



COMPTROLLER

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MEMORANDUM FOR ASSISTANT SECRETARIES OF THE MILITARY DEPARTMENTS
(FINANCIAL MANAGEMENT AND COMPTROLLER)
PRINCIPAL DIRECTOR FOR BUSINESS OPERATIONS,
DEFENSE SECURITY COOPERATION AGENCY

SUBJECT: Policy Change for the Treatment of Proceeds from Assets Sold for Replacement
Under Section 21 of the Arms Export Control Act

Reference: Department of Defense (DoD) Financial Management Regulation (FMR)
Volume 2A, Chapter 1, Paragraph 010211; Volume 3, Chapter 6, Section 0609, and
Volume 3, Chapter 15, Paragraph 150204

This memorandum, along with its attachment, modifies the policy for recording the sale and replacement of assets, currently referred to in DoD issuances as Replacement-in-Kind, under the authority provided by section 21 of the Arms Export Control Act (AECA). The change is to bring DoD policy into alignment with Office of Management and Budget (OMB) Circular A-11 guidance in section 83.5. Principal changes are:

- Update policy to reflect that, in accordance with OMB Circular A-11, section 83.5, proceeds from assets sold for replacement provide direct resources; when proceeds are used to replace assets sold, obligations will be classified as direct.
- Delete erroneous references to replacement in kind (RIK), as RIK is a direct exchange of assets not involving cash. Sales from stock with replacement represent the sale of assets for cash and subsequent replacement of assets with cash proceeds; the sale and replacement represent two separate transactions, generally occurring months or years apart.
- Update policy to reflect that proceeds will be credited to the account funding the replacement, in the period of availability with the latest expiration date at the time of collection.
- Update policy to reflect that congressional approval, when required, is obtained using a form DD1415-1, PRIOR APPROVAL REPROGRAMMING, as provided for in FMR section 0609 of Volume 3, Chapter 6, even though no reprogramming is involved. All such requests will be reflected as a separate section on the 1415-1 form, showing the increase and decrease.

This policy supersedes the policy in the FMR chapters referenced above. The FMR will be updated to incorporate this policy with the next regular update of the associated Volumes and

Chapters. My point of contact for this policy memo is Ms. Kathy Sherrill; she can be reached at (703) 697-0023, kathy.n.sherrill.civ@mail.mil.



John P. Roth
Acting Principal Deputy

Attachment:
As stated

Attachment: Recording the Sale and Replacement of Assets under Section 21 of the Arms Export Control Act, Sales from Stocks

Investment Item Budget Plan Funding Policy Considerations.

A. Direct Budget Plan. This plan includes those items of materiel to be purchased for delivery to service inventory and those procurement programs that support the acquisition of materiel for U.S. forces. Financing for the direct budget plan is derived from: new budget authority provided by the Congress, and the transfer of resources from other appropriations. A portion of DoD materiel acquisition costs may also be funded by offsetting collections from materiel sold for replacement under the authority of section 21 of the Arms Export Control Act (AECA), codified at section 2761 of title 22, United States Code (U.S.C.). Such collections represent proceeds providing direct resources, and there is no specified time limit for the replacement under this authority; however, the replacement may require prior congressional approval. The treatment of these proceeds is addressed in subparagraph 010211C of Volume 2A, Chapter 1, of the DoD Financial Management Regulation (FMR).

B. Reimbursable Budget Plan. This plan includes those items of materiel to be purchased for delivery to and used by customers. Financing for the reimbursable budget plan is derived from:

1. Customer orders received for items (not stocked by or purchased for procuring service use) to be purchased for direct delivery to a customer. (Direct citation of customer funds for procurement against this type of order is encouraged where common components and/or common assembly with service production of similar items are not involved.)

2. Customer orders received, or to be received, for items common to the procuring service and customer for direct delivery to the customer.

3. Where the materiel item is to be made available from on-order quantities under an existing contract of a Military Department, the sales transactions will be reflected as reimbursable transactions. The quantities and costs of the replacement procurement will be included in the reimbursable program.

4. Where the materiel item is to be made available directly from a contract awarded after the date of the sales agreement and the contract includes a particular quantity of the item to fulfill the sales agreement, the transaction will be reflected as a direct cite transaction.

Treatment of Proceeds from Materiel Sales under AECA Authority.

A. Treatment of Proceeds from Materiel Sales, when Materiel Sold will be Replaced. In accordance with section 83.5 of the Office of Management and Budget Circular A-11, proceeds that will be used for replacement assets are considered offsetting collections, which provide direct resources that, when used for replacement assets, will be reported as direct obligations. The proceeds will be credited as collections to the account funding the replacement, in the period of availability with the *latest expiration date at the time of collection*; this may be a no-year account if one exists, and the collections may be made in a later fiscal year than that in which the sale was made. Proceeds will be reported as spending authority providing direct resources in the SF133, Report on Budget Execution and Budgetary Resources. They will be apportioned as discretionary collections in the "Budgetary Resources" section of the SF132,

Apportionment Schedule, and included in direct resources in the “Application of Budgetary Resources” section. Proceeds will be reported as direct program in the AR(M) 1002, Appropriation Report Status. Accordingly, *obligations for the replacement assets will be reported as direct obligations.*

1. Sale for Replacement with Like Items. Replacement of materiel using proceeds from sales is authorized under section 21 of AECA without further congressional approval, so long as the item sold will be replaced with an item of the identical type, model, and series (e.g., the sale of C-130E aircraft and purchase of C-130E aircraft) or a modified version of the same basic model. For an item of ammunition, replacement with any round that provides the same warfighting mission capability is authorized, provided the round to be purchased has been previously approved by the Congress for procurement, and the inventory objective presented to the Congress is not exceeded. Obligations to replace the assets will be recognized as direct obligations.

2. Sale for Replacement with Dissimilar or Modified Items Requiring Congressional Approval. In this situation an item of materiel sold will require replacement to compensate DoD inventories for the resultant loss of capability or readiness. Because of one or more circumstances, the replacement item will not be identical to the item sold. It must, however, be a later series or modified version of the same basic model (e.g., sale of a C-130A aircraft and the purchase of a C-130E aircraft) or an acceptable substitute item (e.g. sale of an M-48 tank and the purchase of an M-60 tank). Replacement requires prior approval by the Congress, which is requested on a DD1415-1, Reprogramming Action – Prior Approval, as provided for in Chapter 6 of Volume 3 of the FMR; the approval does not, however, involve or result in any actual reprogramming action. Submission of the DD1415-1 is the method by which DoD obtains the required congressional approval, so the request must be included on a separate 1415-1 form, or as a separate section on the 1415-1 form when other items for reprogramming are being submitted for consideration. No reprogramming or transfer of funds will occur, and obligations to replace the assets will be recognized and accounted for as direct obligations, rather than as reimbursements to annual procurement appropriations.

B. Proceeds from Materiel Sales with No Intention to Replace. All other proceeds for items not replaced will be deposited into Miscellaneous Receipts of the U.S. Treasury in accordance with section 114(c)(2)(B) of title 10, U.S.C.