail. I don't know of any details.

Mr. ROMNEY. It was my understanding that the departments and DSA were to wait until their implementing instructions had been issued before such action would occur.

Colonel DAVID. That is right.

Mr. ROMNEY. And the implementing instructions issued by the Navy did not appear until June 18.

Colonel DAVID. It is my understanding that the Oakland Supply Office jumped the gun based upon an authorized test procedure or test plan by the Navy here in Washington. That was the only facility that I know of that was given any type of authority to execute the program in advance of published instructions.

Mr. ROMNEY. Turning to the matter of exemption grant for aircraft components, When did you first learn that this change had been requested?

Colonel DAVID. I first learned of the change officially through a letter from GSA to the Department of Defense indicating that representatives of the Navy had gone to their offices, to GSA's office, and requested relief or an exemption to these two classes of ineligible items. And GSA in their letter to the secretary indicated that there may be a similar situation in the Air Force and in the Army. In response to this, we queried the Army and the Air Force and found that there were or anticipated similar situations in these two services in that they also had commercial aircraft, and were relying upon contractors for supply support.

We, in turn, went back to GSA and requested a waiver not only for the Navy, which by the way, their exemption was to expire in August of 1968, but we went back in turn and asked for an exemption, for the Navy, Air Force, and the Army, and it was subsequently granted.

Mr. ROMNEY. You were not aware of a speed letter which the Naval Air Systems Command sent to GSA dated February 21, asking for this special exemption?

Colonel DAVID. The speed letter was attached to the correspondence from GSA to us.

Mr. ROMNEY. At the time the speed letter went out you were not aware of it?

Colonel DAVID. I was not aware of it.

Mr. ROMNEY. The contact which the Navy made with the GSA was not cleared through your office?

Colonel DAVID. It is quite unusual that something like this would happen.

Mr. ROMNEY. I would like to call to your attention, Colonel, that in the Navy's implementing instructions of June 17, 1968, they have a provision, and I will read it, in paragraph 96, which says, "unless specific authority is obtained from GSA through the Office of Assistant Secre-

tary of Defense, Installation and Logistics, an exchange/sale transaction may not be executed if the items fall within any of the 30 categories of eligible items."

I won't speculate as to the reason that this appears here, but would you say that the procedure used with respect to the aircraft parts for the DC-4C aircraft which the Navy followed and contacted GSA about was in accordance with what now appears in the instructions?

Colonel DAVID. It is not in accordance with any of our procedures. Normally, DOD in these matters—OSD, I should say, is the interface with GSA. The military departments, other than occasions when the Defense Supply Agency is working in behalf of the OSD, will not contact GSA directly.

Mr. ROMNEY. Did your office or anyone in the Defense Department to your knowledge supply the Department of Health, Education, and Welfare with any information about this proposed change in groups 15 and 16?

Colonel DAVID. No, sir; my office did not furnish HEW with any information. It is our understanding and agreement with GSA that matters of this sort become the responsibility of GSA. We have no interface with HEW other than personal communications.

Mr. ROMNEY. Is there a written agreement to this effect?

Colonel DAVID. No; but it is just a matter of operation. We communicate with HEW. If they have a problem, they call us up. But when it comes to changing of a GSA instruction or requesting of a waiver to a GSA regulation, we feel that it is GSA's responsibility to execute the necessary notification.

Mr. ST GERMAIN. You referred to an agreement when Mr. Romney asked if there was a written agreement that GSA would notify HEW. You were rather cloudy on the answer to that. Is this just a helter-skelter thing? Suppose the two parties arrived at this agreement, one from GSA and the other from your agency. Who is going to handle it? I mean, wouldn't it be proper and orderly and businesslike to have a written memorandum on this stating that these are the guidelines, this is our operation?

Colonel DAVID. Well, sir, the execution of the Federal property management regulations or changes thereto happens to be a GSA responsibility. Now, GSA asks us for our comments on coordination of many of the regulations. When it comes to the implementation or the granting of exemptions, we expect GSA to take this responsibility of notification.

Mr. ST GERMAIN. Well, let's just stick to the proposition. Say there is an agreement that GSA will notify HEW, to disseminate this information to HEW.

Colonel DAVID. Well, when I say agreement, maybe I should not use the term "agreement." I probably should use the term it has been my understanding that it is GSA's responsibility to notify HEW, in this particular case.

Mr. ST GERMAIN. So in the absence of any written memorandum or regulation or what have you on this, then in actuality, there is no—it is just an opinion on your part, is it not? You do not have anything to hang your hat on, do you?

Colonel DAVID. No; but it is another Federal agency, and as the responsible Federal agency, we expect GSA to effect notification if it

affects other Federal agencies, just like we do not expect GSA to get into the Department of Defense areas of responsibility.

Mr. ST GERMAIN. So what your answer should have been is, it is the responsibility of GSA to notify HEW?

Colonel DAVID. Yes, sir.

Mr. ST GERMAIN. That is the answer.

Colonel DAVID. That is right.

Mr. ROMNEY. Colonel David, how was the information that was contained in Mr. Knott's letter of April 8, 1968, approving the exchange of groups 15 and 16 communicated to the service departments?

Colonel DAVID. On the exemption?

Mr. ROMNEY. On the exemption; yes, sir.

Colonel DAVID. The first notification came out by a letter that was sent to the military—correction. Let me put it this way. The exemption that was granted by GSA, plus a letter of transmittal and a letter from the Department of Defense to GSA was put into a package and it was sent to the military departments and DSA for implementation. In other words, we took our letter that we received from GSA recommending an exemption, the letter that we sent back to GSA requesting an exemption, and the letter that came back from GSA granting the exemption, and we put the three letters together in a letter of transmittal and sent it to the military departments and DSA informing them of what transpired between DOD and GSA and requested that they implement this exemption. Subsequent to that the military departments and DSA made interpretations of the letters and then in turn issued implementing instructions accordingly.

Mr. ROMNEY. Were you aware of the interpretations which had been given to these instructions at any time prior to this committee's interest in this matter?

Colonel DAVID. No, sir; I was not.

Mr. ROMNEY. Mr. Chairman, I would like to request permission to include in the record the documents which the three services and DSA have issued which set forth the new descriptions of groups 15 and 16 with the exemptions for aircraft parts and structural components: The Navy implementing instructions of June 17, 1968, the Air Force implementing instructions of May 28, 1968, the Department of the Army's letter of May 8, 1968, spelling out the language for the new exemptions granted for 15 and 16, and the Defense Supply Agency's letter of April 30, 1968, also spelling out the new language for the exemptions for groups 15 and 16.

Mr. MONAGAN. Without objection, this may be entered in the record.¹

Mr. ROMNEY. Mr. Chairman, I have one further question I would like to ask the colonel to comment on.

In the Navy instructions of June 17, 1968, there is a discussion of the replacement standards with respect to furniture. Now, this Navy instruction is directed to implementing the exchange/sale policy. And furniture happens to be one of the items that are ineligible for exchange/sale. Could you comment on why the Navy instructions deal with furniture in this exchange/sale implementation document?

Colonel DAVID. I am not sure that I can properly answer that question, but I think possibly that GSA may be able to answer this question, because of the way the furniture rebuild and trade-in program

¹ The documents are printed in the appendix.

is operated. They have an extensive program in this particular area and I think can answer it for the record, sir.

Mr. ST GERMAIN. Colonel, I am new in this area, but it seems to me that nobody is running this railroad. We get trains going in all directions on various timetables, if you will. It seems to me nobody is in charge. Don't you think this program would be helped tremendously and many problems could be done away with if someone were running the railroad?

Now, with your answer to this question just now, I am afraid that when we get the GSA representatives up here, they are going to look at us with blank stares, because I do not think that they have the answer to it either. Therefore, is there anybody who is actually in charge of this program?

Colonel DAVID. The reason I answered the question the way I did—

Mr. ST GERMAIN. Because you really do not know.

Colonel DAVID (continuing). Is because I do not know exactly how the furniture program ties into the overall exchange/sale authority. As far as the exchange/sale is concerned and as far as our own instructions and guidance and what GSA has put out, I feel we understand that, but this one particular area of furniture is handled differently. GSA has furniture contracts all over the United States, in prisons and other places, and it is handled differently than what I am familiar with.

Mr. ST GERMAIN. Let us go back to my real question or the important question. Do you not feel as though this program could be run in a much more orderly manner with much more efficiency if there was someone in authority who would then have the responsibility of the program?

Colonel DAVID. Well, I have to agree that there is room for improvement.

Mr. ST GERMAIN. Thank you.

Mr. MONAGAN. Well, we have made progress with that admission.

Mr. Copenhaver has a question.

Mr. COPENHAVER. Colonel David, with regard to the same announced subinstruction that Mr. Romney had been talking about, there is a provision in it which says this: "Purchasing activities, in disposing of property based on cash bids that it receives, will request from the nearest surplus sales office the market value of the property. When the market value of the property is \$50 higher than the cash offer, the property will be transferred to the servicing PDO for sale."

Now, it would seem to me that this is handling exchange/sale property and turning it over to the disposal officer for sale as if it were surplus. If it were this case, would it not be required to go through donation property first?

Colonel DAVID. No, the property is identified as exchange/sale property. The only way that we can sell this property, or the way we normally sell the property is through the property disposal route whereby the PDO takes the property, identifies it, writes up a description and eventually it is put into a catalog and the item is sold. The item is identified through the entire procedure as an exchange/sale item, not a surplus item. Once the sale has been made, the proceeds from that particular item go into the account for the repurchase of a

new or similar replacement item. It is the only way we have, generally speaking, of getting the property sold. It is the normal procedure of selling. It is not regarded as surplus.

Mr. COPENHAVER. Going back to this truck sale you referred to earlier, \$475 and the \$75 bid, that was presumably, as you say, competitive bidding on the exchange aspect of it. Presumably, more than one company was solicited for the value they would give you on these trucks in exchange for new trucks. And I presume—of course, you would not know specifically for all matters, but on this truck deal presumably the installation, the service officer in charge of the exchange/sale would have had to check with the surplus disposal officer for his branch, is that correct, to see what the value of the truck would have been if it was sold.

Colonel DAVID. An evaluation was made of all the trucks. Originally we were going to repair these vehicles. When we found out that we could get more in trade-in and buy a brandnew vehicle for about the cost of an overhauled one, the exchange/sale trade-in procedure was adopted. An evaluation was made of all the various vehicles around the country located at post camps and stations, and were turned in on a one-for-one basis. We told the company, Here is a vehicle at Camp Pendleton, or wherever the station may be, and at that time the vehicle was transferred over to the contractor as part of the exchange/sale.

Mr. COPENHAVER. Well, perhaps I did not make my point clear. On the second go-around you were only offered \$75 for the trucks on the exchange end of it, and you said that Mr. Morris said, No, go on that bid, right?

Colonel DAVID. That is right.

Mr. COPENHAVER. But did you also seek to find out what the surplus sale of the item would be, whether it was higher and could be moved over to the surplus officer for sale?

Colonel DAVID. For the \$75 vehicle?

Mr. COPENHAVER. Yes.

Colonel DAVID. The \$75 vehicles were determined to be no more than scrap. This was why the price was \$75, but the vehicles were eventually turned over to the PDO, for processing as DOD excess. If they did survive utilization screening and were not donated, then they were eventually sold. The proceeds in this particular case were not given back to the exchange/sale account because the vehicles were sold as surplus.

Mr. MONAGAN. Colonel, I had not read Mr. Riley's statement before. I just had an opportunity to look at the last paragraph. And since he is not here, I call it to your attention. It says:

It has been brought to GSA's attention that military services may have in some instances interpreted the exemption authority more broadly than was intended by GSA. We have, however, received no formal notification to this effect. Upon receipt of such notification, we will investigate the alleged misinterpretations, and if they are substantiated, corrective action will be taken.

I think that is a little on the stiff side. We are all involved in this thing. We are all involved in seeing that the regulations are carried out properly, and I hope that you do not have to have a grand jury proceeding or an indictment before you adjust the procedures here.

Colonel DAVID. I do not believe, Mr. Chairman, that Mr. Riley intended to be stern about this alleged situation.

Mr. MONAGAN. He may not have been, but whoever his writer is was stiff.

Colonel DAVID. Our relations with GSA are absolutely flawless as far as I am concerned. We get along very well.

Mr. MONAGAN. That is soft music for them down there.

Colonel DAVID. We have no bones to pick with them. We do have problems of interpretation, and as Mr. Romney just entered into the record the military departments' interpretation of the exemption of these classes 15 and 16, you will find that each one of the military departments unanimously interpreted the exemptions the same. Now we have, I understand, a change in the interpretation. We will make changes as GSA feels appropriate.

Mr. MONAGAN. Well, on this pleasant note, we will permit you to take your leave.

Colonel DAVID. Thank you, sir.

Mr. MONAGAN. Thank you very much.

STATEMENT OF ROBERT T. GRIFFIN, ASSISTANT ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION; ACCOMPANIED BY LEWIS C. TUTTLE, ACTING ASSISTANT COMMISSIONER, PERSONAL PROPERTY DISPOSAL; AND BYRON HARDING, ASSOCIATE GENERAL COUNSEL

Mr. MONAGAN. Mr. Griffin, is Mr. Tuttle going to—

Mr. GRIFFIN. No, I will be able to proceed. Mr. Tuttle is with me.

Mr. MONAGAN. Fine. Glad to have you.

Mr. GRIFFIN. Glad to be here, Mr. Chairman.

I have with me, Mr. Chairman, Mr. Lewis Tuttle, the Acting Assistant Commissioner of Personal Property Disposal, and Mr. Byron Harding, our Associate General Counsel.

I do not have a prepared statement in accordance with our agreement with Mr. Romney.

I would like to begin by reading for the record part of a letter we wrote to the Department of Defense on July 3, which is 1 day after Mr. Romney's visit:

Specifically, an exception was granted with respect to those items in Federal Supply Classification Group 16, Aircraft Components and Accessories and the Airframe Structural Components of FSC Group 15, the exception to be applicable in those cases where the military departments rely on a contract with a manufacturer for full spare parts support for commercial-type aircraft.

As you know, the exception stemmed from an earlier request from the Naval Air Systems Command. The Navy had just procured several commercial type Gulfstream aircraft and was about to contract with the manufacturer to require it to provide full spare parts support. The contract would mean that Navy would not procure and bring into Navy supply systems an inventory of spare parts, as is usually done when aircraft are procured by the military services. After reviewing the proposal, GSA determined that this approach offered a potential for substantial economies; and it agreed to provide the interim exception the Navy would need to accomplish its plan.

In recognition that the other military departments might also be operating or planning to operate commercial type aircraft with reliance on full spare parts support by a manufacturer, in lieu of carrying a Government-owned inventory, the General Services Administration letter of April 8, 1968, granted the limited exception to the Department of Defense as referenced above.

We have recently reviewed directives issued by the Army, Navy, and Air Force, implementing a recent DOD policy statement on exchange/sale property (Office of Assistant Secretary of Defense (Installations and Logistics) mem-

orandum, dated 27 March 1968). Those directives are broader than the exception provided to DOD in that they do not limit application of the exception to cases, such as the support for the Navy Gulfstream, wherein the manufacturer, not the military service supply system, is responsible for providing the spare parts.

Accordingly, it is requested that prompt action be taken to amend the instructions in AFLC CMAL No. 68-21 of May 28, 1968; NAVSUPINST 4540.1 of June 17, 1968; and Department of the Army letter LOG/SP-PPB of May 14, 1968, as they apply to subject exception.

So the day after Mr. Romney brought it to our attention, we wrote immediately to the Department of Defense and asked that the corrections be made.

(The letter follows:)

JULY 3, 1968.

Col. LESTER T. DAVID,
Data Systems and Supply Policy Division, Office of Assistant Secretary of Defense (Installations and Logistics), Washington, D.C.

DEAR COLONEL DAVID: By letter of April 8, 1968, to the Honorable Thomas D. Morris, Assistant Secretary of Defense (Installations and Logistics), the Administrator of General Services granted a limited exception to that portion of the exchange/sale provisions of the Federal property management regulation, part 101-46, which enumerates the kinds of property which are ineligible for exchange/sale.

Specifically, an exception was granted with respect to those items in Federal supply classification group 16, aircraft components and accessories and the airframe structural components of FSC group 15, the exception to be applicable in those cases where the military departments rely on a contract with a manufacturer for full spare parts support for commercial type aircraft.

As you know, the exception stemmed from an earlier request from the Naval Air Systems Command. The Navy had just procured several commercial type Gulfstream aircraft and was about to contract with the manufacturer to require it to provide full spare parts support. The contract would mean that Navy would not procure and bring into Navy supply systems an inventory of spare parts, as is usually done when aircraft are procured by the military services. After reviewing the proposal, GSA determined that this approach offered a potential for substantial economies; and it agreed to provide the interim exception the Navy would need to accomplish its plan.

In recognition that the other military departments might also be operating or planning to operate commercial type aircraft with reliance on full spare parts support by a manufacturer, in lieu of carrying a Government-owned inventory, the General Services Administration letter of April 8, 1968, granted the limited exception to the Department of Defense as referenced above.

We have recently reviewed directives issued by the Army, Navy, and Air Force implementing a recent DOD policy statement on exchange/sale property (Office of Assistant Secretary of Defense (Installations and Logistics) memorandum, dated March 27, 1962). These directives are broader than the exception provided to DOD in that they do not limit application of the exception to cases, such as the support for the Navy Gulfstream, wherein the manufacturer, not the military service supply system, is responsible for providing the spare parts.

Accordingly, it is requested that prompt action be taken to amend the instructions in AFLC CMAL No. 68-21 of May 28, 1968; NAVSUPINST 4540.1 of June 17, 1968; and Department of the Army letter LOG/SP-PPB of May 14, 1968, as they apply to subject exception.

Sincerely,

L. C. TUTTLE,

Acting Assistant Commissioner for Personal Property Disposal.

Mr. MONAGAN. And this is a letter dated July 3, did you say?

Mr. GRIFFIN. Yes, sir.

Mr. MONAGAN. And that refers essentially to the regulations that we referred to before on April 8, I believe?

Mr. GRIFFIN. This refers to the implementations by the military services of the DOD policy statement which had been coordinated and developed in conjunction with GSA. This refers to the specific

part of the implementations which exempt aircraft components and parts without reserving or highlighting the fact that only those aircraft components and parts for those contracts which rely on the manufacturer to supply fully the spare parts rather than taking a supply of spare parts into the military systems. In other words, they gave a broad general exception without the limitation which had been placed on the exemption by GSA.

Mr. MONAGAN. Well, what I am trying to bring out is that the Defense Supply Agency communication was dated April 30 of 1968, and the Department of the Army was dated May 8, 1968, so that there are substantial periods of time which had elapsed. There was apparently an absence of coordination as to these subjects.

Mr. GRIFFIN. I would agree it looks like that, in DOD.

Mr. MONAGAN. Mr. Griffin, I do not want to embarrass you in any way or put you on the spot, but what we are interested in doing, as you can see from our discussion here today, is finding out what procedures have been followed and when checkups have been made over the last 2 years. We had a hearing in 1966. You appeared at that time.

Mr. GRIFFIN. Yes, sir.

Mr. MONAGAN. And we expressed concern over what the future might be because of the policy decisions that had been made on this program. And you indicated at that time that there would be regular reviews and that you were going to make periodic reviews. And what I want to do is to ask you what reviews you have made and what findings there have been. Now, you may be prepared in a general way to answer that and give us specifics for the record, but answer it any way you can at this time.

Mr. GRIFFIN. Well, as you pointed out, Mr. Chairman, in 1966 when we discussed this exchange/sale program extensively with this subcommittee, we presented to the subcommittee and published and issued, after complete coordination with all the departments and agencies of government, and particularly the principal generators of excess and surplus property, we issued a new exchange/sale regulation which, in our opinion, tightened the situation up. And we expected that it would work more effectively and also would render considerable protection to the donation program.

Now, one of the things that we required in the reg, as you recall, is an annual report. And I would like to point out to you, Mr. Chairman, that as a result of the annual report in fiscal year 1966, we found, based on the data we had reported to us, a total of \$111,532,000—this is an acquisition cost figure—this amount of property was disposed of under the exchange/sale provision.

Now, after we tightened the regulations up, in fiscal year 1967 we found that the \$111 million figure which was disposed of in 1966 dropped to \$65,124,000. In other words, we had almost a 50-percent drop in the volume disposed of under this provision of law.

I think this gives good evidence that the new regulation did, in fact, tighten up the authority.

Since the regulations have been issued, Mr. Chairman, we have required, and DOD has been perfectly willing to furnish copies to us, of every sale that they conduct under our regulations. We review every sale, without exception.

Now, in the course of this 2-year review we have found instances of four or five ineligible items appearing in public sales which had not

been properly reported as excess and disposed of as excess or surplus under the Federal Property Act.

We have a continuing dialog with the Department of Defense. Very few examples have been brought to our attention of abuses of the program. As you know, for the rest of the departments of the Government, we sell actually more than 90 percent of the personal property, surplus property and exchange/sale property, of other departments of the Government. So that we are reviewing on a first-hand basis the practices in other departments and agencies and what they interpret to be properly exchange/sale property. In addition, we coordinate with DOD, and we discuss these things on a regular basis.

In fact, the communications between the two departments have never been more effective and more free than they are now.

I, and my associate Mr. Tuttle, know of very few instances of abuses in this program. We have not really had any cause either through our own reviews or through matters being brought to our attention, either through HEW or the State agencies, who are normally quite willing to suggest improvements or changes. No categories have been added because we have not seen the need to add any categories to the excluded categories of property to be handled under this regulation.

Incidentally, Mr. Chairman, we do have copies of the complete exchange/sale summary reports for these 2 years, agency by agency, which we will submit to you either now or for inclusion in the record or for your information.

Mr. MONAGAN. Well, we are, of course, very much interested in having them. That was one of the questions I was going to ask you, because in 1966 both the Department of Defense and you indicated a belief that the impact of this would not be particularly strong. And what you say here, if there's nothing else involved, would tend to indicate that that was the case.

Mr. GRIFFIN. And we believe the same trend will persist for this year.

In fact, since the instructions which DOD has put out to their field requiring what is practically a cost-benefit study before they put something into exchange/sale, there is no inclination that we can see on the part of the field installations of the DOD, various military departments, to use the exchange/sale authority in any greater frequency than they have been using it. In fact, there's some indication it may be less.

Mr. MONAGAN. Well, there have been—of course, you have heard what we have been talking about here. There have been some indications in certain categories that this is not exactly the case, and because of the desirability of certain of these items for the donable program we have naturally been sensitive to it. And it has appeared here that the way in which the decisions have been made has been without coordination between the services, between the military and the civilians in DOD, and now apparently between you and the Department of Defense.

Mr. GRIFFIN. Oh, I haven't said that.

Mr. MONAGAN. Pardon me?

Mr. GRIFFIN. I haven't said that.

Mr. MONAGAN. No, you didn't say it. I said it.

Mr. GRIFFIN. Actually, Mr. Chairman, it has always been our practice and our belief in executing our regulation responsibility that we deal at the departmental level, and we do. We deal on a day-by-day basis with the Department of Defense. And I agree with practically everything I heard Colonel David say. I didn't hear Mr. Riley's testimony.

Now, actually GSA sat in with great frequency on the development of the DOD policy statement. In fact, we helped DOD in drafting it—their policy statement to the field.

Now, as a result of the incident involved in the aircraft components and parts, it is Mr. Tuttle's plan to meet with Colonel David or with Mr. Riley, and see if we should not institute some steps and procedures, with the approval of the Department of Defense, in coordinating further the implementations by the individual military services. It has not been our belief in the past and it has not been necessary in the past to take this last step because—and I would ask Mr. Tuttle, who is on this on a day-by-day basis—it has not been brought to my attention that a mistake of this nature has happened in this program, a mistake in implementation.

Now, I think, just hindsight, and I think that Colonel David probably would agree with me, it would have been preferable that instead of just disseminating and distributing the copies of the correspondence between the DOD and GSA, which were eminently clear, it would have been better if DOD at the departmental level had reduced the instruction to a concise memorandum or directive rather than relying on their interpretations of the correspondence. I think this is where the mistake took place.

Mr. MONAGAN. Well, you have answered my next question already. You have anticipated me. So we can't ask for any better statement of intention than you have already given.

Mr. GRIFFIN. There is absolutely no desire on our part to withhold any information on any of this from DOD or from HEW. We have some judgments to make, but, in GSA we have a multiplicity of programs, and I know of no other program in GSA which has a better exchange of information among the major participants than in this program, Mr. Chairman.

Mr. MONAGAN. Well, you have indicated that better coordination is possible—

Mr. GRIFFIN. Right, sir.

Mr. MONAGAN (continuing). Desirable, and that you are looking into it, and that's what we want to accomplish.

Oh, by the way, I think we should put this letter in the record. This letter has been sent?

Mr. GRIFFIN. Oh, yes. It went July 3. Absolutely.

Mr. MONAGAN. This may be made—

Mr. GRIFFIN. Mr. Romney brought the problem to our attention and also told us we were going to have a hearing, so we certainly wanted to get the letter sent before the hearing.

Mr. MONAGAN. Even hand-delivered.

Well, this letter may be made a part of the record at the beginning of Mr. Griffin's testimony where he refers to it, if there is no objection.

Mr. GRIFFIN. Would you want these annual reports as part of the record as well, Mr. Chairman?

Mr. MONAGAN. Well, we will accept them for the file.

Mr. GRIFFIN. Very good, sir.

Mr. MONAGAN. And such portions as are pertinent may be put in the record, but primarily for the file.

Thank you.

Mr. St Germain, have you any questions?

Mr. ST GERMAIN. Well, I will not make this an absolute question. If my good friend Mr. Griffin would like to comment on the furniture aspect, we would be happy to hear him.

Mr. GRIFFIN. I would be happy to comment on it. I think it is simply a mistake. There's no application of the furniture replacement standards in the exchange/sale regulation. It was included as a mistake, because there is no cross-reference. And while Colonel David may have reason to question whether or not the furniture program may have an impact or bearing, it has not. There is no connection. And it is simply a mistake. It should simply not have been in the exchange/sale regulation.

Mr. ST GERMAIN. Thank you.

Mr. MONAGAN. Mr. Romney.

Mr. ROMNEY. Mr. Griffin, I would normally be addressing these questions to Mr. Tuttle but, of course, if you wish to answer any questions or have me refer them to Mr. Tuttle, I think I would do as you would prefer at this time.

Mr. GRIFFIN. Go right ahead. Between us we will answer them.

Mr. ROMNEY. Mr. Tuttle, the GSA and the Office of Surplus Property Utilization in the Department of HEW have maintained close working relationships for a good many years, have they not?

Mr. TUTTLE. That's certainly true.

Mr. ROMNEY. Yet the Department of Health, Education, and Welfare was not advised of the proposal by Navy and then later by the Defense Department itself to waive certain portions of groups 15 and 16 on the 30-category list, was it?

Mr. TUTTLE. That's true, Mr. Romney. I would say that DHEW and GSA hold a good many meetings with respect to joint projects that are undertaken; and, also, proposed regulation changes, as Mr. Griffin mentioned, are submitted to HEW for comment before finalizing a GSA reg change.

In the particular case of this limited exception that was asked for by the Department of Defense and granted to Defense, DHEW was not notified or consulted in advance. There was a rationale for it.

You are familiar with the Navy situation that Navy brought over to us. We considered that there were no Government-owned inventories involved, in the Navy proposal and that, therefore, this was not a matter which would be of particular interest to the DHEW.

I will agree, however, in view of the ultimate implementations that were put out by the military departments, which we feel exceeded somewhat the limited exception that was granted, it would have been much better if HEW had been aware of the application from the Navy for this exception and the granting of the exception.

Mr. ROMNEY. When was the first information received by you or anyone associated with you in your office, as to how the Defense Department was interpreting the exemption granted by the Administrator in his April 8 letter?

Mr. TUTTLE. With respect to the aircraft parts?

Mr. ROMNEY. Yes.

Mr. TUTTLE. My first clue came when you visited my office on July 2. It did turn out that we had received the implementation issuance of one of the military departments in one of our divisions, but it hadn't been brought to my attention.

Mr. ROMNEY. Which one was that?

Mr. TUTTLE. I believe it was the Air Force implementation.

Mr. ROMNEY. And that implementation did have as an attachment to it the new language for groups 15 and 16 setting out the exceptions?

Mr. TUTTLE. That is correct. This Air Force implementation sheet had just been received in the first part of July I'm told, and so the Division Director hadn't had a chance to bring it to our attention for a discussion of what to do.

We feel, Mr. Romney, that the way this program works with so many field people involved and all of them with a need to be knowledgeable, that ultimately we would have received the other two service implementations or had them brought to our attention probably by a GSA regional office. We are on the mailing list for many DOD, DSA, and military service issuances, but they have so many vehicles for issuance that we certainly are not on all of them in our central office.

Mr. ROMNEY. I would like to go back in history a little bit, Mr. Tuttle, back to November of 1965, when the various Federal agencies were being asked to comment on the proposed GSA revision of the Federal Property Management Regulations 101-46, that is, the exchange/sale regulations. These are regulations which were issued in March of 1966 and became effective in July of 1966.

The Department of Agriculture commenting to the Commissioner, Mr. Howard Greenberg, said this:

Both the Forest Service and the Agricultural Research Service operate a small fleet of aircraft. These agencies usually replace one or more units each year. For many years we have disposed of the released units either by exchange or sale and applied the exchange allowance or proceeds of sale toward the cost of replacement. This action has been followed with components and accessories.

The matter of the desirability of exchanging and selling the aircraft parts then was brought to your attention back in 1965 but no exception was granted with respect to that. I am wondering whether now having granted the exception to the Defense Department you might want to consider the same thing for the Department of Agriculture.

Mr. TUTTLE. You are speaking only of aircraft parts, not an aircraft itself.

Mr. ROMNEY. That's correct. I said that the comment in the Department's letter of November 22, 1965, covered both aircraft and parts.

Mr. TUTTLE. It is too early to tell. This is part of the evaluation job that I know the committee feels that we should be doing and we feel we are doing. The limited exception given to Defense—we would like to talk with DOD a year from now and see how much value it has had before considering whether to make a permanent change in the regulation. At the present time, of course, the exception is granted only to the Department of Defense.

The Agriculture Department has never come back on that particular request. Most of the airplanes that they operate are excess

property to begin with and, therefore, there is a good supply of spare parts for their airplanes that are available in the normal excess surplus channels.

Mr. GRIFFIN. Let me add to that, Mr. Romney, that one of the critical factors in studying whether or not an exemption will be granted will be the impact on the donation program. It isn't strictly a matter of economics. It's also a question of evaluating the disposal by exchange or sale against the relative benefits to the donation program, the public health and educational uses of the property. So that it's just not simply a cost-benefit criteria. There are other elements in the review which would bear heavily on the decision whether or not to grant a one-time waiver or a continuing waiver.

Mr. ROMNEY. Would your continuing review of implementation of this waiver for 15 and 16 include consideration of the economic benefit or dollar saving to be obtained as opposed to mere administrative convenience which might make it feasible for Navy or Air Force activities to enter into a provisioning plan simply to avoid stocking parts?

Mr. TUTTLE. Mr. Romney, the reason the Navy plan was accepted by GSA after some consideration was that it was fairly unique. It offered, it seemed to us, an unusual opportunity for some real savings. We see in our program a steady and large flow of excess and surplus aircraft parts coming out of military supply systems. And here was a case where the military service was going to buy some aircraft and not set up a supply system with parts stored at a number of locations for immediate or instant provisioning wherever the aircraft happened to land and need repair. The Navy felt that it would be much more economical to do it that way than to buy a lot of parts and put them in inventory, and we agreed with them.

Mr. GRIFFIN. And, also, not too many of these aircraft parts are being requested for donation either. So that the donation factor was also reviewed in this judgment as well.

Mr. ROMNEY. Mr. Tuttle, could you comment on the application of this exemption to the type of aircraft which the donation program has frequently had available, namely the C-45?

Mr. TUTTLE. If I understand your question correctly, it certainly was not the intent in granting this limited exception to the Defense Department that it would have any application to any C-45 spare parts that would be generated as excess, or determined unneeded, by any of the military departments. That limited exception was not meant to apply to existing Government-owned inventories of parts.

Mr. ROMNEY. Is there a policy with which you regard requests for waivers from the restriction to limitation of part 101-46?

Mr. TUTTLE. I would say there are several criteria which come into play. Mr. Griffin has mentioned the relationship or effect that granting an exception might have on the donation program. There is the economic aspect; for example, there is a chance for the Government to go down a road which could produce some additional savings. There are cases of hardship. Actually this regulation has been tightened up a great deal, and there is sort of a built-in management aspect to it in that there are so many more ineligible items that if an agency does have a hardship as a result of these additional limitations, they can come in and have them evaluated.

The Forest Service case was an example of a hardship case. I think it is in the file that we furnished to you. The Forest Service had an aircraft in the hands of a State and the State had planned to acquire a new one and use the exchange allowance of an old one. The State legislature had already acted on the thing, and had appropriated funds on the basis of the net amount needed to buy the new aircraft.

So the Forest Service asked for an exception, a one-time exception on that basis. That's a hardship case.

Mr. ROMNEY. I would like to ask if you could tell us how many of these requests for waivers have been received—

Mr. GRIFFIN. Seven.

Mr. ROMNEY. How many have been approved, how many have been denied, how many are pending?

Mr. GRIFFIN. There have been seven received. One has been rejected, three continuing waivers have been granted, and three one-time waivers have been granted.

Mr. ROMNEY. Two of the continuing waivers dealt with the Department of State and the U.S. Information Agency, did they not?

Mr. GRIFFIN. That's right.

Mr. ROMNEY. The Department of State's original request was for a complete exemption from part 101-46.

Mr. GRIFFIN. Right.

Mr. ROMNEY. However, the waiver was only granted with respect to the 30 categories of ineligible items, is that correct?

Mr. GRIFFIN. That's correct.

Mr. ROMNEY. But the USIA, which made a request for essentially the same reasons, since it was operating overseas, was only given an exception, a waiver with respect to groups 41 and 71, and I wonder if you could comment why the State Department should have had the entire 30 categories but USIA only two.

Mr. GRIFFIN. I think it is fair to say, Mr. Romney, that the State Department was not consulted on the development of the reg, because they are not a major domestic generator of excess and surplus property. When they brought the matter to us for discussion, it was readily apparent that the property at this time which becomes excess to their needs overseas is not eligible for donation. And a provision would have been included in the reg to exempt these overseas sales by the State Department until such time as we complete the study, which is going on now, and we undoubtedly would review it then.

Now, on the USIA, it has been my experience overseas that there is considerable support in the way of furniture and furnishings given to USIA by both the State Department and the AID missions, so USIA itself owns considerably less property. So USIA brought to our attention the two categories of property which they have in more abundance and which gave them a continuing problem, and the review was conducted on the request they made. But I am sure that the significant fact is that they have considerably fewer types of property. I don't think that USIA maintains many vehicles and rolling equipment overseas. Practically all of their support comes from the embassy or the country team approach.

Mr. ROMNEY. Let me ask a technical question of Mr. Tuttle with respect to the State Department's exemption from the 30 categories. Once this exemption was granted, did these 30 categories then merge

in with the 41 category of items for which under the regulations specific findings of similarity need not be made?

Mr. TUTTLE. I think I had better defer to counsel on that one, Counselor. I haven't given that question any thought. If State were to call me this morning and ask me that question, I would probably hazard a guess and then check with counsel. And my guess would be that they would fall into the category where you have to make a specific determination of similarity rather than into the 41-category list.

Mr. MONAGAN. Mr. Tuttle, included in the regulations are various types of requirements or possible courses to follow the required judgment as to where exchange/sale disposal should be through competitive bidding or through negotiated sale, what the cost-benefit ratio is and other sales. There are requirements that there be a 1-year limitation. There is the 1-for-1 so-called requirement. Do you have any record of your determinations or any examination of these transactions with respect to these different standards and how they have been applied or whether they have been applied in the exchange/sale program?

Mr. TUTTLE. Well, Mr. Chairman, the regulation does have a large number of requirements and you have mentioned most of them. We review practically all of the items which are disposed of by the Government agencies, including Defense, line item by line item at the time of the sale. We do not have that kind of exposure to the trade-in practices of the agencies, but the great bulk of exchange/sale traffic is on the sale end of it, much less on the exchange or outright trade-in.

On the test of similarity, this has come up before. I believe it was mentioned in the last report that your subcommittee issued or that the full committee issued. To the extent that we can, if we note in a disposal document some question of similarity, we can raise it. But ordinarily this is something that would have to be determined by pulling a file drawer open in a Government agency and checking the procurement document against the proposed disposal document; in other words, looking at the old item as against the proposed purchase of the new item and seeing that they are similar within the meaning of the regulation. And we have felt that at this point we have to stop short, that we cannot audit the internal decisions on similarity by individual transaction reviews. I think this is true also of the other point you mentioned, the use of negotiation and the use of competitive bid and the economic values of each. The test in the regulation is simply that the contracting officer has the responsibility to maximize the return to the Government, whether it means getting the best trade-in value or, if he can do better on an open sale, then it is his responsibility to take the open sale.

Mr. MONAGAN. Well, what does your review cover then, if you say you review each transaction? If it doesn't cover the standards that you just referred to, what does it cover?

Mr. TUTTLE. It covers the aspect which we think is quite important, and I know HEW feels too that it is probably the most significant thing, and that is the eligibility—

Mr. MONAGAN. You mean whether or not it comes within a category?

Mr. TUTTLE. Yes, sir, some agency proposing to exchange/sale a firetruck when the regulation says it can't be done.

Mr. MONAGAN. Well, that wouldn't be a very demanding exercise of judgment, would it?

Mr. TUTTLE. No, sir; it would not.

Mr. MONAGAN. Thank you very much, gentlemen.

Mr. GRIFFIN. Thank you very much.

Mr. MONAGAN. I would like to ask you to stay for a minute, Mr. Griffin, if you will.

Mr. Griffin, Mr. Romney asks if you could supply us with information about the special waivers granted in the future.

Mr. GRIFFIN. Oh, yes; I would be happy to. We have already furnished a copy of all of the cases in the past. We will be happy to furnish the future cases, Mr. Chairman.

Mr. MONAGAN. Mr. Elson and Mr. Lawrence, would you step up, please.

Mr. ROMNEY. Mr. Elson, I can address my questions to you and Mr. Lawrence can answer or you can answer, either way.

I would first like to ask when the information first came to the attention of your office that a special exemption had been granted with respect to airframe structural components and aircraft parts.

STATEMENT OF SOL ELSON, DIRECTOR, OFFICE OF SURPLUS PROPERTY UTILIZATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE; ACCOMPANIED BY WILLIAM R. LAWRENCE, CHIEF, PERSONAL PROPERTY DIVISION, OFFICE OF SURPLUS PROPERTY UTILIZATION

Mr. ELSON. I believe Mr. Lawrence can answer that best.

Mr. LAWRENCE. We became aware of this, Mr. Romney, on or about June 4 at a session in our office with some representatives of the Department of Army. We had received the Air Force CMAL letter (68-21) which indicated that there were exceptions granted with regard to FSC groups 15 and 16.

Mr. ROMNEY. Where was the discussion held?

Mr. LAWRENCE. In my office in HEW.

Mr. ROMNEY. And what action did you take after you had noted this?

Mr. LAWRENCE. We subsequently received the Department of Army's implementation. Along with it was the interchange of correspondence, and then we took this up with Mr. Elson, and we did discuss it with our counterparts in GSA.

Mr. ROMNEY. And when did you discuss it with your counterparts in GSA?

Mr. LAWRENCE. June 13.

Mr. ROMNEY. Who were the people in GSA that you discussed this with?

Mr. LAWRENCE. Mr. Flynn and Mr. Donaldson.

Mr. ROMNEY. And what knowledge did they have on this change?

Mr. LAWRENCE. I was assured by Mr. Flynn that he was not aware of this exception. Mr. Donaldson indicated that he was aware of it.

Mr. ROMNEY. Did he state how he had become aware of it?

Mr. LAWRENCE. No, he did not.

Mr. ROMNEY. Did he have any of the documents?

Mr. LAWRENCE. He did have the Air Force CMAL letter. He had just received it that day.

Mr. ROMNEY. That was on June 13?

Mr. LAWRENCE. That is correct.

Mr. ROMNEY. And that is the letter which attaches the list of ineligible items and includes the new language for groups 15 and 16?

Mr. LAWRENCE. That is right.

Mr. ROMNEY. Did the General Services Administration have any comments during the course of this discussion about the exception?

Mr. LAWRENCE. Not to my recollection, sir. A statement was made that they were cognizant of the interchange of correspondence with DOD with regard to the Navy exception, and as far as the exception with regard to the communications between GSA and DOD on the groups 15 and 16, there was no indication of any information with regard to that discussion.

Mr. ROMNEY. When did you first obtain a copy of the exchange of correspondence between the Defense Department and GSA?

Mr. LAWRENCE. I received that on June 13.

Mr. ROMNEY. This included the administrative letter of—

Mr. LAWRENCE. I am sorry, sir. It was June 11 we received a copy of the interchange of correspondence between DOD and GSA.

Mr. ROMNEY. What was the interpretation within the Office of Surplus Property Utilization of the language used in the implementing instructions that you saw?

Mr. ELSON. It was my feeling at that time that there appeared to be an erosion of the number of categories which were not eligible for exchange/sale in view of the fact that the State agencies concerned had kept me constantly informed of the fact that there was a lessening of the amount of property available to them for donation purposes. And then with these two broad categories now also being declared eligible rather than ineligible, I became fearful of the fact that there would be a further deterioration in the donation program. That was my initial reaction to it, because of its broad aspects.

Mr. ROMNEY. Were you present this morning, Mr. Elson, when the General Services Administration witnesses gave the explanation of their intent in granting this exception?

Mr. ELSON. Yes, I was.

Mr. ROMNEY. And did your understanding at the time you first became aware of this change correspond with the explanation given by GSA?

Mr. ELSON. No, not at all. As a matter of fact, my fears are now much more allayed since the writing of the letter that Mr. Griffin quoted.

Mr. ROMNEY. I want to go back in time before the July 3 letter from GSA to the Defense Department. At the time you became aware of the change in groups 15 and 16 and construed it, as you put it, as an erosion of two important categories, what was your evaluation of the specific impact on actual donations, in existence and in prospect, of aircraft and of aircraft parts and structural components?

Mr. ELSON. Well, we have better than 100 institutions now who are involved in the training of aeronautics and aeronautic engineering who rely very heavily on our program for support by way of parts as well as entire aircraft. With these two categories being excluded, we felt that this would be very harmful to the furtherance of those programs.

Mr. MONAGAN. I think that covers all that we have in mind at the present time.

Thank you very much for coming.

We will adjourn the hearing.

(Thereupon, at 12:40 p.m. the hearing adjourned, to reconvene subject to call of the Chair.)

APPENDIX

DOCUMENTS AND CORRESPONDENCE RELATING TO CERTAIN EXCHANGE/ SALE POLICIES AND PROCEDURES—DEPARTMENT OF DEFENSE AND GENERAL SERVICES ADMINISTRATION

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., October 27, 1967.

HON. WILLIAM L. DAWSON,
*Chairman, Committee on Government Operations,
House of Representatives,
Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your letter of August 31, 1966 requesting the Department of Defense (DOD) to hold in abeyance the implementation of DOD Instruction 4160.1, dated August 10, 1966, entitled "Nonexcess Personal Property to be Sold or Exchanged for Replacement Purposes," until the Second Session of the 89th Congress had completed its consideration of certain legislative proposals affecting exchange/sale authority.

You were advised by our letters dated September 22 and November 18, 1966 that the DOD would withhold implementation of the instruction until Congress had had the opportunity to act on the proposed legislation. As you are aware, the proposed legislation failed of enactment; we have, however, continued to withhold implementation of the General Services Administration (GSA) regulations set forth in that instruction. The DOD is the only department or agency in the executive branch that is withholding use of the exchange/sale authority.

I am sure you know that over the past several years, the DOD has endeavored to make every concession to make available to other Federal agencies and eligible donees DOD excess and surplus personal property, as prescribed in governing legislation. In fiscal year 1967, over \$309 million in DOD excess personal property was transferred to other Federal agencies and \$231 million in surplus property was donated to eligible donees. During the same period \$27 million in exchange/sale type property was transferred and \$18.0 donated. Based upon the average rate of return over the past few years of 21 percent, \$8 to \$10 million would have been available to procure replacement equipment in fiscal year 1967. Our estimates indicate that this saving would increase in fiscal year 1968.

In view of the increased emphasis by the Congress on reducing expenditures within the executive branch, and our own efforts to reduce defense costs wherever possible, the DOD exchange/sale policy has been reevaluated as one of many areas where potential economies exist. As a result of this evaluation, it has been determined that it would be prudent for the DOD to discontinue offering exchange/sale personal property to other Federal agencies and eligible donees prior to attempting the recoupment of funds or the establishment of credit by use of the exchange/sale authority. In this regard, it should be clearly understood that we are referring to DOD property which is not excess or surplus, and which may be exchanged for similar new replacement items or sold and the proceeds applied to the purchase price of replacement items.

We believe this action is clearly consistent with the desire of the Congress that the executive branch search all areas where a potential exists for reducing the budget. We believe also that it is consistent with our obligation to the American taxpayers to assure that their funds are managed with maximum efficiency and economy.

This letter is to advise you that the DOD intends to direct the immediate implementation of the GSA Federal Property Management Regulation Part 101-46, Subchapter H—Utilization and Disposal, outlined in DOD Instruction 4160.1, copy of which was furnished you with our letter of September 22, 1966.

Sincerely,

THOMAS D. MORRIS,
Assistant Secretary of Defense (Installations and Logistics).

DECEMBER 15, 1967.

HON. THOMAS D. MORRIS,
Assistant Secretary of Defense (Installation and Logistics),
Washington, D.C.

DEAR MR. MORRIS: On October 27, 1967, you advised us that the Department of Defense had determined it would be prudent to discontinue offering exchange/sale property to other Federal agencies and eligible donees prior to attempting the recoupment of funds or the establishment of credit by using the exchange/sale authority in section 201(c) of the Federal Property and Administrative Services Act of 1949, as amended, and regulations of the General Services Administration (41 CFR pt. 101-46). At the time your October 27 letter was transmitted, Mr. Paul H. Riley, Deputy Assistant Secretary of Defense (Material Requirements), conferred with the subcommittee staff. Mr. Riley was requested to update some statistics he had furnished the subcommittee during its hearings in August 1966. Those statistics consist of a breakout of exchange/sale type property sold by category, acquisition cost, and rate of return, for fiscal years 1965 and 1966. The list comprises 69 property categories. It appears on pages 58 and 59 of the printed hearings.

On November 17, your office sent us the statistics for fiscal year 1967. Study of the figures for the 3 fiscal years shows that for a large number of property categories, the percent of return has consistently been quite low.

Using the 69 categories of property in the DOD statistics, the Department of Health, Education, and Welfare has furnished the subcommittee a list of 31 property categories in greatest demand for the Federal donable property program. The HEW list breaks out the 10 most-wanted categories and arranges them in order of priority. The remaining 21 categories are merely described as greatly needed, and do not appear in any order based on priority.

We have scrutinized DOD's percent-of-return figures for the 31 categories in the HEW list. In all but five of the 31 categories, the percent of return is under 15 percent for all 3 years. In 14 categories, the percent is under 10 percent. Nine categories have never shown a percent of return over 5 percent. Attached is a copy of the HEW list, to which we have added the percentages of return for fiscal years 1965, 1966, and 1967.

A few of the 69 categories are, of course, ineligible for exchange/sale disposal under GSA regulations. Also, we recognize that any analysis based solely on the DOD statistics must be further qualified by such considerations as condition and high- or low-volume transactions. However, we feel that the figures there establish general guidelines as to the types of equipment for which a relatively small return can usually be expected in exchange/sale disposal.

As GSA's 1966 testimony before our subcommittee clearly implies, there would be no legal impediment to your Department's removing certain categories of items from the list of those for which it will seek exchange/sale disposal. We are requesting, therefore, that the Department study the 69 categories of property, and particularly the 31 listed in the attachment, with a view to excluding from immediate exchange/sale disposal those for which the anticipated return would be relatively low. This would mean, of course, that such property would receive prior screening for further Federal use and donation and thus appreciably improve the supply of DOD property for the donable property program.

In connection with exchange/sale disposals, it would appear feasible in most instances for the Department of Defense to compile, in addition to acquisition cost as now required by GSA regulations, figures on the proceeds or allowances obtained, from which statistics on the percentage of return could be calculated. This type of reporting has obviously been done by the Department of Defense with respect to the disposals which make up the statistics referred to above. The Department could then make regular reviews, category by category, on property being disposed of by exchange or sale, and remove or restore exchange/sale eligibility of categories depending on the degree of financial advantage to the Department.

We would appreciate your carefully considering these suggestions for some further alleviation of the problem of exchange/sale disposal vis-a-vis the disposal of property for further Federal use and donation. Please advise us at an early date of your conclusions and any action that may be taken.

Sincerely yours,

JOHN S. MONAGAN,
Chairman, Special Subcommittee on Donable Property.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D. C., January 31, 1968.

HON. JOHN S. MONAGAN,
Chairman, Special Subcommittee on Donable Property, Committee on Government
Operations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your letter of December 15, 1967, requesting our consideration of certain suggestions regarding the possible removal of some categories of items from the list of those currently eligible for exchange/sale disposal. At the time we received your letter we were in the process of re-evaluating the exchange/sale program to determine what, if any, further changes should be made at this time. One conclusion reached coincides with your suggestion that whenever the anticipated return from the exchange/sale procedure is relatively low, it might be more advantageous for DOD to declare the property excess and make it available for further Federal use and, if not so utilized, to the Federal donable property program, prior to sale.

Accordingly, we have decided to instruct the military departments and Defense Supply Agency (DSA) to carefully evaluate each contemplated exchange/sale transaction and determine in advance whether the monetary return anticipated by the exchange/sale transaction warrants the administrative effort and associated cost involved. Therefore, under this procedure it will not be necessary for the DOD to deviate from the 41 categories listed in the FPMR, thus retaining standardization and continuity throughout all Federal agencies.

Although your analysis indicates that there are 14 categories wherein less than 10 percent of the acquisition cost has been realized from sales, it must be understood that the exchange/sale property sold during the years indicated (fiscal years 1965, 1966, and 1967) was that exchange/sale property which survived all utilization and donation screening. For the most part, exchange/sale property that survives the complete screening-transfer-donation cycle is not very desirable, and therefore would not command a high rate of return from sale. Furthermore, the statistics referred to represent only those proceeds received as a result of sale, and not any exchange allowances. In the future we will be maintaining both exchange and sale return; therefore, a more realistic evaluation of the exchange/sale program can be made.

Recently we have been receiving numerous letters from eligible donee groups expressing concern over the donation program "drying up" as a result of DOD implementation of the exchange/sale authority. I wish to assure you that this is not the case. In fiscal year 1967, over \$205 million of DOD surplus property was donated to the 50 State agencies for health, education, and civil defense purposes. Of this amount, less than \$18 million was exchange/sale type property. In this regard, it should be clearly understood that we are referring to DOD exchange/sale property which is not excess or surplus but property for which replacement is required. In view of the recent revision of DOD policy to conform with the FPMR on exchange/sale, it is premature to attempt to determine accurately the impact the change will have on the donation program. It is, however, our opinion that the overall effect will be minimal.

Sincerely,

THOMAS D. MORRIS,
Assistant Secretary of Defense (Installations and Logistics).

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., March 27, 1968.

Memorandum for the Assistant Secretary of the Army (Installation and Logistics); Assistant Secretary of the Navy (Installation and Logistics); Assistant Secretary of the Air Force (Installation and Logistics); Director, Defense Supply Agency.

Subject: Exchange/sale.

Federal Property Management Regulation (FPMR) part 101-46 provides the Governmentwide authority for, and sets forth the limitations on exchange/sale of personal property. The purpose of this memorandum is to clarify certain misunderstandings which appear to exist concerning the purpose and intent of DOD implementation of FPMR 101-46 as prescribed in DOD instruction 4160.1, dated August 10, 1966, subject: "Nonexcess personal property to be sold or exchanged for replacement purposes."

The primary purpose of the exchange/sale authority is to provide a means for the sale or exchange of certain nonexcess personal property when such actions

are justified and warranted, and to apply the exchange allowance or proceeds derived from sale in whole or part payment for the replacement of required similar items.

In the exercise of the exchange/sale provisions, each contemplated transaction must be carefully evaluated in order to determine, in advance, whether the monetary return anticipated by the exchange/sale transaction warrants the administrative effort and associated costs which are incurred in the use of the exchange/sale provisions. This judgment can be determined to a large degree by the average gross monetary return realized through past competitive bid sales or exchanges of similar items.

Prior to executing an exchange/sale transaction, to the extent practicable and economical and within the time limits permitted to acquire the replacement property, the activity authorized to initiate the procurement will report to the appropriate General Services Administration (GSA) regional office that the property to be exchanged or sold is available for DOD and Federal civil agency utilization screening. Screening will be accomplished in accordance with GSA's established procedures. No attempt need be made to obtain utilization for that exchange/sale property which is eligible for replacement in accordance with established DOD/GSA replacement standards.

If during the utilization screening the property is requisitioned within the DOD, the property will be declared excess to the DOD component and transferred on a nonreimbursable basis to the requisitioner in accordance with the procedures for excess materiel. If the property is requisitioned by another Federal agency, it will be transferred with reimbursement and treated as an exchange/sale transaction. Reimbursement for these transactions will not be more than the estimated gross competitive bid value or exchange allowance. Exchange/sale property for which replacement is required will not be made available for donation screening.

Property which otherwise would be eligible for exchange/sale but for which no replacement is required, will not be classified as exchange/sale but rather, DOD excess/surplus, and any net proceeds derived from the sale of such property will be deposited to deposit fund account 97-6460.5191 rather than deposit fund account xx-6845.

The attention of all concerned should be invited to the fact that the exchange/sale authority is not applicable to the 30 Federal supply classification groups which are listed in subpart 101-46.4901 of enclosure 1 to DOD instruction 4160.1.

It should also be emphasized that it is mandatory that all (less cost of sale) proceeds derived through sale of exchange/sale property be utilized for the acquisition of similar replacement items of personal property within the fiscal year in which the sale was made or the fiscal year immediately following.

THOMAS D. MORRIS,

Assistant Secretary of Defense (Installations and Logistics).

FEBRUARY 23, 1968.

HON. THOMAS D. MORRIS,
Assistant Secretary of Defense (Manpower) (Installations and Logistics), Washington, D.C.

DEAR MR. MORRIS: On February 21, 1968, representatives of the Naval Air Systems Command and the Navy Office of Counsel visited this office to seek relief from certain requirements of the Federal property management regulations relative to exchange-sale of personal property. Specifically, they asked for an exception to subpart 101-46.4901, Federal supply classification group 16 and the airframe structural components portion of Federal supply classification group 15. Subpart 101-46.4901 concerns itself with FSC groups which are not eligible for handling under the provisions of the exchange/sale regulation.

The basis for the Navy request is that the Navy has acquired several Grumman TC-4C aircraft, commonly known as the Grumman Gulfstream, and has established a provisioning plan which calls for spare parts support to be provided by the manufacturer. This type of an arrangement, wherein a military department relies upon a manufacturer for spare parts support, makes it necessary for the military services to have the authority to turn in used spare parts and airframe structural components to the manufacturer for prompt replacement with new or remanufactured identical items.

In view of the Navy's statement that it would be hesitant to make the newly acquired Grumman aircraft operational until there was an assured arrangement

with the manufacturer for prompt support, we suggested that they request an interim exception along the lines stated above, to be followed by a formal request for an exception to be made by the Navy Department to your office for referral to GSA as a Department of Defense proposal. In this regard, it occurs to us that the Air Force and the Army may be operating commercial-type aircraft and depending upon the manufacturer for spare parts support.

Accordingly, on the basis of the speedletter of February 21 from the Naval Air Systems Command Headquarters, copy attached, the interim exception is hereby granted to the Navy Department with respect to FSC group 16 and the airframe structural components of FSC group 15, limited to the program for support of the Grumman TC-4C aircraft.

This interim exception will expire on August 31, 1968. A copy of this letter is being sent to the Commander, Naval Air Systems Command.

Sincerely yours,

JOHN C. HARLAN, Jr., *Commissioner,
Property Management and Disposal Service.*

SPEEDLETTER

FEBRUARY 21, 1968.

From: NAVAIRSYSCOMHO.
To: RUEPGS/General Services Administration.
Washington, D.C.
UNCLASSIFIED.

A. Conf February 21, 1968, between Mr. Lewis C. Tuttle, manager Pers Prop Disp; Mr. Frank P. Donaldson, Dir UT Div PMDS And NAVAIR Reps.

B. DOD Inst 4160.1 and ENO 1 thereto (FED PROP MGT REG 101-46).

1. From AIR-OOC. For Mr. John G. Harlan, Commissioner, Property Management and Disposal Service.

2. In accordance with ref A it is requested that an interim exemption to item No. 16 and airframe structural components of item No. 15 on the listing of ineligible property of the Fed supp class groups be granted (ref (B)).

3. This exemption shall apply only to Grumman TC-4C aircraft and components. This aircraft is a commercial aircraft with military configuration.

4. A formal request VIA the info addressees will follow.

5. Priority action this message is requested because this aircraft is presently operational.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., March 15, 1968.

Mr. JOHN G. HARLAN, Jr.,
*Commissioner, Property Management and Disposal Service,
General Services Administration,
Washington, D.C.*

DEAR MR. HARLAN: Reference is made to your letter of February 28, 1968, advising us that you have granted the Department of the Navy an interim exception to Federal Property Management Regulation (FPMR) subpart 101-46.4901 concerning property ineligible for exchange/sale. It is noted that the exception covers those items in Federal supply classification (FSC) group 16, aircraft components and accessories, and the airframe structural components portion of FSC group 15, and that it will expire on August 31, 1968.

As a result of your letter, a review of this matter has been made with the Departments of the Army and Air Force. We have ascertained that they have, or anticipated having much the same problem as the Navy, in that they have in their inventories commercially designed and manufactured aircraft, and rely upon the manufacturer for parts support for them.

In view of the existence of these parts support agreements which depend upon trade-ins, it is believed to be in the best interest of the U.S. Government for the DOD to be authorized to exchange/sale nonexcess replacement commercial type aircraft spare parts and airframe structural components with the manufacturer for immediate replacement with new or remanufactured similar items.

It is therefore requested that the DOD be granted the authority to exchange/sale the aforementioned items in FSC groups 15 and 16.

Your courtesy in bringing this matter to our attention is appreciated.

Sincerely,

PAUL H. RILEY,
Deputy Assistant Secretary of Defense (Supply and Services).

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., April 8, 1968.

HON. THOMAS D. MORRIS,
*Assistant Secretary of Defense
(Installations and Logistics),
Washington, D.C.*

DEAR MR. MORRIS: By letter of March 15, 1968, Mr. Paul H. Riley, Deputy Assistant Secretary of Defense (Supply and Services), requested that the Department of Defense be granted an exception to that portion of the exchange/sale provisions of Federal Property Management Regulation, part 101-46, which enumerates the kinds of property which are ineligible for exchange/sale.

Specifically, an exception was requested with respect to those items in Federal supply classification (FSC) group 16, aircraft components and accessories, and the airframe structural components of FSC group 15. By letter dated February 28, 1968, GSA granted an interim exception of this same nature on behalf of the Department of the Navy in respect to its Grumman TC-4C aircraft. The TC-4C aircraft are substantially similar in configuration to the commercial Grumman Gulfstream.

Mr. Riley's letter states that, " * * * it is believed to be in the best interest of the U.S. Government for the DOD to be authorized to exchange/sale nonexcess replacement commercial type aircraft spare parts and airframe structural components with the manufacturer for immediate replacement with new or remanufactured similar items." In view of this finding, and in recognition that the requested exception to the regulation is needed if the military departments are to contract for full spare parts support of commercial type aircraft, an exception is hereby granted, as requested in Mr. Riley's letter of March 15.

It is understood that the military services, in trading in or exchanging spare parts and aircraft components applicable to commercial type aircraft, will be bound by all other provisions of part 101-46, governing exchange/sale policy and procedures.

We are pleased to be able to assist the Department of Defense in such undertakings.

Sincerely yours,

LAWSON B. KNOTT, Jr., *Administrator.*

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., April 10, 1968.

Memorandum for the Assistant Secretary of the Navy (I&L); Assistant Secretary of the Navy (I&L); Assistant Secretary of the Air Force (I&L);
Director, Defense Supply Agency.
Subject: Exchange/sale.

The enclosed correspondence between this office and the General Services Administration relating to the exchange/sale of certain aircraft spares, accessories and components is self-explanatory.

The Director, Defense Supply Agency is requested to initiate the necessary action to incorporate this exception into military services/DSA implementing instructions as promptly as possible.

PAUL H. RILEY,
Deputy Assistant Secretary of Defense (Supply and Services).

DEFENSE SUPPLY AGENCY,
Alexandria, Va., April 30, 1968.

Subject: Property ineligible for sale under exchange/sale procedures.

To: Chief, Support Services (SPTS-PD) Department of the Army; Commander, Naval Supply Systems Command (SUP 0463), Department of the Navy; Director of Supply and Services (AFSSSDA), Department of the Air Force; Office of the Quartermaster General, Headquarters, U.S. Marine Corps.

1. Reference: Letter, DSAH-SMP, January 30, 1968, subject as above, and enclosure thereto.

2. Federal supply classification groups (FSCG) 15 and 16 of the enclosure, property ineligible for exchange/sale, are hereby modified to read as follows:

15: Aircraft; and airframe structural components, except those required for support of commercial type aircraft.

16: Aircraft components and accessories, except those required for support of commercial type aircraft.

The excepted items; that is, airframe structural components and aircraft components and accessories required for support of commercial type aircraft, may now be reported to sales offices for sale under exchange/sale procedures.

3. It is requested that all property disposal activities, including sales offices under your jurisdiction, be advised of this policy change.

For the Director:

PAUL M. SOMERVILLE,
Chief, Disposal Division, Technical and Logistics Services.

DEPARTMENT OF THE ARMY,
OFFICE OF THE ADJUTANT GENERAL,
Washington, D.C., May 8, 1968.

Subject: Property ineligible for sale under exchange/sale procedures.

1. Reference is made to letter, AGAM-P (M) (February 13, 1968) SPTS-LSPD, Headquarters, Department of the Army, February 15, 1968, subject as above.

2. The group identification and exceptions listed for FSCG 15 and 16 in enclosure 1 of the above reference are modified to read as follows:

FSCG 15: Aircraft; and airframe structural components, except those required for support of commercial aircraft.

FSCG 16: Aircraft components and accessories, except those required for support of commercial aircraft.

Airframe structural components and aircraft components and accessories required for support of commercial type aircraft may now be reported and sold under exchange/sale procedures.

By order of the Secretary of the Army:

C. A. STANFIEL,
Colonel, AGC, Acting The Adjutant General.

DEPARTMENT OF THE ARMY,
OFFICE OF THE DEPUTY CHIEF OF STAFF FOR LOGISTICS,
Washington, D.C., May 14, 1968.

1. Federal Property Management Regulation (FPMR) part 101-46 provides the Government-wide authority for, and sets forth the limitations on exchange/sale of personal property. The purpose of this letter is to clarify certain misunderstandings which appear to exist concerning the purpose and intent of DOD Instruction 4160.1, dated August 10, 1966, subject "Nonexcess Personal Property To Be Sold or Exchanged for Replacement Purposes."

2. The primary purpose of the exchange/sale authority is to provide a means for the sale or exchange of certain nonexcess personal property when such actions are justified and warranted, and to apply the exchange allowance or proceeds derived from sale in whole or part payment for the replacement of required similar items.

3. In the exercise of the exchange/sale provisions, each contemplated transaction must be carefully evaluated in order to determine, in advance, whether the monetary return anticipated by the exchange/sale transaction warrants the administrative effort and associated costs which are incurred in the use of the

exchange/sale provisions. This judgment can be determined to a large degree by the average gross monetary return realized through past competitive bid sales or exchanges of similar items.

4. Prior to executing an exchange/sale transaction to the extent practicable and economical and within the time limits permitted to acquire the replacement property, the activity authorized to initiate the procurement will report to the appropriate General Services Administration (GSA) regional office that the property to be exchanged or sold is available for DOD and Federal Civil Agency utilization screening. Screening will be accomplished in accordance with GSA's established procedures. No attempt need be made to obtain utilization for that exchange/sale property which is eligible for replacement in accordance with established DOD/GSA replacement standards.

5. If during the utilization screening the property is requisitioned within the DOD, the property will be declared excess to the DOD component and transferred on a nonreimbursable basis to the requisitioner in accordance with the procedures for excess materiel. If the property is requisitioned by another Federal agency, it will be transferred with reimbursement and treated as an exchange/sale transaction. Reimbursement for these transactions will not be more than the estimated gross competitive bid value or exchange allowance. Exchange/sale property for which replacement is required will not be made available for donation screening.

6. Property which otherwise would be eligible for exchange/sale but for which no replacement is required, will not be classified as exchange/sale but rather, DOD excess/surplus, and any net proceeds derived from the sale of such property will be deposited to deposit fund account 97-6460.5191 rather than deposit fund account xx-6845.

7. The attention of all concerned should be invited to the fact that the exchange/sale authority is now not applicable to the 28 Federal supply classification groups which are listed in subpart 101-46.4901 of enclosure 1 to DOD Instruction 4160.1. AS D (I. & L.) has granted an exception to those items in FSC group 15, airframe structural components and FSC group 16, aircraft components and accessories. Accordingly, authorization is granted to exchange/sale non-excess replacement commercial-type aircraft repair parts and airframe structural components with the manufacturer for immediate replacement with new or remanufactured similar items.

8. It is also emphasized that it is mandatory that all (less cost of sale) proceeds derived through sale of exchange/sale property be utilized for the acquisition of similar replacement items of personal property within the fiscal year in which the sale was made or the fiscal year immediately following.

9. It is requested that the above guidance concerning materiel utilized and exchange/sale proceeds utilization be disseminated to all concerned.

For the Deputy Chief of Staff for Logistics :

WILLIAM H. McDONALD,
Colonel, GS, Deputy Director of Supply.

DEPARTMENT OF THE AIR FORCE,
HEADQUARTERS AIR FORCE LOGISTICS COMMAND,
Wright-Patterson Air Force Base, Ohio, May 28, 1968.

AFLC CMAL No. 68-21—Redistribution and marketing.

Subject: Exchange/sale property.

To: MAJCOM's—CONUS and overseas, AMA's, Mil Acft Stor Dspn Cen, and AFB's—CONUS and overseas.

Expires when incorporated in DOD 4160.21-M or in volume VI, AFM 67-1, or May 28, 1969, unless sooner updated, rescinded or superseded.

Authority: Paragraph 4, chapter 1, volume VI, AFM 67-1.

Note.—Directive, this CMAL furnishes information regarding pending changes to the exchange/sale program and provides guidance to be followed during the interim pending implementation of these changes. Applies to all redistribution and marketing activities worldwide. Compliance by all activities concerned is mandatory.

1. Changes pending to the exchange/sale program are anticipated to include the following:

(a) Application will be on a case-by-case basis with the determination being made by the AFLC item manager (IM) for centrally procured items (or any other service/agency IM) or the base supply officer for locally purchased items.

(b) Redistribution and marketing (R. & M.) will not designate items as ex-

change/sale. Only those items so designated by the turn-in activity will be processed as exchange/sale.

(c) Necessary screening will be done by the turn-in activity. Property to be exchanged will not be turned in to a property disposal officer (PDO). Only property to be sold will be turned in to the PDO and the only action required of the PDO is to report the property for sale.

(d) Items designated are not to be donated.

(e) Turn-in documents for property to be sold will be identified as exchange/sale by the turn-in activity and will cite the appropriation to which the proceeds from sale (less 10 percent) are to be deposited. It is anticipated that the separate category deposit accounts will be abolished when all property currently on hand has been sold, the proceeds deposited, and disposition is made of the proceeds.

(f) All items are subject to application of exchange/sale procedures except items cataloged in the Federal supply classification groups (FSCG's) listed in attachment 1 hereto. The group listing contained in DOD 4160.21-M (attachment 2, ch. III, pt. 2) is no longer to be considered an eligible list.

2. In view of the above, the following procedures apply pending further implementation of the pending changes:

(a) For property currently on hand:

(1) Compliance with AFLC CMAL No. 68-11 dated February 19, 1968, (hereby rescinded) should have resulted in all items in FSCG's listed in attachment 1, which have not reached the point of final utilization or sale, being transferred to the appropriate excess and surplus inventory record. If this has not been done, compliance with AFLC CMAL 68-11 should be accomplished prior to discarding.

(2) All remaining items will be processed to final disposal action according to currently published procedures. These actions will be recorded in the current exchange/sale records. Proceeds from the sale of these items will be deposited as in the past to the existing categorized accounts.

(b) New generations:

(1) Only those items identified by the turn-in activity as exchange/sale will be processed as such. The turn-in document will cite the appropriation to which the proceeds from sale are to be deposited (less 10 percent for sales cost).

(2) Items designated by the turn-in activity as exchange/sale which fall within the ineligible list (attachment 1) will be processed as excess and surplus property. When these changes are made, the turn-in activity will be advised.

(3) Items properly identified as exchange/sale will not be subject to utilization screening or donation after receipt by the PDO. The turn-in activity is the only activity permitted to obtain the property (by withdrawal). The only actions required by the PDO are normal sales actions and furnishing to the sales office the appropriation to which 90 percent of the proceeds is to be deposited.

All of the required utilization screening will be performed by the appropriate item manager at depot or base level prior to turn-in to the R. & M. activity.

3. Exchange/sale property presently on hand and new generations identified by the turn-in activity to be processed as exchange/sale will be separately accounted for as presently prescribed and will be reported on the AF form 362b through June 1968. Effective with the inventory data report (RSC HAF-S57) for the month of July 1968, the total on-hand inventory on the AF form 362b (line 75, col. P) from the month of June will be reflected on line 42, column A, AF form 362 and all exchange/sale transactions will be shown under the appropriate column of that line. All entries in line 42 will be included in line 43 totals of the AF form 362. Entries in sections IV, V, VI, VII and VIII will include exchange/sale transactions. Entries in section IX will exclude breakout of on-hand status of exchange/sale property and be limited to excess and surplus property only. Therefore, the status of on-hand inventory (sec. IX, AF form 362) will equal the total on-hand inventory reflected on line 43, column N minus the on-hand inventory of exchange/sale property, line 42, column N. Subsequent to the reporting of exchange/sale property on the AF form 362b for the month of June 1968, the AF form 362b is obsolete. Effective with the start of July report period, all monetary records for exchange/sale may be maintained on one record or by category breakout if desired; however, care should be taken to insure class and item (C. & I.) records are maintained by a compatible method.

For the Commander:

C. E. BROWN,
Redistribution and Marketing Division, Directorate of
Investment Materials DSC/Supply.

PROPERTY INELIGIBLE FOR EXCHANGE/SALE

FSCG

Group identification and exceptions

- 10.----- Weapons.
- 11.----- Nuclear ordnance.
- 12.----- Fire control equipment.
- 14.----- Guided missiles.
- 15.----- Aircraft and airframe structural components, except those required for support of commercial-type aircraft.
- 16.----- Aircraft components and accessories, except those required for support of commercial aircraft.
- 17.----- Aircraft launching, landing, and ground handling equipment.
- 20.----- Ship and marine equipment.
- 22.----- Railway equipment.
- 31.----- Bearings.
- 32.----- Woodworking machinery and equipment, except lathes, milling machines, and saws, circular or band.
- 34.----- Metalworking machinery, except drill presses, lathes, milling machines, and saws, circular or band.
- 40.----- Rope, cable, chain, and fittings.
- 41.----- Refrigeration and air-conditioning equipment.
- 42.----- Firefighting, rescue, and safety equipment.
- 44.----- Furnace, steamplant, and drying equipment; and nuclear reactors.
- 45.----- Plumbing, heating, and sanitation equipment.
- 46.----- Water purification and sewage treatment equipment.
- 47.----- Pipe, tubing, hose, and fittings.
- 48.----- Valves.
- 51.----- Handtools.
- 53.----- Hardware and abrasives.
- 54.----- Prefabricated structures and scaffolding.
- 55.----- Lumber, millwork, plywood, and veneer.
- 56.----- Construction and building materials.
- 68.----- Chemicals and chemical products, except medicinal chemicals.
- 71.----- Furniture.
- 75.----- Office supplies and devices, except cards, tabulating.
- 83.----- Textiles, leather, and furs.
- 84.----- Clothing and individual equipment.

DEFENSE SUPPLY AGENCY,
Alexandria, Va., June 5, 1968.

Subject: Rewrite of Part 2, Defense Disposal Manual, DoD 4160.21-M.

To: Director, Defense Atomic Support Agency; Director, Defense Communications Agency; Director, Defense Intelligence Agency; Director, National Security Agency; Chief, Support Services (SPTS-PD), Department of the Army; Commander, Naval Supply Systems Command (SUP 0463), Department of the Navy; Director of Supply and Services (AFSSSDA), Department of the Air Force; Office of the Quartermaster General, Headquarters, U.S. Marine Corps; Commandant (F3), U.S. Coast Guard.

1. Reference is made to foreword of the Defense Disposal Manual DoD 4160.21-M wherein it is stated that changes will receive appropriate military service review and coordination.

2. Enclosed for review is a draft of the proposed revision of part 2 of the manual. Since this draft may be considered to be a complete rewrite, underlining has not been used.

3. The textual portions of the draft were prepared utilizing only the left-hand side of the page. Typed or written comments regarding each paragraph may be made on the right-hand side directly opposite the affected paragraph. If preferred, comments may be submitted separately. In addition to the number of copies normally furnished for your review, an additional copy has been provided if comments are made on the right-hand margin of each page.

4. Upon receipt of service comments, and prior to any meeting which may be required, a second draft incorporating service comments, will be forwarded for your review. The draft will reflect service acceptance or contain a capsule summary of service comments in those cases where differences exist.

5. The key provisions of the attached draft include—
- (a) A lowering of the reporting criteria.
 - (b) The streamlining of the criteria for reporting excess for mechanized utilization screening.
 - (c) The inclusion of screen procedures relating to subjects not previously covered such as final asset screening (FAS) and shelf-line property.
 - (d) The updating of methods and procedures, relating to recent OSD changes regarding programs such as the exchange/sale and redistributable MAP programs.
6. It is requested that comments/concurrence in the proposed revisions be furnished this Agency, attention : DSAH-SIE, by July 8, 1968.
For the Director :

ROLAND SAVILLA,
Colonel, U.S.A., Chief, Utilization Division.

[Draft]

* * * * *

9. Exchange/sale property :

(a) The exchange/sale authority contained in section 201(c) of the Federal Property and Administrative Services Act of 1949 (63 Stat. 38-), as amended (40 U.S.C. 481(c)) may be exercised by DOD components as prescribed in military service/defense agency regulations.

Exchange/sale property, as defined, is property not excess to the needs of the owning agency but which is eligible for replacement. Such U.S. Government-owned property, located within and outside of the United States, may be offered for exchange or sale in order to apply the exchange allowance or proceeds of sale in whole or part payment for the replacement of similar or like items.

(b) When the turn-in activity has determined that property is to be processed as exchange/sale, and so identifies the property on the turn-in document, the PDO will process the property for sale if the document indicates screening is not required. If the document is not so annotated, the property will be processed by the PDO as follows :

(1) Property identified as exchange/sale located in the United States, Puerto Rico, and the Virgin Islands which meets the minimum reporting requirements set forth in chapter II, attachment I, this part, will be reported to DLSC for DOD screening in the same manner as excess property. Such property which survives the DOD screening will be referred by DLSC to GSA for civilian Federal agency screening.

(2) Property identified as exchange/sale located overseas, having a line item value of \$500 or over, will be reported to DLSC for DOD utilization screening only.

(3) Property identified as exchange/sale which does not meet the reporting criteria set forth in subparagraphs b (1) and (2) above will be processed as nonreportable property.

(4) A reimbursement code for CONUS materiel and code 2 for overseas materiel will always be used when reporting exchange/sale property. All transfers within the DOD will be on a nonreimbursable basis; however, transfers to civil agencies will be on a reimbursable basis.

(d)¹ Property which is listed in attachment 2 is not subject to the provisions of the exchange/sale procedure. This type of property when received by a PDO will be processed as normal excess property even though "exchange/sale" was indicated on the turn-in document.

(e) Property which is identified as exchange/sale and which is not utilized by any Federal agency will be processed in accordance with instructions of the turn-in activity.

(f) Exchange/sale property reported on an SF-120 will be reported as prescribed in chapter IV, paragraph B, this part. Such reports will clearly identify the property by insertion of the following statement on the first entry in block 18b : "This property is designated as eligible for exchange/sale."

(g) Exchange/sale property is not donable.

(h) To accommodate a reporting requirement of the military service/defense agencies to higher authority, the PDO will furnish to each turn-in activity, by letter or memo, immediately following each sale, the acquisition value for all property sold identified separately by each exchange/sale.

¹ No paragraph (c) in original.

10. Foreign equity property: This property, which is excess to the needs of the owning country and the service/agency ICP, will be processed in the same manner as declared service/agency excess except that (a) Property selected by DOD activities or Federal agencies, as a result of DOD-GSA screening, will be transferred only on a reimbursable basis.

ATTACHMENT 2—EXCHANGE/SALE CATEGORY LIST

(a) In the acquisition, exchange, or sale of property in the categories below, both the item to be acquired and the item to be replaced must fall within a single numbered category:

1. Agriculture products, processed foods and forage.
5. Ammunition and ammunition components.
6. Animals and animal products.
9. Batteries, storage.
14. Cards, tabulating.
19. Ditching machines.
20. Dozer blades.
21. Drill presses.
22. Earth augers.
24. Graders, self-powered and towed.
25. Lathes.
26. Machines, adding and calculating.
27. Machines, addressing and mailing.
28. Machines, dictating and transcribing.
29. Machines, duplicating.
30. Machines, punched card, bookkeeping, tabulating, and accounting.
31. Milling machines.
32. Mixers, concrete, portable or truck mounted.
36. Piledrivers.
39. Shovels, power.
46. Road rollers, wheeled and sheepsfoot.
47. Saws, circular or band.
48. Scrapers, earth moving (self-powered).
49. Scrapers, earth moving, towed.
50. Sedans, station wagons, coupes, limousines.
51. Plows, snow, motorized.
52. Spreaders, aggregate and lime.
53. Tractors, warehouse.
54. Tractors, wheeled or crawler, with or without special attachments, up to 65 horsepower.
55. Tractors, wheeled or crawler, with or without special attachments, 65 horsepower and up.
56. Trailers, general purpose, multiple axle.
57. Trailers, general purpose, single axle.
58. Trailers, tank mounted.
63. Trucks, forklift.
64. Trucks, general purpose, cargo and construction, 12,500 through 28,000 GVW (including truck tractors, dump, multiple drive, etc.).
65. Trucks, general purpose and utility, up to 12,500 GVW (including suburbans, carryalls, and sedan deliveries).
66. Trucks, straddle.
67. Trucks, tank (special purpose trailer of which the tank is an integrated part of the construction).
68. Trucks, warehouse, platform, electric and gasoline powered.
69. Typewriters, manual and electric.
70. Aircraft and airframe structural components requested for support of commercial-type aircraft.
71. Aircraft components and accessories required for support of commercial-type aircraft.
72. Drugs, biologicals and official reagents.

(b) Items which are found in any of the Federal supply classification groups listed below are not eligible for handling under the exchange/sale provisions.

<i>Group No.</i>	<i>Group identification</i>
10-----	Weapons.
11-----	Nuclear ordnance.
12-----	Fire control equipment.
14-----	Guided missiles.
15-----	Aircraft; and airframe structural components except those requested for support of commercial type aircraft (category 70).
16-----	Aircraft components and accessories except those required for support of commercial type aircraft (category 71).
17-----	Aircraft launching, landing, and ground-handling equipment.
20-----	Ship and marine equipment.
22-----	Railway equipment.
31-----	Bearings.
32-----	Woodworking machinery and equipment, except lathes, milling machines, and saws, circular or band (categories 25, 31, and 47).
34-----	Metalworking machinery, except drill presses, lathes, milling machines, and saws, circular or band (categories 25, 31, and 47).
40-----	Rope, cable, chain, and fittings.
41-----	Refrigeration and air-conditioning equipment.
42-----	Firefighting, rescue, and safety equipment.
44-----	Furnace, steamplant, and drying equipment; and nuclear reactors.
45-----	Plumbing, heating, and sanitation equipment.
46-----	Water purification and sewage treatment equipment.
47-----	Pipe, tubing, hose, and fittings.
48-----	Valves.
51-----	Handtools.
53-----	Hardware and abrasives.
54-----	Prefabricated structures and scaffolding.
55-----	Lumber, millwork, plywood, and veneer.
56-----	Construction and building materials.
68-----	Chemicals and chemical products, except medicinal chemicals.
71-----	Furniture.
75-----	Office supplies and devices, except cards, tabulating.
83-----	Textiles, leather, and furs.
84-----	Clothing and individual equipment.

DEPARTMENT OF THE NAVY,
NAVAL SUPPLY SYSTEMS COMMAND,
Washington, D.C., June 17, 1968.

NAVSUP INSTRUCTION 4540.1

From: Commander, Naval Supply Systems Command.

To: Distribution list.

Subject: Exchange/sale personal property disposal authority; use of references:
(a) Defense Disposal Manual (DOD 4160.21-M); (b) Armed Services Procurement Regulations; (c) NAVSUPINST 4570.12A (NOTAL).

Enclosures: (1) Exchange/sale category list; (2) Lists of property not eligible for exchange/sale.

1. Purpose.

To promulgate policies and procedures to Navy activities using the exchange/sale authority contained in section 201(c) of the Federal Property and Administrative Services Act of 1949, 63 Stat. 384, as amended.

2. Cancellations

(a) Navy Property Redistribution and Disposal Regulation No. 1, paragraph 306.

(b) ONM Instruction 4500.40 of October 1, 1962, subject: Use of the exchange/sale property disposal authority.

The conflicting portions of reference (a) are under revision.

3. Other implementations

Certain portions of this instruction will be incorporated into references (a) and (b) at some future time. In the event of conflict between this instruction and the revised references (a) and (b), references (a) and (b) will supersede.

4. Applicability

This instruction is applicable to Navy activities exchanging or selling U.S. Government-owned property, worldwide.

5. Background

The FPMR (Federal property management regulation), which is administered by the GSA (General Services Administration), implements the authority for the Federal Government. DOD (Department of Defense) Instruction 4160.1 of August 10, 1966, subject: Nonexcess personal property to be sold or exchanged for replacement purposes, implements the FPMR exchange/sale authority for the military services and defense agencies. This instruction implements the DOD instruction for the Navy.

6. Definitions

(a) Acquire: This term refers to procuring, purchasing or obtaining in any manner, except by lease and including by transfer, manufacture, or production at Government owned or operated plants or facilities.

(b) Exchange/sale property: This term refers to property not excess to the requirements of the owning activity, but which is eligible for replacement. Such property is offered for exchange or sale to apply the exchange allowance or sales proceeds in whole or part payment to the similar replacement item.

(c) Similar items: In exchange/sale transactions, the term refers to items being acquired and replaced which fall within a single category in enclosure (1), or which are not categorized in enclosure (1), but are designed and constructed for the same specific purpose as the item to be replaced. The term also refers to containers for similar noncategorized items and to repair parts for similar categorized and noncategorized items.

7. General

(a) The primary purpose of the exchange/sale authority is to provide a means for the sale or exchange of certain nonexcess personal property when such actions are justified and warranted, and to apply the exchange allowance or proceeds derived from sale in whole or part payment for the replacement of required similar items.

(b) In the exercise of the exchange/sale provisions, each contemplated transaction must be carefully evaluated in order to determine, in advance, whether the monetary return anticipated by the exchange/sale transaction warrants the administrative effort and associated costs which are incurred in the use of exchange/sale provisions. This judgment can be determined, to a large degree, by the average gross monetary return realized through past competitive bid sales or exchanges of similar items.

8. Authority

Subject to the limitations contained herein, purchasing activities are authorized to apply the exchange allowance or proceeds from sale (as prescribed by NAVCOMPT (Comptroller of the Navy)) in whole or part payment in acquiring similar replacement personal property, worldwide.

9. Limitations

(a) An exchange/sale transaction may be executed after the property has been offered for utilization in accordance with paragraph 10(a) below, and when all of the following conditions have been met:

(1) The item or items to be sold or exchanged are similar to the item or items to be acquired.

(2) The item or items to be sold or exchanged are not excess and the item or items to be acquired are required for approved programs.

(3) A single item to be acquired is to replace a single similar item. The only authorized exceptions to the 1 for 1 rule are that greater or lesser numbers of items may be acquired when they perform substantially all of the tasks performed by the item or items to be replaced and that greater or lesser numbers of containers or spare parts for items may be acquired in replacing containers and spare parts for similar items.

(4) A written administrative determination was prepared at the time of exchange or sale or at the time of acquisition, when acquisition precedes sale. The determination will indicate that the exchange allowance or sales proceeds will be applied to the item to be acquired, that the transaction fosters the economical and efficient accomplishment of an approved program, that the property has been offered to known users (see subpar. 10(a) below) and the users did not request transfer and that the property has been rendered safe or innocuous or has been demilitarized (see subpar. 9(e) below).

Note: Detailed cross-references between old and new items are not required. However, in the absence of a cross-reference, sufficient data should be retained to permit the GAO (General Accounting Office) to establish compliance with the law. Specifically, data are required to show that similar items were exchanged or sold, that exchange allowances or sales proceeds were available for application and that the transaction was otherwise in accordance with this instruction.

(b) Unless specific authority is obtained from GSA through the OASD (L. & L.) (Office of Assistant Secretary of Defense (Installations and Logistics)), an exchange/sale transaction may not be executed if the items fall within any of the FSC (Federal supply classification) groups shown in enclosure (2). Requests for waiver, which must be well justified, may be submitted to the NAVSUPSYS-COM (Naval Supply Systems Command) (SUP-0463).

(c) This instruction will not be construed to authorize:

(1) The acquisition of personal property which is not authorized by law.

(2) The acquisition of personal property which is contravened by other restrictions on procurement of commodities, or by replacement policies or standards promulgated by a competent authority.

(3) The acquisition of personal property when procurement under a consolidated purchasing, stores program or Federal supply schedule contract is required, except when acquired under such program or contract. However, when property is acquired under consolidated procurement, program or contract, the exchange allowance or sales proceeds may be applied in whole or part payment for the item being acquired.

(4) The sale, exchange, or transfer of excess and surplus property even though otherwise eligible in connection with the acquisition of personal property.

(5) The sale, exchange, or transfer of strategic or critical material, unless the quantity at one location at one time is less than the minimum quantities specified in reference (a), part 3, chapter XV, and the owning activity determines that there is no reasonable prospect of accumulating the minimum quantity within the following 12-month period.

(6) The sale, exchange, or transfer of Atomic Energy Commission controlled material, except in accordance with the Code of Federal Regulations, parts 30, 40, and 70, and with the prior approval of the Chief of Naval Operations.

(7) The sale or exchange of narcotics, except in accordance with reference (a), part 3, chapter X.

(8) The sale of new or unused personal property in connection with the acquisition of similar property. However, new or unused personal property may be exchanged.

(9) The sale, exchange, or transfer of scrap property in connection with the acquisition of personal property.

(10) The sale or exchange of property otherwise eligible, which was acquired from another agency as nonexcess, excess, or surplus, unless that property was in use for 1 year after acquisition.

(d) This instruction does not apply to national stockpile materials (50 U.S.C. 98-98h), supplemental stockpile materials (7 U.S.C. 1704(b)) and Defense Production Act inventory (50 U.S.C. app. 2093.)

(e) Property will be rendered safe or innocuous or when required by part 3, chapter XIV of reference (a) will be demilitarized prior to exchange or sale. Demilitarization should be accomplished so as to preserve to the maximum extent feasible any civilian utility or commercial value of the property.

10. *Transfer and exchange*

(a) Screening: Navy activities with items available for exchange or sale, to the extent practicable and economical and within the time limits permitted to acquire the replacement property, will make the items available for utilization screening as provided for in reference (a), part 2. However, no attempt need be made to obtain further utilization when the property to be exchanged or sold is eligible for replacement in accordance with appropriate replacement standards. Property may be exchanged for—

EXCHANGE/SALE CATEGORY LIST

1. Agriculture products, processed foods, and forage.
2. Ammunition and ammunition components.
3. Animals and animal products.
4. Batteries, storage.
5. Cards, tabulating.
6. Ditching machines.
7. Dozer blades.
8. Drill presses.
9. Drugs, biologicals, and official reagents.
10. Earth augers.
11. Graders, self-powered and towed.
12. Lathes.
13. Machines, adding and calculating.
14. Machines, addressing and mailing.
15. Machines, dictating and transcribing.
16. Machines, duplicating.
17. Machines, punched card, bookkeeping, tabulating, and accounting.
18. Milling machines.
19. Mixers, concrete, portable, or truck mounted.
20. Pile drivers.
21. Plows, snow, motorized.
22. Road rollers, wheeled and sheepsfoot.
23. Saws, circular or band.
24. Scrapers, earth moving, self-powered.
25. Scrapers, earth moving, towed.
26. Sedans, station wagons, coupes, limousines.
27. Shovels, power.
28. Spreaders, aggregate and lime.
29. Tractors, warehouse.
30. Tractors, wheeled or crawler, with or without special attachments, up to 65 hp.
31. Tractors, wheeled or crawler, with or without special attachments, 65 hp and up.
32. Trailers, general purpose, multiple axle.
33. Trailers, general purpose, single axle.
34. Trailer, tank mounted.
35. Trucks, forklift.
36. Trucks, general purpose, cargo and construction, 12,500 GVW through 28,000 GVW (including trucks, tractors, dump, multiple drive, etc.).
37. Trucks, general purpose and utility, up to 12,500 GVW (including suburbans, carryalls, and sedan deliveries).
38. Trucks, straddle.
39. Trucks, tank (special-purpose trailer, of which the tank is an integral part of the construction).
40. Trucks, warehouse, platform, electric, and gasoline powered.
41. Typewriters, manual and electric.

LISTS OF PROPERTY NOT ELIGIBLE FOR EXCHANGE/SALE

FEDERAL SUPPLY CLASSIFICATION—GROUP NUMBER AND GROUP IDENTIFICATION

10. Weapons.
11. Nuclear ordnance.
12. Fire-control equipment.
14. Guided missiles.
15. Aircraft, and airframe structural components.¹

16. Aircraft components and accessories.¹
17. Aircraft launching, landing, and ground-handling equipment.
20. Ship and marine equipment.
22. Railway equipment.
31. Bearings.
32. Woodworking machinery and equipment, except lathes, milling machines, and saws, circular or band.
34. Metalworking machinery, except drill presses, lathes, milling machines, and saws, circular or band.
40. Rope, cable, chain, and fittings.
41. Refrigeration and air-conditioning equipment.
42. Firefighting, rescue, and safety equipment.
44. Furnace, steamplant, and drying equipment; and nuclear reactors.
45. Plumbing, heating, and sanitation equipment.
46. Water purification and sewage treatment equipment.
47. Pipe, tubing, hose, and fittings.
48. Valves.
51. Handtools.
53. Hardware and abrasives.
54. Prefabricated structures and scaffolding.
55. Lumber, millwork, plywood, and veneer.
56. Construction and building materials.
68. Chemicals and chemical products, except medicinal chemicals.
71. Furniture.
75. Office supplies and devices, except cards, tabulating.
83. Textiles, leather, and furs.
84. Clothing and individual equipment.

(b) Reimbursement: Transfers of exchange/sale property within DOD will be without reimbursement. Transfers of exchange/sale property to other Federal agencies will be with reimbursement and treated as an exchange/sale transaction. Reimbursement will not be more than the gross estimated competitive bid value or exchange allowance. Funds derived from transfers to other Federal agencies may be applied in the acquisition of similar personal property in the manner prescribed for sales proceeds in subparagraph 10(g) of this instruction.

(c) Utilization reporting: Forms used in reporting nonexcess material for utilization will be clearly annotated, "This property is offered in accordance with the exchange/sale provisions of the Federal Property and Administrative Services Act of 1949, as amended."

(d) Solicitation of bids: In selling or exchanging property pursuant to this instruction, the primary objective will be to maximize return to the Government. Both cash and exchange (trade-in) bids will be solicited for each transaction, except that:

(1) Items may be exchanged without the solicitation of bids when the personal property sought to be acquired also may be procured without solicitation of bids under applicable laws and regulations.

(2) Cash bids need not be solicited when the items sought to be sold or exchanged may be disposed of without solicitation of bids under applicable laws and regulations.

(3) Only one type of bid (cash or trade-in) need be solicited when recent solicitations for identical items have produced only that type of offer under circumstances indicating the futility of further advertising for any other type of offer. Since market conditions frequently change, tests should be made at reasonable intervals to reaffirm the validity for the use of the authority contained in this subparagraph.

(4) Only one type of bid (cash or trade-in) need be solicited when solicitations for the other type of bid has proven clearly ineffective in reducing the cost of the acquisition. Tests should be made at reasonable intervals to reaffirm the validity for the use of the authority contained in this subparagraph.

(5) Only one type of bid (cash) need be solicited when used vehicles are disposed of for replacement purposes under a consolidated vehicle purchase program.

(6) Purchasing activities, in disposing of property based on cash bids solicited and received, will verbally request from the nearest surplus sales office the

¹ Except those required for support of commercial type aircraft, similar property with other Federal agencies, including the Senate, House of Representatives, Capitol Architect and activities under his direction, District of Columbia and mixed ownership Government corporations.

market value of the property. When the market value of the property provided by the sales office is \$50 higher than the best cash offer, the property will be transferred to the servicing PDO (property disposal officer) for sale. These findings will be made part of the procurement transaction file.

(7) A minimum of 14 calendar days should be allowed in CONUS for the inspection of property being offered for exchange/sale. For sales outside of CONUS, the minimum inspection period should normally be 21 calendar days.

(e) Sale of exchange/sale property

(1) The methods of sale, terms, and conditions of sale and forms prescribed in appropriate regulations will be used in the sale of property being replaced, except that the only circumstances permitting negotiated sales of exchange/sale personal property are contained in section 3709, Revised Statutes, as amended (41 U.S.C. 5).

(2) While it is the policy to sell exchange/sale property after publicly advertising for bids, such property also may be sold by negotiation subject to obtaining such competition as is feasible, when (i) The reasonable value involved in any one case does not exceed \$500, or when (ii) Otherwise authorized by the ASPR (Armed Services Procurement Regulations) or law.

(3) All invitations for bids containing only exchange/sale property shall include the statement prescribed by subparagraph 10(c) above. When an IFB (invitation for bids) includes both surplus and exchange/sale property, the foregoing statement will be modified to identify the items in the invitation that are exchange/sale property.

(4) PDO's may accomplish the sale of exchange/sale property if so requested. Otherwise, the property may be sold and awarded as provided for in paragraph f below.

(f) Exchange of exchange/sale property

(1) The normal procedure applicable to a procurement, coupled with an exchange/sale transaction, is formal advertising (see subpar. 10(e) above). However, exchange/sale property may be listed for exchange on a negotiated procurement in the same solicitation which seeks proposals on the new (replacement) items being procured.

(2) If purchase of the new items is to be advertised formally (and as excepted in subpar. 10(d) above), each solicitation listing exchange/sale property, in addition to asking for prices for the new items being procured, shall ask for offers in terms of either cash or exchange (trade-in allowance) for the exchange/sale property listed. Also, the solicitation in such cases should provide for award(s) on the basis or bases resulting in the best overall arrangement to the Government. Examples: If the lowest net price to the Government of the items to be procured (i.e., the price of the new items less the amount offered for the exchange/sale items either in cash or in trade-in) results from an offer by a supplier of the new item(s) who agrees to accept the exchange/sale item(s) as a trade-in, a single award would be made which would cover both the acquisition by the Government of the new item(s) and the disposal of the exchange/sale item(s) by trade-in. If the lowest net price to the Government results from combining a low offered price from a supplier of the new item(s), and a high cash offer from a different offerer to purchase the exchange/sale item(s), two awards would be made—one for acquisition of the new item(s), and the other for the sale of the exchange/sale property.

(3) If new items are to be acquired by negotiation under authority contained in 10 U.S.C. 2304(a) (1) through (17), exchange/sale property will be offered for exchange only (i.e., application of a trade-in allowance to the purchase price). Such negotiated disposal is authorized by the same authority as the acquisition. (See subpar. 10e.)

(g) Availability of proceeds: Proceeds of sale derived from the sale, exchange, or reimbursable transfer of property pursuant to this instruction will be accounted for in accordance with appropriate NAVCOMPT instructions. However, it is mandatory that all proceeds derived from the sale of exchange/sale property be utilized for the acquisition of similar replacement item(s) within the fiscal year or the fiscal year following the fiscal year of the sale.

11. Donation

Property designated for exchange/sale pursuant to this instruction is not eligible for donation and will not be made available for that purpose.

12. Eligibility of books and periodicals for exchange

Notwithstanding any other provision of this instruction, Navy activities may exchange, without monetary appraisal or detailed listing or reporting, books and

periodicals in their libraries not needed for permanent use or other books and periodicals.

13. Replacement standards

Minimum replacement standards to be used by Navy activities desiring to replace specific types of property are indicated in this paragraph.

(a) Motor vehicles: Replacement standards for motor vehicles are set forth in SECNAV (Secretary of the Navy) Instruction 11240.8A of April 17, 1963.

(b) Materials handling equipment: Replacement standards for materials handling equipment are set forth in NAVSUP Publication 289.

(c) Furniture: Furniture will not be replaced unless the estimated cost of repair or rehabilitation (based on GSA term contracts), including transportation expenses, exceeds 75 percent of the cost of a new item of the same type and class. The cost of the new items should be based on current GSA catalogs, schedules or market prices. An exception to the 75 percent criterion is authorized when the rehabilitation cost would not proportionately extend the useful life of the item. This latter determination may be made by the requesting activity head or his designee.

(d) Office machines: The acquisition cost of comparable machines may be obtained from applicable Federal supply schedules, providing consideration is given to prices obtainable when the quantities involved exceed the maximum order limitation. In such instances, price information, if not available within the activity, will be obtained from the appropriate GSA contracting office. Estimated repair or overhaul costs, including transportation costs, will be obtained from contractors providing services to GSA under contract or at the lowest rate available from other sources.

(1) Electrically (not electronically) operated office machines under 12 years of age and manually operated office machines under 15 years of age will not be replaced unless (i) the estimated one-time repair or overhaul cost of a machine under 8 years of age exceeds 50 percent of the replacement cost for a comparable new item without regard to trade-in or sale value; or (ii) the estimated one-time repair or overhaul cost of a machine 8 years of age and over exceeds 25 percent of the replacement cost for a comparable new item without regard to trade-in or sale value.

(2) Notwithstanding the limitations prescribed in subparagraph (1) above, office machines may be replaced under the following conditions, providing a written justification supporting the replacement is approved by the commanding officer or his designee and is retained in the transaction files: (i) Where there is a record of breakdowns and productivity loss, judgments may be made based on repair records; (ii) where machines lack essential features required to perform a specific task of a continuing nature and substitute machines are not available. However, this condition will not be used to support or justify typewriter replacements.

(e) Limitations: Notwithstanding the provisions of subparagraphs (c) and (d) above, the acquisition of new office furniture and typewriters and the replacement of correspondence filing cabinets are governed by other applicable Navy regulations which may be in existence.

14. Reports

As soon as practicable after the close of each fiscal year quarter, but in no event later than 40 days thereafter, the Navy activity, using exchange/sale authority (i.e., the activity effecting the trade-in or sale), will submit a report of transactions as indicated below. Purchasing activities will submit the report in letter form to NAVSUPSYSCOM (SUP 0463). PDO's will include this data in the "Remarks Section" of the Report of Excess and Surplus Materiel at Holding Activities (DD Form 1143) RCS DD I. & L. (Q) 496 (4570). Reference (c) is modified accordingly.

FSC Group (two-digit group) :

Total acquisition cost of property exchanged during the quarter reported (nearest dollar).

Total acquisition cost of property sold during the quarter reported (nearest dollar).

(a) Books and periodicals transactions will not be reported.

(b) Property originally designated for exchange/sale but transferred for further Federal use will not be reported.

(c) Negative reports are not required.

15. Action

The policies and procedures promulgated by this instruction are effective upon receipt. Implementing instructions may be promulgated, as necessary, to insure compliance with the policies and procedures prescribed herein. Procurement or disposal actions, involving exchange/sale property, in process upon receipt of this instruction may be completed, using former procedures. Report Control Symbol No. RCS GSA-NAVSUP 4540.1 is assigned to the report required in paragraph 14.

B. H. BIERI, Jr.

DEFENSE SUPPLY AGENCY,
Alexandria, Va., July 23, 1968.

Subject: Property ineligible for sale under exchange/sale procedures.

To: Chief, Support Services (SPTS-PD), Department of the Army; Commander, Naval Supply Systems Command (SUP 0463), Department of the Navy; Director of Supply and Services (AFSSSDA), Department of the Air Force; Office of the Quartermaster General, Headquarters, U.S. Marine Corps.

1. References:

- (a) Letter, CSA, July 3, 1968, to OASD (L. & L.).¹
- (b) Letter, DSAH-SMP, April 30, 1968, subject as above.
- (c) Letter, DSAH-SMP, January 30, 1968, subject as above, and enclosure thereto.

2. Reference 1(b), which modified Federal Supply Classification Groups (FSCG) 15 and 16 of the enclosure to reference 1(c), is hereby rescinded.

3. The foregoing decision is in consonance with reference 1(a), copy attached, which grants exception only on the basis of direct exchange in those cases where the military departments rely on a contract with a manufacturer for full spare parts support for commercial type aircraft. Therefore, the above Federal supply classification groups will not be reported to sales offices for sale under the exchange/sale procedures.

4. It is requested that expeditious action be taken to rescind existing instructions and a copy of the amended instructions be furnished this Agency, Attn: DSAH-SMP.

For the Director:

FRANK ALESI,
Assistant Chief, Disposal Division,
Technical and Logistics Services.

¹ Letter of July 3, 1968, appears at p. 21, supra.