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GENERAL SERVICES ADMINISTRATION

41 CFR Part 102-42

[FMR Change 2015-02; FMR Case 2014-102-3; Docket No. 2014-0019; Sequence No. 1]

RIN: 3090-AJ49

Federal Management Regulation; Utilization, Donation, and Disposal of Foreign Gifts and Decorations

AGENCY: Office of Government-wide Policy, General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is amending the Federal Management Regulation (FMR). This amendment changes the means by which GSA publishes the redefined foreign gift minimal value rates and adds the term and definition of "spouse".

DATES: Effective: **[Insert date of publication in the Federal Register]**.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Holcombe, Office of Government-wide Policy, Office of Asset and Transportation Management (MA), at 202-501-3828 or by e-mail at Robert.Holcombe@gsa.gov for clarification of content. For information pertaining to status or

publication schedules contact the Regulatory Secretariat at 202-501-4755. Please cite FMR Case 2014-102-3.

SUPPLEMENTARY INFORMATION:

A. Background

Every three years, GSA is required to redefine the "minimal value" of foreign gifts under 5 U.S.C. 7342. In order for GSA to consult with the Secretary of State and publish this revised figure as closely to the effective date (January 1st) as possible, the redefined values will be published in a Federal Management Regulation (FMR) Bulletin at www.gsa.gov/personalpropertypolicy.

In addition, the definition of minimal value is being amended to state that an employing agency may, by regulation, define "minimal value" for its agency employees to be less than the GSA definition, in accordance with 5 U.S.C. 7342(a)(5)(B).

Finally, the term and definition of "spouse" is added to FMR part 102-42. Section 3 of the Defense of Marriage Act (DOMA), codified at 1 U.S.C. 7, provided that, when used in a Federal law, the term "spouse" referred only to a person of the opposite sex who is a husband or a wife. Because of DOMA, the Federal Government has been heretofore prohibited from recognizing marriages of same-sex couples for all Federal purposes, including asset management

policies. On June 26, 2013, in United States v. Windsor, 570 U.S. 12 (2013), 133 S. Ct. 2675 (2013), the Supreme Court of the United States (Supreme Court) held Section 3 of DOMA unconstitutional. As a result, GSA is adding the definition of the term "spouse" to this part for clarity. This case is included in GSA's retrospective review of existing regulations under Executive Order 13563.

Additional information is located in GSA's retrospective review (2014) available at:

www.gsa.gov/improvingregulations.

B. Changes

This final rule:

(1) Changes the means by which GSA publishes updates to the definition of "minimal value" and makes the information available to the public;

(2) Adds the term and a definition for the term "spouse" to 41 CFR part 102-42; and

(3) Changes the citations in the authority section to reflect the codification of Title 40, United States Code, into positive law.

C. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to

select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule is not a significant regulatory action, and therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This final rule is not a major rule under 5 U.S.C. 804.

D. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. This final rule is also exempt from the Administrative Procedure Act per 5 U.S.C. 553(a)(2) because it applies to agency management or public property.

E. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FMR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

F. Small Business Regulatory Enforcement Fairness Act

This final rule is exempt from Congressional review under 5 U.S.C. 801 since it does not substantially affect the rights or obligations of non-agency parties.

List of Subjects in 41 CFR Part 102-42

Conflict of interests, Decorations, medals, awards, Foreign relations, Government property, Government property management.

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Dated: April 3, 2015.

Denise Turner Roth,
Acting Administrator of General Services.

For the reasons set forth in the preamble, GSA is amending 41 CFR part 102-42 as set forth below:

PART 102-42—UTILIZATION, DONATION, AND DISPOSAL OF FOREIGN GIFTS AND DECORATIONS

1. The authority citation for part 102-42 is revised to read as follows:

Authority: 40 U.S.C. 121(c); sec. 515, 5 U.S.C. 7342 (91 Stat. 862).

2. Amend § 102-42.10 by revising the definition "Minimal value"; and alphabetically adding the definition "Spouse" to read as follows:

§ 102-42.10 What definitions apply to this part?

* * * * *

Minimal value means a retail value in the United States at the time of acceptance that is at or below the dollar value established by GSA and published in a Federal Management Regulation (FMR) Bulletin at www.gsa.gov/personalpropertypolicy.

(1) GSA will adjust the definition of minimal value every three years, in consultation with the Secretary of State, to reflect changes in the Consumer Price Index for the immediately preceding 3-year period.

(2) An employing agency may, by regulation, specify a lower value than this Government-wide value for its agency employees.

Spouse means any individual who is lawfully married (unless legally separated), including an individual married to a person of the same sex who was legally married in a state or other jurisdiction (including a foreign country), that recognizes such marriages, regardless of whether or not the individual's state of residency recognizes such marriages. The term spouse does not include individuals in a formal relationship recognized by a state, which is other than lawful marriage; it also does not include individuals in a marriage in a jurisdiction outside the United States that is not recognized as a lawful marriage under United States law.

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