

THE EXCHANGE SALE AUTHORITY

- What is Exchange Sale Authority?
- History of the Exchange Sale Authority
- Effect of the Exchange Sale Authority on the Federal Surplus Personal Property Program (FSPP)
- Statistics for the Most Recent Fiscal Year

WHAT IS EXCHANGE SALE AUTHORITY?

Under Title 40, Section 503, the Exchange Sale Authority is described as the ability by all Federal agencies in acquiring personal property, to exchange or sell similar items and apply the exchange allowance or proceeds of sale in whole or partial payment for the property acquired.

In plain language, any Federal agency may sell property directly to the public, avoiding the normal process of Reutilization, Transfer and Donation (RTD) and use the proceeds to purchase a similar item. GSA defines a similar item as one in the same Federal stock code. In exchanging property, any Federal agency may also exchange property under agreement with a vendor for replacement property, known as a “refresh”.

The original intent was to allow federal agencies to replace high value, durable equipment (such as aircraft) for new, like items and reduce the procurement and funding requirements. Unfortunately, as with many well-intentioned ideas, the use of Exchange Sale has expanded and created unintended negative consequences to the FSPP. Here is a link to the current code: <https://www.gpo.gov/fdsys/pkg/CFR-2010-title41-vol3/pdf/CFR-2010-title41-vol3-part102-id738.pdf>

HISTORY OF THE EXCHANGE SALE AUTHORITY

On May 18, 1949, California US Representative Chester Earl "Chet" Holifield introduced H.R. 4754. This bill became what is commonly known as the Federal Property and Administrative Services Act of 1949. Today, we know it as Title 40, Section 549, the Federal Surplus Personal Property Program.

The Federal Property and Administrative Services Act of 1949, Section 201(c) describes the Exchange Sale Authority.

Title 40, Section 503, <https://www.law.cornell.edu/uscode/text/40/549> outlines the regulations for the Exchange Sale Authority.

THE EFFECTS OF THE EXCHANGE SALE AUTHORITY ON THE FEDERAL SURPLUS PERSONAL PROPERTY PROGRAM

Since 1949, the Exchange Sale Authority has drained many types of property that the SASPs could and would normally donate to our many eligible organizations. Examples include - front end loaders, graders, generators, light sets, clothing and

much more. While it is true that some Exchange Sale property includes parts for ships and aircraft, many items are desirable for donation.

The Exchange Sale Authority takes the property out of the system before any state or even federal agency can make a claim or place a hold on the property. When donees complain that they can't get heavy equipment or other types of needed items, they, and you, may not know that the Federal government is disposing of the property without any visibility to you or your donees.

STATISTICS FROM THE MOST RECENT FISCAL YEAR

The most recent statistics available cover the period from October 2014 to September 2015, and includes:

- The Federal government through GSA, disposed of over \$4.1 billion of Personal Property.
- Of this total amount, over \$2.1 billion was disposed through Exchange Sale.
- The largest users of Exchange Sale are DOD, GSA (selling for the military services), NASA, HHS, and the Department of Agriculture.
- DOD was the largest, GSA was second. Much of the equipment was ground equipment, trailers, mobile homes, etc.

CONCERNS

NASASP has many concerns about the Exchange Sale Authority:

- First, over the last several years we have seen the use of the Exchange Sale Authority being increased.
- The loss to the taxpayers is two-fold. First, the property, when sold, is immediately taken out of the public domain. Second, the property is most often sold below fair market value.
- Accountability. How much is being sold? How much is being made? How are the proceeds being used? Are all sales being reported and to whom? And finally, who has the oversight for the entire procedure?

NASASP ACTIONS TO OPPOSE THE EXCHANGE SALE AUTHORITY

NASASP has opposed the Exchange Sale Authority since 1949. Here is a list of the actions taken since then by members of NASASP:

- In the 1950's, visits to Congress were conducted by NASASP Directors. These culminated in hearings in the early 1960's and were temporarily successful in moving the Exchange Sale Authority behind the R/T/D process
- Over the last two decades, NASASP has met with GSA and had the rules modified to the benefit of the SASPs and our donees. For example, according to Federal regulations, Federal agencies should ask if there are any donee needs from the State agencies before selling the property – however, it is just a suggestion and there is no standard process to do so.

National Association of State Agencies for Surplus Property, Inc. (NASASP)

More recently, NASASP has proposed legislation that would amend Title 40 and move the Exchange Sale Authority, behind the R/T/D process once again.

Meetings on Capitol Hill have increased and this has been the number one priority for our meetings over the last two years. These meetings have expanded from just the GSA Oversight Committees and Members to the Financial Committees in Congress.

The results of these meetings have been dramatic. We now have a Senate requested GAO investigation on DOD's use of the Exchange Sale Authority and Congress has forwarded our proposed legislation to GSA for comment.

Most importantly, we have begun an active conversation in Congress on this very important issue to NASASP.

SUMMARY

-The Exchange Sale Authority remains the number one issue for NASASP with our work on Capitol Hill.

-We need to continue to seek examples of how this process hurts the Donation Program.

-Working together, we can make a difference - meetings and the GAO investigation may lead to hearings and that could lead to legislation.

-It's very important for SASPs to work together and get all requested information to the Officers and Property Oversight Chair as we continue to build our case against the Exchange Sale Authority.