

ELIGIBILITY/COMPLIANCE TRAINING MANUAL



PERSONAL PROPERTY MANAGEMENT

Last Updated: November 2019

ELIGIBILITY TABLE OF CONTENTS

- 1) Legislative History and Federal Management Regulations
- **Appendix C – Glossary of Terms for Determining Eligibility**
- 2) Guidelines on Eligibility
- 3) Standard Eligibility Application(s)
- 4) IRS 501 Designations
- 5) Clarification on Public Funding
- 6) Accreditation Issues
- 7) Federal Financial Assistance to Religious Organizations
- 8) Museums/Sheltered Workshops
- 9) Providers of Assistance to the Impoverished
- 10) Volunteer Rescue Squads and Fire Departments
- 11) Veteran Organizations and Military Museums
- 12) Service Educational Activities
- 13) Small Business Administration 8(a) Programs
- 14) Two Sample Eligibility Determinations
 - Tennessee SASP: “Feed America First” (October 2001)
 - Georgia SASP” “National Conference of Black Mayors” (June 2001)

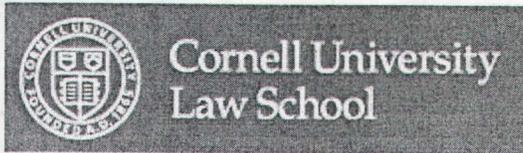
**LEGISLATIVE HISTORY AND PERTINENT
FEDERAL MANAGEMENT REGULATIONS**

The Constitution of the United States

Article IV vested in Congress the authority to acquire and dispose of property on behalf of the United States. In the exercise of this authority, Congress has passed legislation which has established policies designed to serve the best interests of the taxpayers. Even today Congress is the ultimate arbitrator in determining what is in the public's interest in disposing of Federal Property.

Major Milestones

- ◆ Executive Order 3019 (1918) - Directed surplus federal war property be made available for reissue to other government establishments and Congress designated the Treasury Department to administer the process.
- ◆ Public Law (PL) 66-91 (1919) – Authorized the War Department to sell surplus at 15% of cost to educational institutions
 - PL 70-254 (1928) – added museums for public display
 - PL 71-249 (1930) – changed wording to “without cost”
- ◆ PL 78-457 (1944) – Known as the Surplus Property Act of 1944, which addressed the WWII surplus inventories. This law included educational, public health, local governments and non-profit institutions at reduced or no cost for public benefit
 - However, the Surplus Property Act of 1944 contained administration fragmentation giving several bodies administrative oversight of certain aspects of the act. Surplus Property Board, Reconstruction Finance Corporation, Surplus Property Administration, War Assets Corporation, War Assets Administration, and the Federal Security Administration
- ◆ PL 81-152 (1949) – Known as the Federal Property and Administrative Services Act of 1949 which established GSA as the sole successor to administer the provisions of this Act. This Act charged GSA with overall responsibility of Government-Wide property management matters
- ◆ PL 84-655 (1956) – Established that no property could be donated for use in a state except through the sole State Agency for Surplus Property (SASP) designated within each state. Department of Health, Education and Welfare (DHEW) was designated to administer the donation program.

[Search Law School](#)[Search Cornell](#)

LII / Legal Information Institute

U.S. Code collection

TITLE 40 > SUBTITLE I > CHAPTER 5 > SUBCHAPTER III > § 549

§ 549. Donation of personal property through state agencies

(a) Definitions.— In this section, the following definitions apply:

(1) Public agency.— The term “public agency” means—

(A) a State;

(B) a political subdivision of a State (including a unit of local government or economic development district);

(C) a department, agency, or instrumentality of a State (including instrumentalities created by compact or other agreement between States or political subdivisions); or

(D) an Indian tribe, band, group, pueblo, or community located on a state reservation.

(2) State.— The term “State” means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

(3) State agency.— The term “state agency” means an agency designated under state law as the agency responsible for fair and equitable distribution, through donation, of property transferred under this section.

(b) Authorization.—

(1) In general.— The Administrator of General Services, in the Administrator’s discretion and under regulations the Administrator may prescribe, may transfer property described in paragraph (2) to a state agency.

(2) Property.—

(A) In general.— Property referred to in paragraph (1) is any personal property that—

(i) is under the control of an executive agency; and

(ii) has been determined to be surplus property.

(B) Special rule.— In determining whether the property is to be transferred for donation under this section, no distinction may be made between property capitalized in a working-capital fund established under section 2208 of title 10 (or similar fund) and any other property.

(3) No cost.— Transfer of property under this section is without cost, except for any costs of care and handling.

- ◆ PL 87-94 (1961) - Authorized the use of Federal surplus property by State Agencies in the operation of the Federal Property Assistance program, upon approval of such use by the General Services Administration.
- ◆ PL 87-786 (1962) – Extended eligibility to acquire Federal surplus property to tax-supported and nonprofit tax-exempt schools for the mentally retarded and schools for the physically handicapped; noncommercial educational radio and educational television stations which are licensed by the FCC; and to public libraries which serve free all residents of a community, State or region and which receive their financial support in whole or in part from public funds.
- ◆ PL 94-519 (1976) – Transferred responsibility of the donation program from DHEW to GSA.
- ◆ PL 95-478 (1978) – Amended the Older Americans Act of 1965. Law provides that public agencies and nonprofit organizations receiving appropriated funds under the Older Americans Act and certain other statutes for programs for older Americans are eligible to receive donations of surplus property.
- ◆ PL 99-386 (1986) – This law raised the acquisition cost floor from \$3K to \$5K for donated items on which the SASPs statutorily are required to impose additional restrictions beyond the minimum one-year use requirement placed on all items of donated property.
- ◆ PL 100-77 (1987) – This law required individual SASPs to certify that they maintain a drug-free workplace in order for the SASP to be eligible to receive surplus property for its own administrative use.
- ◆ PL 102-45 (1992) – Stevenson-Wydler Technology Innovation Act and Executive Order 12999. Permitted agencies to give research equipment (to include computers) to educational institutions for scientific/technical education.
- ◆ Title 40 (USC 549) - Donation of Personal Property through State Agencies

(c) Allocation and Transfer of Property.—

(1) In general.— The Administrator shall allocate and transfer property under this section in accordance with criteria that are based on need and use and that are established after consultation with state agencies to the extent feasible. The Administrator shall give fair consideration, consistent with the established criteria, to an expression of need and interest from a public agency or other eligible institution within a State. The Administrator shall give special consideration to an eligible recipient's request, transmitted through the state agency, for a specific item of property.

(2) Allocation among states.— The Administrator shall allocate property among the States on a fair and equitable basis, taking into account the condition of the property as well as the original acquisition cost of the property.

(3) Recipients and purposes.— The Administrator shall transfer to a state agency property the state agency selects for distribution through donation within the State—

(A) to a public agency for use in carrying out or promoting, for residents of a given political area, a public purpose, including conservation, economic development, education, parks and recreation, public health, and public safety; or

(B) for purposes of education or public health (including research), to a nonprofit educational or public health institution or organization that is exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501), including—

(i) a medical institution, hospital, clinic, health center, or drug abuse treatment center;

(ii) a provider of assistance to homeless individuals or to families or individuals whose annual incomes are below the poverty line (as that term is defined in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902));

(iii) a school, college, or university;

(iv) a school for the mentally retarded or physically handicapped;

(v) a child care center;

(vi) a radio or television station licensed by the Federal Communications Commission as an educational radio or educational television station;

(vii) a museum attended by the public; or

(viii) a library serving free all residents of a community, district, State, or region.

(4) Exception.— This subsection does not apply to property transferred under subsection (d).

(d) Department of Defense Property.—

(1) Determination.— The Secretary of Defense shall determine whether surplus personal property under the control of the Department of Defense is usable and necessary for educational activities which are of special interest to the armed services, including maritime academies, or military, naval, Air Force, or Coast Guard preparatory schools.

(2) Property usable for special interest activities.— If the Secretary of Defense determines that the property is usable and necessary for educational activities which are of special interest to the armed services, the Secretary shall allocate the property for transfer by the Administrator to the appropriate state agency for distribution through donation to the educational activities.

(3) Property not usable for special interest activities.— If the Secretary of Defense determines that the property is not usable and necessary for educational activities which are of special interest to the armed services, the property may be disposed of in accordance with subsection (c).

(e) State Plan of Operation.—

(1) In general.— Before property may be transferred to a state agency, the State shall develop a detailed state plan of operation, in accordance with this subsection and with state law.

(2) Procedure.—

(A) Consideration of needs and resources.— In developing and implementing the state plan of operation, the relative needs and resources of all public agencies and other eligible institutions in the State shall be taken into consideration. The Administrator may consult with interested federal agencies to obtain their views concerning the administration and operation of this section.

(B) Publication and period for comment.— The state plan of operation, and any major amendment to the plan, may not be filed with the Administrator until 60 days after general notice of the proposed plan or amendment has been published and interested persons have been given at least 30 days to submit comments.

(C) Certification.— The chief executive officer of the State shall certify and submit the state plan of operation to the Administrator.

(3) Requirements.—

(A) State agency.— The state plan of operation shall include adequate assurance that the state agency has—

(i) the necessary organizational and operational authority and capability including staff, facilities, and means and methods of financing; and

(ii) established procedures for accountability, internal and external audits, cooperative agreements, compliance and use reviews, equitable distribution and property disposal, determination of eligibility, and assistance through consultation with advisory bodies and public and private groups.

(B) Equitable distribution.— The state plan of operation shall provide for fair and equitable distribution of property in the State based on the relative needs and resources of interested public agencies and other eligible institutions in the State and their abilities to use the property.

(C) Management control and accounting systems.— The state plan of operation shall require, for donable property transferred under this section, that the state agency use management control and accounting systems of the same type as systems required by state law for state-owned property. However, with approval from the chief executive officer of the State, the state agency may elect to use other management control and accounting systems that are effective to govern the use, inventory control, accountability, and disposal of property under this section.

(D) Return and redistribution for non-use.— The state plan of operation shall require the state agency to provide for the return and redistribution of donable property if the property, while still usable, has not been placed in use for the purpose for which it was donated within one year of donation or ceases to be used by the donee for that purpose within one year of being placed in use.

(E) Request by recipient.— The state plan of operation shall require the state agency, to the extent practicable, to select property requested by a public agency or other eligible institution in the State and, if requested by the recipient, to

arrange shipment of the property directly to the recipient.

(F) Service charges.— If the state agency is authorized to assess and collect service charges from participating recipients to cover direct and reasonable indirect costs of its activities, the method of establishing the charges shall be set out in the state plan of operation. The charges shall be fair and equitable and shall be based on services the state agency performs, including screening, packing, crating, removal, and transportation.

(G) Terms, conditions, reservations, and restrictions.—

(i) In general.— The state plan of operation shall provide that the state agency—

(I) may impose reasonable terms, conditions, reservations, and restrictions on the use of property to be donated under subsection (c); and

(II) shall impose reasonable terms, conditions, reservations, and restrictions on the use of a passenger motor vehicle and any item of property having a unit acquisition cost of \$5,000 or more.

(ii) Special limitations.— If the Administrator finds that an item has characteristics that require special handling or use limitations, the Administrator may impose appropriate conditions on the donation of the property.

(H) Unusable property.—

(i) Disposal.— The state plan of operation shall provide that surplus personal property which the state agency determines cannot be used by eligible recipients shall be disposed of—

(I) subject to the disapproval of the Administrator within 30 days after notice to the Administrator, through transfer by the state agency to another state agency or through abandonment or destruction if the property has no commercial value or if the estimated cost of continued care and handling exceeds estimated proceeds from sale; or

(II) under this subtitle, on terms and conditions and in a manner the Administrator prescribes.

(ii) Proceeds from sale.— Notwithstanding subchapter IV of this chapter and section 702 of this title, the Administrator, from the proceeds of sale of property described in subsection (b), may reimburse the state agency for expenses that the Administrator considers appropriate for care and handling of the property.

(f) Cooperative Agreements With State Agencies.—

(1) Parties to the agreement.— For purposes of carrying out this section, a cooperative agreement may be made between a state surplus property distribution agency designated under this section and—

(A) the Administrator;

(B) the Secretary of Education, for property transferred under section 550 (c) of this title;

(C) the Secretary of Health and Human Services, for property transferred under section 550 (d) of this title; or

(D) the head of a federal agency designated by the Administrator, the Secretary of Education, or the Secretary of Health and Human Services.

(2) Shared resources.— The cooperative agreement may provide that the property, facilities, personnel, or services of—

- (A)** a state agency may be used by a federal agency; and
- (B)** a federal agency may be made available to a state agency.

(3) Reimbursement.— The cooperative agreement may require payment or reimbursement for the use or provision of property, facilities, personnel, or services. Payment or reimbursement received from a state agency shall be credited to the fund or appropriation against which charges would otherwise be made.

(4) Surplus property transferred to state agency.—

(A) In general.— Under the cooperative agreement, surplus property transferred to a state agency for distribution pursuant to subsection (c) may be retained by the state agency for use in performing its functions. Unless otherwise directed by the Administrator, title to the retained property vests in the state agency.

(B) Conditions.— Retention of surplus property under this paragraph is subject to conditions that may be imposed by—

- (i)** the Administrator;
- (ii)** the Secretary of Education, for property transferred under section 550 (c) of this title; or
- (iii)** the Secretary of Health and Human Services, for property transferred under section 550 (d) of this title.

LII has no control over and does not endorse any external Internet site that contains links to or references LII.

Subpart E—Donations to Public Agencies, Service Educational Activities (SEAs), and Eligible Nonprofit Organizations

§102-37.375—How is the pronoun “you” used in this subpart?

The pronoun “you,” when used in this subpart, refers to the State agency for surplus property (SASP).

§102-37.380—What is the statutory authority for donations of surplus Federal property made under this subpart?

The following statutes provide the authority to donate surplus Federal property to different types of recipients:

(a) Section 549(d) of title 40, United States Code authorizes surplus property under the control of the Department of Defense (DOD) to be donated, through SASPs, to educational activities which are of special interest to the armed services (referred to in this part 102-37 as service educational activities or SEAs).

(b) Section 549(c)(3) of title 40, United States Code authorizes SASPs to donate surplus property to public agencies and to nonprofit educational or public health institutions, such as:

- (1) Medical institutions.
 - (2) Hospitals.
 - (3) Clinics.
 - (4) Health centers.
 - (5) Drug abuse or alcohol treatment centers.
 - (6) Providers of assistance to homeless individuals.
 - (7) Providers of assistance to impoverished families and individuals.
 - (8) Schools.
 - (9) Colleges.
 - (10) Universities.
 - (11) Schools for the mentally disabled.
 - (12) Schools for the physically disabled.
 - (13) Child care centers.
 - (14) Radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations.
 - (15) Museums attended by the public.
 - (16) Libraries, serving free all residents of a community, district, State or region.
 - (17) Historic light stations as defined under section 308(e)(2) of the National Historic Preservation Act (16 U.S.C. 470w-7(e)(2)), including a historic light station conveyed under subsection (b) of that section, notwithstanding the number of hours that the historic light station is open to the public.
- (c) Section 213 of the Older Americans Act of 1965, as amended (42 U.S.C. 3020d), authorizes donations of surplus property to State or local

government agencies, or nonprofit organizations or institutions, that receive Federal funding to conduct programs for older individuals.

(d) Section 549(c)(3)(C) of title 40, United States Code authorizes SASPs to donate property to veterans organizations, for purposes of providing services to veterans (as defined in section 101 of title 38). Eligible veterans organizations are those whose:

- (1) Membership comprises substantially veterans; and
- (2) Representatives are recognized by the Secretary of Veterans Affairs under section 5902 of title 38.

Donee Eligibility

§102-37.385—Who determines if a prospective donee applicant is eligible to receive surplus property under this subpart?

(a) For most public and nonprofit activities, the SASP determines if an applicant is eligible to receive property as a public agency, a nonprofit educational or public health institution, or for a program for older individuals. A SASP may request GSA assistance or guidance in making such determinations.

(b) For applicants that offer courses of instruction devoted to the military arts and sciences, the Defense Department will determine eligibility to receive surplus property through the SASP as a service educational activity or SEA.

§102-37.390—What basic criteria must an applicant meet before a SASP can qualify it for eligibility?

To qualify for donation program eligibility through a SASP, an applicant must:

- (a) Conform to the definition of one of the categories of eligible entities listed in §102-37.380 (see Appendix C of this part for definitions);
- (b) Demonstrate that it meets any approval, accreditation, or licensing requirements for operation of its program;
- (c) Prove that it is a public agency or a nonprofit and tax-exempt organization under section 501 of the Internal Revenue Code;
- (d) Certify that it is not debarred, suspended, or excluded from any Federal program, including procurement programs; and
- (e) Operate in compliance with applicable Federal nondiscrimination statutes.

§102-37.395—How can a SASP determine whether an applicant meets any required approval, accreditation, or licensing requirements?

A SASP may accept the following documentation as evidence that an applicant has met established standards for the operation of its educational or health program:

- (a) A certificate or letter from a nationally recognized accrediting agency affirming the applicant meets the agency's standards and requirements.

(b) The applicant's appearance on a list with other similarly approved or accredited institutions or programs when that list is published by a State, regional, or national accrediting authority.

(c) Letters from State or local authorities (such as a board of health or a board of education) stating that the applicant meets the standards prescribed for approved or accredited institutions and organizations.

(d) In the case of educational activities, letters from three accredited or State-approved institutions that students from the applicant institution have been and are being accepted.

(e) In the case of public health institutions, licensing may be accepted as evidence of approval, provided the licensing authority prescribes the medical requirements and standards for the professional and technical services of the institution.

(f) The awarding of research grants to the institution by a recognized authority such as the National Institutes of Health, the National Institute of Education, or by similar national advisory council or organization.

§102-37.400—What type of eligibility information must a SASP maintain on donees?

In general, you must maintain the records required by your State plan to document donee eligibility (see Appendix B of this part). For SEAs, you must maintain separate records that include:

(a) Documentation verifying that the activity has been designated as eligible by DOD to receive surplus DOD property.

(b) A statement designating one or more donee representative(s) to act for the SEA in acquiring property.

(c) A listing of the types of property that are needed or have been authorized by DOD for use in the SEA's program.

§102-37.405—How often must a SASP update donee eligibility records?

You must update donee eligibility records as needed, but no less than every 3 years, to ensure that all documentation supporting the donee's eligibility is current and accurate. Annually, you must update files for nonprofit organizations whose eligibility depends on annual appropriations, annual licensing, or annual certification. Particular care must be taken to ensure that all records relating to the authority of donee representatives to receive and receipt for property, or to screen property at Federal facilities, are current.

§102-37.410—What must a SASP do if a donee fails to maintain its eligibility status?

If you determine that a donee has failed to maintain its eligibility status, you must terminate distribution of property to that donee, recover any usable property still under Federal restriction (as outlined in §102-37.465), and take any other required compliance actions.

§102-37.415—What should a SASP do if an applicant appeals a negative eligibility determination?

If an applicant appeals a negative eligibility determination, forward complete documentation on the appeal request, including your comments and recommendations, to the applicable GSA regional office for review and coordination with GSA headquarters. GSA's decision will be final.

Conditional Eligibility

§102-37.420—May a SASP grant conditional eligibility to applicants who would otherwise qualify as eligible donees, but have been unable to obtain approval, accreditation, or licensing because they are newly organized or their facilities are not yet constructed?

You may grant conditional eligibility to such an applicant provided it submits a statement from any required approving, accrediting, or licensing authority confirming it will be approved, accredited, or licensed. Conditional eligibility may be granted for a limited and reasonable time, not to exceed one year.

§102-37.425—May a SASP grant conditional eligibility to a not-for-profit organization whose tax-exempt status is pending?

No, under no circumstances may you grant conditional eligibility prior to receiving from the applicant a copy of a letter of determination by the Internal Revenue Service stating that the applicant is exempt from Federal taxation under section 501 of the Internal Revenue Code.

§102-37.430—What property can a SASP make available to a donee with conditional eligibility?

You may only make available surplus property that the donee can use immediately. You may not make available property that will only be used at a later date, for example, after the construction of the donee's facility has been completed. If property is provided to the donee with conditional eligibility, and the conditional eligibility lapses (see §102-37.420), the property must be returned to the SASP for redistribution or disposal.



Subchapter B—Personal Property

Part 102-37—Donation of Surplus Personal Property

Appendix C—Glossary of Terms for Determining Eligibility of Public Agencies and Nonprofit Organizations

The following is a glossary of terms for determining eligibility of public agencies and nonprofit organizations:

"Accreditation" means the status of public recognition that an accrediting agency grants to an institution or program that meets the agency's standards and requirements.

"Accredited" means approval by a recognized accrediting board or association on a regional, State, or national level, such as a State board of education or health; the American Hospital Association; a regional or national accrediting association for universities, colleges, or secondary schools; or another recognized accrediting association.

"Approved" means recognition and approval by the State department of education, State department of health, or other appropriate authority where no recognized accrediting board, association, or other authority exists for the purpose of making an accreditation. For an educational institution or an educational program, approval must relate to academic or instructional standards established by the appropriate authority. For a public health institution or program, approval must relate to the medical requirements and standards for the professional and technical services of the institution established by the appropriate authority.

"Child care center" means a public or nonprofit facility where educational, social, health, and nutritional services are provided to children through age 14 (or as prescribed by State law) and that is approved or licensed by the State or other appropriate authority as a child day care center or child care center.

"Clinic" means an approved public or nonprofit facility organized and operated for the primary purpose of providing outpatient public health services and includes customary related services such as laboratories and treatment rooms.

"College" means an approved or accredited public or nonprofit institution of higher learning offering organized study courses and credits leading to a baccalaureate or higher degree.

"Conservation" means a program or programs carried out or promoted by a public agency for public purposes involving directly or indirectly the protection, maintenance, development, and restoration of the natural resources of a given political area. These resources include but are not limited to the air, land, forests, water, rivers, streams, lakes and ponds, minerals, and animals, fish and other wildlife.

"Drug abuse or alcohol treatment center" means a clinic or medical institution that provides for the diagnosis, treatment, or rehabilitation of alcoholics or drug addicts. These centers must have on their staffs, or available on a regular visiting basis, qualified professionals in the fields of medicine, psychology, psychiatry, or rehabilitation.

"Economic development" means a program(s) carried out or promoted by a public agency for public purposes to improve the opportunities of a given political area for the establishment or expansion of industrial, commercial, or agricultural plants or facilities and which otherwise assist in the creation of long-term employment opportunities in the area or primarily benefit the unemployed or those with low incomes.

"Education" means a program(s) to develop and promote the training, general knowledge, or academic, technical, and vocational skills and cultural attainments of individuals in a community or given political area. Public educational programs may include public school systems and supporting facilities such as centralized administrative or service facilities.

"Educational institution" means an approved, accredited, or licensed public or nonprofit institution, facility, entity, or organization conducting educational programs or research for educational purposes, such as a child care center, school, college, university, school for the mentally or physically disabled, or an educational radio or television station.

"Educational radio or television station" means a public or nonprofit radio or television station licensed by the Federal Communications Commission and operated exclusively for noncommercial educational purposes.

"Health center" means an approved public or nonprofit facility that provides public health services, including related facilities such as diagnostic and laboratory facilities and clinics.

"Historic light station" means a historic light station as defined under section 308(e)(2) of the National Historic Preservation Act 16 U.S.C. 470w-7(e)(2), including a historic light station conveyed under subsection (b) of that section, notwithstanding the number of hours that the historic light station is open to the public.

"Homeless individual" means:

(1) An individual who lacks a fixed, regular, and adequate nighttime residence, or who has a primary nighttime residence that is:

(i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(2) For purposes of this part, the term "homeless individual" does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.

"Hospital" means an approved or accredited public or nonprofit institution providing public health services primarily for inpatient medical or surgical care of the sick and injured and includes related facilities such as laboratories, outpatient departments, training facilities, and staff offices.

"Library" means a public or nonprofit facility providing library services free to all residents of a community, district, State, or region.

"Licensed" means recognition and approval by the appropriate State or local authority approving institutions or programs in specialized areas. Licensing generally relates to established minimum public standards of safety, sanitation, staffing, and equipment as they relate to the construction, maintenance, and operation of a health or educational facility, rather than to the academic, instructional, or medical standards for these institutions.

"Medical institution" means an approved, accredited, or licensed public or nonprofit institution, facility, or organization whose primary function is the furnishing of public health and medical services to the public or promoting public health through the conduct of research, experiments, training, or demonstrations related to cause, prevention, and methods of diagnosis and treatment of diseases and injuries. The term includes, but is not limited to, hospitals, clinics, alcohol and drug abuse treatment centers, public health or treatment centers, research and health centers, geriatric centers, laboratories, medical schools, dental schools, nursing schools, and similar institutions. The term does not include institutions primarily engaged in domiciliary care, although a separate medical facility within such a domiciliary institution may qualify as a "medical institution."

"Museum" means a public or nonprofit institution that is organized on a permanent basis for essentially educational or aesthetic purposes and which, using a professional staff, owns or uses tangible objects, either animate or inanimate; cares for these objects; and exhibits them to the public on a regular basis (at least 1000 hours a year). As used in this part, the term "museum" includes, but is not limited to, the following institutions if they satisfy all other provisions of this definition: Aquariums and zoological parks; botanical gardens and arboreta; nature centers; museums relating to art, history (including historic buildings), natural history, science, and technology; and planetariums. For the purposes of this definition, an institution uses a professional staff if it employs at least one fulltime staff member or the equivalent, whether paid or unpaid, primarily engaged in the acquisition, care, or public exhibition of objects owned or used by the institution. This definition of "museum" does not include any institution that exhibits objects to the public if the display or use of the objects is only incidental to the primary function of the institution.

"Nationally recognized accrediting agency" means an accrediting agency that the Department of Education recognizes under 34 CFR part 600. (For a list of accrediting agencies, see the Department's web site at <http://www.ed.gov/admins/finaid/accred>.)

"Nonprofit" means not organized for profit and exempt from Federal income tax under section 501 of the Internal Revenue Code (26 U.S.C. 501).

"Parks and recreation" means a program(s) carried out or promoted by a public agency for public purposes that involve directly or indirectly the acquisition, development, improvement, maintenance, and protection of park and recreational facilities for the residents of a given political area.

"Program for older individuals" means a program conducted by a State or local government agency or nonprofit activity that receives funds appropriated for services or programs for older individuals under the Older Americans Act of 1965, as amended, under title IV or title XX of the Social Security Act (42 U.S.C. 601 et seq.), or under titles VIII and X of the Economic Opportunity Act of 1964 (42 U.S.C. 2991 et seq.) and the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

"Provider of assistance to homeless individuals" means a public agency or a nonprofit institution or organization that operates a program which provides assistance such as food, shelter, or other services to homeless individuals.

"Provider of assistance to impoverished families and individuals" means a public or nonprofit organization whose primary function is to provide money, goods, or services to families or individuals whose annual incomes are below the poverty line (as defined in section 673 of the Community Services Block Grant Act) (42 U.S.C. 9902). Providers include food banks, self-help housing groups, and organizations providing services such as the following: Health care; medical transportation; scholarships and tuition assistance; tutoring and literacy instruction; job training and placement; employment counseling; child care assistance; meals or other nutritional support; clothing distribution; home construction or repairs; utility or rental assistance; and legal counsel.

"Public agency" means any State; political subdivision thereof, including any unit of local government or economic development district; any department, agency, or instrumentality thereof, including instrumentalities created by compact or other agreement between States or political subdivisions; multijurisdictional substate districts established by or pursuant to State law; or any Indian tribe, band, group, pueblo, or community located on a State reservation.

"Public health" means a program(s) to promote, maintain, and conserve the public's health by providing health services to individuals and/or by conducting research, investigations, examinations, training, and demonstrations. Public health services may include but are not limited to the control of communicable diseases, immunization, maternal and child health programs, sanitary engineering, sewage treatment and disposal, sanitation inspection and supervision, water purification and distribution, air pollution control, garbage and trash disposal, and the control and elimination of disease-carrying animals and insects.

"Public health institution" means an approved, accredited, or licensed public or nonprofit institution, facility, or organization conducting a public health program(s) such as a hospital, clinic, health center, or medical institution, including research for such programs, the services of which are available to the public.

"Public purpose" means a program(s) carried out by a public agency that is legally authorized in accordance with the laws of the State or political subdivision thereof and for which public funds may be expended. Public purposes include but are not limited to programs such as conservation, economic development, education, parks and recreation, public health, public safety, programs of assistance to the homeless or impoverished, and programs for older individuals.

"Public safety" means a program(s) carried out or promoted by a public agency for public purposes involving, directly or indirectly, the protection, safety, law enforcement activities, and criminal justice system of a given political area. Public safety programs may include, but are not limited to those carried out by:

- (1) Public police departments.
- (2) Sheriffs' offices.
- (3) The courts.
- (4) Penal and correctional institutions (including juvenile facilities).
- (5) State and local civil defense organizations.
- (6) Fire departments and rescue squads (including volunteer fire departments and rescue squads supported in whole or in part with public funds).

"School (except schools for the mentally or physically disabled)" means a public or nonprofit approved or accredited organizational entity devoted primarily to approved academic, vocational, or professional study and instruction, that operates primarily for educational purposes on a full-time basis for a minimum school year and employs a full-time staff of qualified instructors.

"School for the mentally or physically disabled" means a facility or institution operated primarily to provide specialized instruction to students of limited mental or physical capacity. It must be public or nonprofit and must operate on a full-time basis for the equivalent of a minimum school year prescribed for public school instruction for the mentally or physically disabled, have a staff of qualified instructors, and demonstrate that the facility meets the health and safety standards of the State or local government.

"University" means a public or nonprofit approved or accredited institution for instruction and study in the higher branches of learning and empowered to confer degrees in special departments or colleges.

"Veterans Organizations" means organizations eligible to receive Federal surplus property for purposes of providing services to veterans under 40 U.S.C. 549(c)(3)(C). Eligible veterans organizations are those whose (1) membership comprises substantially veterans (as defined under 38 U.S.C. 101); and (2) representatives are recognized by the Secretary of Veterans Affairs under 38 U.S.C. 5902. The Department of Veterans Affairs maintains a searchable website of recognized organizations. The address is <http://www.va.gov/ogc/apps/accreditation/index.asp>.



DONATION HANDBOOK GUIDELINES

DETERMINATION OF ELIGIBILITY

The State agency is responsible for determining that an applicant is eligible as a public agency or a nonprofit educational or public health institution or organization to participate in the program and receive donations of surplus personal property.

The State agency is responsible for determining the eligibility of public agencies to receive donations of surplus personal property to be used for one or more public purposes such as conservation, economic development, education, parks and recreation, public health, public safety, and programs for older individuals, and to eligible nonprofit, tax-exempt activities for education and public health purposes, including research for any such purposes, and for use in programs for older individuals.

Federal Property Management Regulations 41, Chapter 101-44 and the Donation Handbook set forth the standards, guidelines, and procedures for determination of eligibility for public agencies and eligible nonprofit tax exempt activities in each State to participate in the surplus personal property donation program, to receive surplus property through a State agency, and to use this property for the purposes authorized by the Federal Property and Administrative Services Act of 1949, as amended, and by section 213 of the Older American Act of 1965, as amended (42 U.S. C. 3020d).

ASSISTANCE IN DETERMINING ELIGIBILITY

A State agency may request assistance from the GSA regional office in determining the eligibility of an applicant institution or organization. State agencies should obtain the assistance of the State attorney before sending the case file to the regional office. The regional office should review the case, draft an opinion on the eligibility of the applicant and, if necessary, have the Office of Regional Counsel review the opinion before advising the State agency of its decision. Eligibility applications that might have a national impact must be coordinated with the Central Office before releasing the regional office's determination. When an eligibility determination cannot readily be made by the regional office, the case may be sent to the Central Office for review. The regional office must send a copy of its recommendation, plus a copy of the Regional Counsel's opinion, along with the complete case file. The case file, with supporting documentation, should address all elements referenced in FPMR 101-44.207.e Appeals of negative determinations of eligibility, whether appealed by an applicant or a State agency, must be sent promptly to the Central Office, together with the comments and recommendations of the State agency, the Federal Supply Service Bureau, and the Office of Regional Counsel, for review and determination by Central Office.

APPLICATION FOR ELIGIBILITY

Each State agency shall maintain a complete and current record for each eligible donee. This record shall include the following:

Application - The application shall set forth:

- the legal name and the address of the applicant
- the status of the applicant as a public agency or as an eligible nonprofit tax-exempt activity (evidence shall be included in the file that the applicant is a public agency or has been determined to be nonprofit and tax-exempt under section 501 of the Internal Revenue Code of 1954).
- Details concerning the applicant's public program activities or, when it is an eligible nonprofit tax-exempt activity, the specific programs and facilities operated by the applicant (sufficient details and specifics should be available so that the State agency can determine the program eligibility qualifications of the applicant, including any of those activities defined in 101-44.207(a).)
- Evidence that the applicant is approved, accredited, or licensed when it is a requirement of one or more of the applicant's programs, or certification of funding when the applicant is a nonprofit tax-exempt activity that conducts programs for older individuals.

Authorization or Resolution

A written authorization signed by the chief administrative officer or executive head of the donee activity, or a resolution by the governing board or body of the donee activity, which shall designate one or more representatives to act for the applicant acquiring donable property from the State agency, to obligate any necessary funds of the applicant for this purpose, and to execute the State agency distribution document including terms, conditions, reservations, and restrictions that the State agency or GSA may establish on the use and disposal of the property.

Nondiscrimination Assurance - Necessary assurances that the applicant will comply with GSA regulations on nondiscrimination as set forth in Subpart 101-6.2 and Part 101-8 must be provided in the format prescribed by GSA.

ELIGIBILITY OF PUBLIC AGENCIES

Surplus personal property may be donated through the State agency to any public agency in the State. A public agency, as defined in FPMR 101 -44.001-10, includes any:

- State or department, agency, or instrumentality thereof;
- Political subdivision of the State, including any unit of local government or economic development district, or any department, agency, or instrumentality thereof;
- Instrumentality created by compact or other agreement between States or political subdivisions.

At the time donable surplus property is acquired by a donee, the donee's authorized representative shall indicate on the State agency's distribution document the primary purpose for which the property is to be used. In the case of public agencies, such usage could be for public purposes, such as conservation, economic development, education, parks and recreation, public health, programs for providing assistance to homeless individuals, public safety, museums, State Indians, or programs for older individuals. When the property is to be used for a combination of these purposes or for some other public purpose, the distribution document shall so indicate. With respect to nonprofit institutions or organizations, the purpose shall be shown as education, public health, programs for providing assistance to homeless individuals, museums, or programs for older individuals.

Surplus personal property acquired through the State agency must be used by the public agency to carry out or to promote for the residents of a given political area one or more public purposes. "Public purpose" means a program carried out by a public agency which is legally authorized in accordance with the law of the State or political subdivision thereof and for which public funds may be expended. Public purposes include but are not limited to programs such as conservation, economic development, education, parks and recreation, public health, and public safety.

In effecting fair and equitable distribution of property, based on the relative needs and resources of interested public agencies and other authorized donees and their ability to use the property, it is intended that the State agency give full and fair consideration to the requirements of public agencies for property necessary and usable for conservation, economic development, education, parks and recreation, public health and public safety, and other public purposes. Each public program is conducted by designated departments, agencies, or other instrumentalities of the State and/or local governments in carrying out either specific or diverse functions, with, in some cases, overlapping jurisdiction. Activities and functions involved in designated public programs may include but are not limited to the following:

Conservation

State and local agencies and districts may be involved mutually in carrying out programs to conserve natural resources. Indian tribes or communities located on a State reservation may also be involved in conservation projects as well as other public programs such as economic development.

Economic development

Programs designed to develop the economy by establishing or expanding industry, commerce, or agriculture in a given geographic area and may include the economic development districts and other activities of public agencies involved in activities such as municipal water and sewage departments operating sewage systems and waste treatment plants; State or local street or highway departments involved in construction or improvement of roads; port authorities and public airport commissions involved in harbor and public airport development; public transit authorities providing public transportation; environmental and antipollution programs of municipal, county, or State agencies; and State and local agencies involved in tourism development.

Education

Public schools, colleges, and universities are directly involved in the educational process. Special schools for the physically handicapped or the mentally retarded, as well as vocational and trade schools and educational radio and television stations, are among the educational institutions which directly contribute to the educational development of a district, town, city, county, or other governmental jurisdiction. Child care centers not only provide education benefits but also may promote economic development and public safety. Central administrative and service facilities of public school systems are equally necessary to successfully carry out and improve public education. Public libraries and museums also provide an essential educational and cultural service to a community.

Park and recreation

Agencies of the State, counties, cities, and other instrumentalities of local government are directly involved in the acquisition, development, improvement, and maintenance of public parks and other recreational facilities which benefit the general public. Public parks, playgrounds, swimming pools, and golf courses are some of the many public facilities which not only provide recreational benefits but also promote economic development, conservation, and public health.

ELIGIBILITY AND DEFINITION OF NONPROFIT TAX-EXEMPT ACTIVITIES

Surplus personal property may be donated through the State agency to nonprofit tax-exempt activities, as defined in this section, within the State, such as:

- (1) Medical institutions
- (2) Hospitals
- (3) Clinics
- (4) Health centers
- (5) Providers of assistance to homeless individuals
- (6) Schools
- (7) Colleges
- (8) Universities
- (9) Schools for the mentally retarded
 - (10) Schools for the physically handicapped
 - (11) Child care centers
 - (12) Radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations
 - (13) Museums attended by the public
 - (14) Libraries, serving free all residents of a community, district, State, or region
 - (15) Organizations or institutions that receive funds appropriated for programs for older individuals under the Older Americans Act of 1965, as amended, under Titles VI and title XX of the Social Security Act, or under Titles VIII and X of the Economic Opportunity Act of 1964 and the Community Services Block Grant Act. Programs for older individuals include services that are necessary for the general welfare of older individuals, such as social services, transportation services, nutrition services, legal services, and multipurpose senior centers.

Public health

Public health services are directly provided by hospitals, clinics, health centers, and other designated medical institutions. Public agencies also provide broad public health benefits with regard to activities such as the control of communicable diseases, immunization, public health nursing, maternal and child health programs, classes in health education and nutrition, and other health programs. These activities may be carried on in a clinic or subsidiary center in a community, in a person's home, in a school, or in a private business office or plant. Other vital programs carried on by State, county, or local health departments or other designated agencies directly protect public health and safety as well as promote economic development. These programs may include inspection of meat, food, and water; control and elimination of disease-carrying animals or insects by fogging, spraying, or other methods; water purification and water distribution systems; sewage treatment and disposal systems; garbage and trash disposal; and sanitary landfill facilities. These types of public health functions or services contribute directly to the general health and well being of the geographical area served, and public agencies may acquire surplus property to support these programs.

Public safety

Public safety includes not only law enforcement agencies but agencies involved in the prevention, control, and treatment of alcohol and drug abuse; agencies which provide services to children such as child care centers and activities serving neglected, dependent, abused, and delinquent children; and agencies and courts within the criminal justice system. Equally essential to public safety are State and local civil defense agencies and local fire departments and rescue squads. The availability of fire and rescue equipment at public airports is another illustration of an equally vital public safety requirement.

Programs for older individuals

State or local government agencies which receive funds appropriated for older individuals under the Older Americans Act of 1965, as amended, under title IV or title XX of the Social Security Act, or under titles VIII or X of the Economic Opportunity Act of 1964 and the Community Services Block Grant Act are eligible to receive surplus property through donation. Programs for older individuals include services that are necessary for the general welfare of older individuals, such as social services, transportation services, nutrition services, legal services, and multipurpose senior centers.

EDUCATIONAL ACTIVITY

NONPROFIT TAX-EXEMPT

Nonprofit tax-exempt activity means an institution or organization, which has been held to be tax-exempt under the provisions of Section 501 of the Internal Revenue Code of 1954.

A COPY OF THE TAX-EXEMPT RULING MUST ACCOMPANY THE APPLICATION. The ruling must have the correct name and address of the applicant organization. If it does not, a name and/or address correction should be requested from the Internal Revenue Service, Mail Code 4910, 1100 Commerce, Dallas, Texas 75242, telephone (214) 767-3526.

Schools, colleges, and universities are directly involved in the educational process. Special schools for the physically handicapped or the mentally retarded, as well as vocational and trade schools and educational radio and television stations, are among the educational institutions which directly contribute to the educational development of a district, town, city, county, or other governmental jurisdiction. Child care centers not only provide education benefits but also may promote economic development and public safety. Central administrative and service facilities of school systems are equally necessary to successfully carry out and improve education.

Federal Property Management Regulations states:

Approved means recognition and approval by the State department of education, or or appropriate authority where no recognized accrediting board, association, or authority exists for the purpose of making an accreditation. For an educational institution or an educational program, approval must relate to academic instructional standards established by the appropriate authority. An educational institution or program may be considered approved if its instructions and credits therefore are accepted by three accredited or State-approved institutions, or if it meets the academic or instructional standards prescribed for public schools in the State; i.e. the organizational entity or program is devoted primarily to approved academic, vocational (including technical or occupational), or professional studies and instructions, which operates primarily for educational purposes on a full-time basis for a minimum school year as prescribed by the State and employs a full-time staff of qualified instructors.

In the absence of an official State approving authority for educational institutions or program, the awarding of research grants to the institution or organization by a recognized authority such as the National Institute of Education, or by similar national advisor council or organization may constitute approval of the institution or program provided all other criteria are met.

Accredited means approval by a recognized accrediting board or association on a regional, State, or national level, such as a State board of education; a regional or national accrediting association for universities, colleges, or secondary schools; or another recognized accrediting association.

A COMPLETE NARRATIVE OF YOUR PROGRAM SHOULD BE INCLUDED WITH YOUR APPLICATION. LEVEL OF COURSES, ENROLLMENT, FACILITIES, STAFF, ETC.. SHOULD BE INCLUDED.

HEALTH ACTIVITY

NONPROFIT TAX-EXEMPT

Nonprofit tax-exempt activity means an institution or organization, which has been held to be tax-exempt under the provisions of Section 501 of the Internal Revenue Code of 1954.

A COPY OF THE TAX-EXEMPT RULING MUST ACCOMPANY THE APPLICATION. The ruling must have the correct name and address of the applicant organization. If it does not, a name and/or address correction should be requested from the Internal Revenue Services, Mail Code 4910, 1100 Commerce, Dallas, Texas 75242, telephone (214) 767-3526e

Health Activity means as approved, accredited, or licensed nonprofit medical facility, entity, or organization the primary function of which is the furnishing of health and medical services through the conduct of research for any such purpose, experiments, training, or demonstrations related to cause, prevention, and methods of diagnosis and treatment of diseases and injuries. The term includes but is not limited to hospitals, clinics, alcohol and drug abuse treatment centers, health or treatment centers, research and health centers, geriatric centers, laboratories, medical schools, dental schools, nursing schools, and similar institutions. The term does not include institutions primarily engage in domiciliary care although a separated medical facility within such a domiciliar institution may qualify as a medical institution.

Approved means recognition and approval by State department of health, or other appropriate authority where no recognized accrediting board, association, or other authority exists for the purpose of making an accreditation. For a public health institution or program, approval must relate to the medical requirements and standards for the professional and technical services of the institution established by the appropriate authority. A health institution or program may be considered as approved when a State body having authority under law to establish standards and requirements for public health institutions renders approval thereto whether by accreditation procedures or by licensing or such other method prescribe by State law. In the absence of an official State approving authority for a public health institution, the awarding of research grants to the institution or organization by a recognized authority such as the National Institute of Health, or by similar national advisor council or organization may constitute approval or the institution or program provided all other criteria are met.

Licensed means recognition and approval by the appropriate State or local authority approving institutions or programs in specialized area. Licensing generally relates to established minimum public standards of safety, sanitation, staffing, and equipment as they relate to the construction, maintenance, and operation of a health facility, rather than to the medical standards for these institutions.

Accredited means approval by a recognized accrediting board or association on a regional, State, or national level, such as State board of health or the American Hospital Association.

A COMPLETE NARRATIVE OF YOUR PROGRAM SHOULD BE INCLUDED WITH YOUR APPLICATION. INCLUDE TYPE OF SERVICES, NUMBERS OF BEDS AND/OR PATIENTS SERVED, FACILITIES, STAFF ETC.

Conditional Eligibility - In certain cases, newly organized activities may not have commenced operations or completed construction of their facilities, or may not yet have been approved, accredited, or licenses as may be required to qualify as eligible donees. In other cases, there may be not specific authority which can approve, accredit, or license the applicant as required for qualification. In these cases, the State agency may accept letters from public authority, either local or State, which the State agency deems competent, such as a board of health or a board of education, that the applicant otherwise meets the standards prescribed for approved, accredited, or licensed institutions and organizations. For education activities, letters from three accredited or approved institutions that students form the applicant institution have been and are being accepted may be deemed sufficient by the State agency. In the case of public health institutions or organizations, licensing with respect to public health applicants may be accepted by the State agency as evidence of approval in States where there is no authority which can, as a legal or as a policy matter, approve hospitals, clinics, health centers, or medical institutions, provided the licensing authority prescribes the medical requirements and standards for the professional and technical services of the institution. Where construction has not been completed, the State agency, after evaluating the progress and potential of the applicant, may at its discretion make available surplus items of property which can be immediately utilized at this point in the applicant's program. In every case where an applicant is allowed to acquire donable property on the basis of conditional eligibility, the State agency must keep a complete record of the property that is donated. Under no circumstances shall conditional eligibility be granted to a potentially eligible nonprofit, tax-exempt applicant before the State agency has received from the applicant a copy of a letter of determination by the Internal revenue Service stating that the applicant is exempt from Federal taxation under section 501 of the Internal Revenue Code of 1954. The State agency must also advise the applicant that failure to meet the terms under which eligibility was granted would mean that any property donated to the applicant would have to be returned to the State agency, or if this is impracticable, the applicant would have to pay the fair market value of the property.

Maintaining Eligibility - Records for public agencies and nonprofit, tax-exempt donees must be updated as frequently as necessary to insure that all documentation required to justify the donee's eligibility is current and accurate. Eligibility files should be maintained in a systematic manner and contain all necessary documentation. Particular care must be taken to ensure that the donee resolution is current and that the statement of designated representatives contained therein is correct. Files for skilled nursing homes, intermediate care facilities, alcohol and drug abuse centers, programs for older individuals, and other programs whose eligibility depend on annual appropriations, annual licensing, accreditation or approval, or otherwise fails to maintain its eligibility status, the State agency shall terminate its distribution of property to the activity.

Approved, Licensed and Accredited

Approved means recognition and approval by the State department of education, State department of health, or other appropriate authority where no recognized accrediting board, association, or other authority exists for the purpose of making an accreditation. For an educational institution or an educational program, approval must relate to academic or instructional standards established by the appropriate authority. An educational institution or program may be considered approved if its instructions and credits therefore are accepted by three accredited or State-approved institutions, or if it meets the academic or instructional standards prescribed for public schools in the State: i.e. the organizational entity or program is devoted primarily to approved academic, vocational [including technical or occupational], or professional study and instructions, which operates primarily for educational purposes on a full-time basis for a minimum school year as prescribed by the State and employs a full-time staff of qualified instructors. For a public health institution or program, approval must relate to the medical requirements and standards for the professional and technical services of the institution established by the appropriate authority. A health institution or program may be considered as approved when a State body having authority under law to establish standards and requirements for public health institutions renders approval thereto whether by accreditation procedures or by licensing or such other method prescribed by State law. In the absence of an official State approving authority for a public health institution or program or educational institution or program, the awarding of research grants to the institution or organization by a recognized authority such as the National Institute of Health, the National Institute of Education, or by similar national advisor council or organization may constitute approval of the institution or program provided all other criteria are met.

Licensed means recognition and approval by the appropriate State or local authority approving institutions or programs in specialized area. Licensing generally relates to established minimum public standards of safety, sanitation, staffing, and equipment as they relate to the construction, maintenance, and operation of a health or educational facility, rather than to the academic, instructional, or medical standards for these institutions. Licensing may be required for educational or public health programs such as occupational training, physical or mental health rehabilitation services, or nursing care. Licenses frequently must be renewed at periodic intervals.

Accredited means approval by a recognized accrediting board or association on a regional, State, or national level, such as a State board of education or health; the American Hospital Association; a regional or national accrediting association for universities, colleges, or secondary schools; or another recognized accrediting association.

PROVIDER OF ASSISTANCE TO HOMELESS

Providers of assistance homeless individuals means a public agency or a nonprofit, tax-exempt institution or organization that provides shelter or other services to homeless individuals. Personal property acquired through the donation program by such institutions or organizations must be used exclusively in their programs for providing direct assistance to homeless individuals.

The Stewart B. McKinney Homeless Assistance Act, Public Law 100-77, was enacted July 22, 1987. This Act-amended the Federal Property and Administrative Services Act of 1949 to authorize donations of Federal surplus personal property to nonprofit, tax-exempt providers of assistance to homeless individuals.

Federal regulation was amended by adding the following paragraphs: "Homeless individual means an individual who lacks a fixed, regular, and adequate nighttime residence or who has a primary nighttime residence that is: (1) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for mentally ill); (2) an institution that provides a temporary residence for individuals intended to be institutionalized; or (3) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings."

If the provided is nonprofit, a copy of their tax-exemption under the provisions of Section 501 of the Internal Revenue Code of 1954 must accompany the application.

Written recognition by an appropriate authority, such as a mayor, city health department administrator or official, county judge, county health administrator or other responsible authority that the organization is providing a specific service to the homeless, must be provided.

A complete narrative of your program should be included with your application. Sources of funding, services provided to homeless individuals and number of individual receiving that type of assistance, facilities occupied, hours of operations, and if overnight shelter is provided, the maximum number of individuals accommodated should be included.

Effective October 18, 1991, the Administrator of the General Services Administration has approved deviation from the requirement that property donated to providers of assistance to the homeless be used exclusively in programs for the homeless. Eligibility of nonprofit foodbanks must be determined on a case-by-case basis. Foodbanks remain ineligible if they do not operate a program for the homeless. If such an entity operates a broad spectrum of programs through which assistance to the homeless is peripheral and incidental, the entity would not be eligible to received surplus property. Provided that a donee maintains a program of assistance to the homeless and uses the donated property primarily or essentially for that purpose, GSA doesn't object to use of the property for a related purpose, such as the needy.

MUSEUMS

PUBLIC LAW 94-519 sets out two basic categories of eligible donees, public agencies and nonprofit, tax-exempt institutions.

To meet the qualifications of a public agency, such agency, organization, or institution must be supported in whole or in part with public funds or be created as a public agency by a State statute passed by their legislature. A copy of the statute should be made part of their eligibility file.

Nonprofit museums must be determined to be tax-exempt by the Internal Revenue Service under Section 501 of the IRS Code and provide a copy to the SASP. They must also meet other criteria to qualify to become an eligible donee. A museum is an organization that owns or uses tangible objects, cares for the objects and exhibits them to the public. In making eligibility determinations relating to museums, care should be taken to determine whether the museum serves a public purpose; that it provides general educational benefits to the public. Reviewing their articles of incorporation will provide the reviewer with the purpose of the organization. Regulations do not specify any specific length of time a museum has to be open, only that it be open to the public on a regular basis. An actual street address should be provided; post office boxes are not enough.

The museum must employ a full-time staff member, whether paid or unpaid. No minimum qualifications are prescribed. Admission fees should be nominal. If fees seem excessive, the museum should be asked to submit a statement explaining how the charges are determined. Evidence of membership or affiliation with a local, State, regional or national museum organization should be provided when available. This is only evidence that the organization is operating as a museum and regulations do not require accreditation or approval for museums.

Museums that are in the process of purchasing or building a facility for displays should be considered for conditional eligibility only. Under no circumstances will conditional eligibility be granted to an organization before they receive their tax-exemption under Section 501 of the IRS Code. That an organization lacks its own facilities for exhibit is not disqualifying if it exhibit objects through such means as educational programs or traveling exhibits.

A copy of any brochures, newsletters, catalogs, written advertisements, etc., describing the museum's programs and services should be obtained when possible.

VOLUNTEER FIRE DEPARTMENTS AND RESCUE SQUADS

This refers to making determination of eligibility for nongovernmental agencies that do not meet the criteria of being a public agency, but which are nonprofit and tax-exempt.

PUBLIC LAW 94-519 sets out two basic categories of eligible donees, public-agencies and nonprofit, tax-exempt institutions.

To meet the qualifications of a public agency, such agency, organization, or institution must be supported in whole or in part with public funds or be created as a public agency by the State statute passed by their legislature. A copy of the statute should be made part of any eligibility file.

PUBLIC FUNDS means such funds that have been appropriated by the State, county, or local government in support of the function performed. An organization supported by a grant or gift would not fall within the definition of a public agency. A situation where the county provides water and radios and authorizes the purchase of gasoline from county sources cannot be considered public funds. Should evidence be established by the applicant that, even though not fully funded by the county, it has been accepted by the county and is considered an approved fire department or rescue squad by the proper approving or authorizing authority of the State, county, or local government, may be accepted as a quasi-public agency carrying out for the residents of a given political area one or more public purposes such as public safety.

REQUIREMENTS FOR ELIGIBILITY

1. Submit evidence of receiving funds appropriated for fire protection. Evidence must be from the appropriate office of the public agency administering funds, i.e., the budget officer; or
2. Submit evidence of a State statute making the organization a public agency.
3. A letter from the appropriate representative (County Manager or Public Safety Officer) stating that the fire department or rescue squad has been accepted as an integral part of their safety program and is wholly or partially supported by public funds.
4. Evidence of being chartered as an approved fire department by the proper approving authority of the State, county, or local government. Rescue squads should submit evidence that they are approved or accredited by the proper health officials of the community being served.

PROGRAMS FOR OLDER INDIVIDUALS

Programs for older individuals means any State or local government agency or any nonprofit, tax-exempt activity which receives funds appropriated for programs for older individuals under the Older Americans Act of 1965, as amended, under title IV or XX of the Social Security Act, or under titles VIII and X of the Economic Act of 1964 and the Community Services Block Grant Act.

If the provider is a public agency, eligibility determination using the basic eligibility criteria established for all public agencies pursuant to the FPMR, 101-44.207 should be used.

If the provider is nonprofit, tax-exempt, a copy of the tax-exemption under the provisions of Section 501 of the Internal Revenue Code of 1954 must accompany the application. A certification is required that the applicant is receiving appropriated Federal funds for the operation of a program for older individuals, from the State agency designated by the State to administer programs authorized under legislation enumerated in section 214 of the Older Americans Act of 1965, as amended. The certification should include a description of the program and facilities operated by the applicant, and must state the expiration date of the certification. Eligibility will be limited to the period covered by the certification. Certifications are generally issued on an annual basis; therefore, eligibility should be updated annually.

A COMPLETE NARRATIVE OF THE PROGRAM, AS WELL AS A COPY OF CERTIFICATION SHOULD BE INCLUDED WITH YOUR APPLICATION.

D. Program for Older Individuals receiving appropriated funds pursuant to:

- Older Americans Act of 1965, as amended.
 Specify Title: _____
 Grant/Contract #: _____
 Expiration Date: _____
- Social Security Act:
 - Title IV.
 Grant/Contract #: _____
 Expiration Date: _____
 - Title XX.
 Grant/Contract #: _____
 Expiration Date: _____
- Economic Opportunity Act of 1964.
 - Title VIII.
 Grant/Contract #: _____
 Expiration Date: _____
 - Title XX.
 Grant/Contract #: _____
 Expiration Date: _____
- Community Services Block Grant Act.
 Title-specify: _____
 Grant/Contract #: _____
 Expiration Date: _____

SHELTERED WORKSHOPS

Sheltered workshops which are conducting training services projects under grants for the Vocational Rehabilitation Administration pursuant to the provisions of Section 13.(a) of P.L. 89-333 of the Vocational Rehabilitation Act Amendments of 1965, would qualify for full eligibility of the training departments as schools for the mentally retarded or physically handicapped.

All sheltered workshops should be given consideration for eligibility for their training departments as schools for the mentally retarded and/or schools for the physically handicapped. Workshops which do not have special training services project grants as describe above may still be used by the State vocational rehabilitation office and by local schools or school districts as referral centers for training students or VRA clients in occupational skills. Special consideration should be given in evaluating applications for eligibility from any sheltered workshop providing training for the physically or mentally retarded. The primary objective for the determination of eligibility is whether or not the primary activity of the applicant is one of training rather than employment for production work. Sheltered workshops which are operated primarily to provide sheltered workshops which are operated primarily to provide sheltered employment and do not provide training cannot be considered for even partial eligibility.

ELIGIBILITY REQUIREMENTS

1. A copy of the tax-exemption under the provisions of Section 501 of the Internal Revenue Code of 1954.
2. A copy of the letter of approval of the grant or a letter from the State vocational rehabilitation office certifying to its grant for a training services project.
3. Applicants being considered for eligibility for its training program should submit requirement in item one and evidence of approval from the appropriate office of the State responsible for certifying programs for the mentally retarded and physically handicapped.

Sheltered workshops either fully or partially eligible, should be updated annually.

STANDARD ELIGIBILITY APPLICATION

APPLICATION FOR ELIGIBILITY

To Receive Federal Surplus Property (41 CFR 101-44.207)

I. LEGAL NAME & MAILING ADDRESS OF APPLICANT ORGANIZATION:

Name of Organization

Mailing Address (P.O. Box #, Street, City & State) _____
Zip Code

Street Address/ Location (if different from mailing address)

County () _____
Telephone #

II. APPLICANT STATUS (CHECK ONE):

- Public Agency including Public Schools (evidence must be provided)
- Nonprofit, tax-exempt Organization

III. TYPE OR PURPOSE OF ORGANIZATION:

- | | | | | |
|--|--|---|--|--|
| <input type="checkbox"/> State | <input type="checkbox"/> College or University | <input type="checkbox"/> Child Care Center | <input type="checkbox"/> Training Center | <input type="checkbox"/> Medical Institution |
| <input type="checkbox"/> County | <input type="checkbox"/> Secondary School | <input type="checkbox"/> School for Handicapped | <input type="checkbox"/> Radio/ TV Station | <input type="checkbox"/> Hospital |
| <input type="checkbox"/> City | <input type="checkbox"/> Elementary School | <input type="checkbox"/> School for Retarded | <input type="checkbox"/> Library | <input type="checkbox"/> Health Center |
| <input type="checkbox"/> School District | <input type="checkbox"/> Preschool | <input type="checkbox"/> Museum | <input type="checkbox"/> Sheltered Workshop Training Program | |
| | <input type="checkbox"/> Program for Older Individuals | <input type="checkbox"/> Provider of Assistance to Homeless Individuals | <input type="checkbox"/> Clinic | |
| | <input type="checkbox"/> Other (specify) _____ | | | |

IV. PROVIDE A WRITTEN DESCRIPTION OF PROGRAM OR SERVICES OFFERED, INCLUDING A DESCRIPTION OF FACILITIES OPERATED. (REQUIRED)

V. SOURCES OF FUNDING (Attach Supporting Documentation) :

- Tax Supported Grant Contributions Other (Specify) _____

VI. HAS THE ORGANIZATION BEEN DETERMINED TO BE TAX EXEMPT UNDER SECTION 501 OF THE INTERNAL REVENUE CODE OF 1954: _____ (COPY REQUIRED)

VII. HAS THE ORGANIZATION BEEN APPROVED, ACCREDITED, OR LICENSED ? _____ (COPY REQUIRED) BY WHAT AUTHORITY ? _____

VIII. _____ *Date* _____ *Signature of Authorized Official*

FOR STATE AGENCY USE ONLY

The applicant has been determined eligible ineligible conditionally eligible
as a public agency, nonprofit education, nonprofit health

Eligibility expires _____

Date _____
Director

AUTHORIZED REPRESENTATIVES

I. LEGAL NAME & MAILING ADDRESS OF APPLICANT ORGANIZATION:

Name of Organization

Mailing Address

_____ *Street Address/Location (If different from mailing address)* _____ *Zip Code*

_____ *County* _____ *Telephone #*

II. THE FOLLOWING REPRESENTATIVES ARE DESIGNATED TO:

- A. Acquire Federal Surplus Property;
- B. Obligate necessary funds for this purpose; and
- C. Execute Distribution Documents agreeing to terms, conditions, reservations, and restrictions applying to property obtained through the agency.

III. _____ NEW DESIGNATIONS _____ ADDITIONAL DESIGNATIONS ONLY
(Delete all previous authorizations) (Add to previous authorizations)

IV. REPRESENTATIVES:

<i>Name</i>	<i>Title</i>	<i>Signature</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

V. CERTIFICATION

_____ *Date* _____ *Signature of Certifying Official*

_____ *Title*

NONDISCRIMINATION ASSURANCE

LEGAL NAME & MAILING ADDRESS OF APPLICANT ORGANIZATION:

Name of Organization

Mailing Address (P.O. Box #, Street, City & State) *Zip Code*

Street Address /Location (If different from mailing address)

County () *Telephone #*

_____, the donee,
(Name of Organization)

agrees that the program for or in connection with which any property is donated to the donee will be conducted in compliance with, and the donee will comply with and will require any other person (any legal entity) who through contractual or other arrangements with the donee is authorized to provide services or benefits under said program to comply with all requirements imposed by or pursuant to the regulations of the General Services Administration (41 C.F.R. 101-6.2 and 101-8) issued under the provisions of Title VI of the Civil Rights Act of 1964, as amended, section 606 of Title VI of the Federal Property and Administrative Services Act of 1949, as amended, section 504 of the Rehabilitation Act of 1973, as amended, Title IX of the Education Amendments of 1972, as amended, section 303 of the Age Discrimination Act of 1975, and the Civil Rights Restoration Act of 1987, to the end that no person in the United States shall on the ground of race, color, national origin, sex, or age, or that no otherwise qualified handicapped person shall solely by reason of the handicap, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity for which the donee received Federal assistance from the General Services Administration; and hereby gives assurance that it will immediately take any measures necessary to effectuate this agreement.

The donee further agrees (1) that this agreement shall be subject in all respects to the provisions of said Federal statutes and regulations (2) that this agreement obligates the donee for the period during which it retains ownership or possession of the property, (3) that the United States shall have the right to seek judicial enforcement of this agreement, and (4) that this agreement shall be binding upon any successor in interest of the donee and the word "donee" as used herein includes any such successor in interest.

(Date) *(Signature of Authorized Official)*

INSTRUCTIONS FOR COMPLETING THE APPLICATION FOR ELIGIBILITY FORM
(Please type or print in blue or black ink only)

~~SECTION I~~: Provide the full legal name of your organization on the first line of this section. Provide the mailing address of your organization as recognized by the U.S. Postal Service. Include ZIP Code. Provide the street address if different from mailing address, or provide directions if located on a rural route or other remote area. List the county in which the organization is actually located and a business telephone number with area code.

~~SECTION II~~: Check the appropriate box which describes your organization. (If you are unable to determine which status to check, please contact this office for assistance.)

~~SECTION III~~: Check the appropriate box or boxes (check as many as apply) which indicates the type or purpose of your organization. (Definitions have been provided on the reverse side of the application to assist in making this determination.)

~~SECTION IV~~: A comprehensive written description of all programs or services provided is required. A description of the operational facilities should also be included. Be sure to include information on staff and staff qualifications, hours of operation, services and programs offered, population or enrollment, fees charged etc.. Include samples of pamphlets, catalogs, brochures or posters. If incorporated, include complete copy of Articles of Incorporation with all filing certificates and amendments, and a copy of your current By-Laws.

~~SECTION V~~: Check the appropriate box which indicates the organization's sources of funding. Supporting documentation indicating the types and amounts of funding must be submitted with the completed application.

~~SECTION VI~~: All applicants making application as "Nonprofit, tax-exempt organizations" must provide a copy of the IRS determination letter indicating tax exemption under Section 501 of the I.R.S. Code of 1954. The name of the organization on this IRS letter must match the name provided in Section I of this application, if not, include sufficient evidence such as amendments to Articles of Incorporation, or Assumed Name filing certificates to establish an "audit trail" of names showing the legal connection.

~~SECTION VII~~: Applicants making application as "Nonprofit, tax-exempt organization" are required to submit evidence that the applicant is currently approved, accredited, or licensed. Programs for older individuals must include evidence of funding under the Older Americans Act of 1965; Titles IV or XX of the Social Security Act; Titles VIII or X of the Economic Development Act of 1964; or the Community Services Block Grant Act. Providers of assistance to homeless individuals must include a letter from the mayor, county judge, city or county health officer or comparable authority which certifies that applicant is a "provider of assistance to the homeless". The certification must identify the service or assistance being provided and the number of individuals receiving such assistance.

~~SECTION VIII~~: Annotate date and provide an original signature of applicant's Authorized Official (President, Chairman of the Board, County Judge, Mayor, City Manager, Executive Director, Administrator, Fire Chief, or other comparable authorized official). Photo copied, rubber stamped, machine produced, carbon, or other facsimile type signatures are not acceptable.

NOTE: INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED. USE THIS INSTRUCTION SHEET AS YOUR CHECK LIST TO ASSURE ALL REQUIRED INFORMATION AND DOCUMENTATION IS PROVIDED. IF YOU HAVE A QUESTION OR NEED ASSISTANCE CALL _____

SUPPLEMENTARY APPLICATION INFORMATION

Ambulance Districts - Ambulance Services

Legal Name of Institution _____

Mailing Address _____

Geographic location if different than mailing address _____

City _____ County _____

1. Are you governed by a board?
Yes _____ Elected _____ Appointed _____
No _____

2. How are you funded? (Indicate percentages)
Membership dues _____
Donations _____
Taxes _____

(a) If you DO receive tax funding, please provide a copy of the court decree establishing your ambulance district, and/or any further information which documents receipt of tax monies.

(b) If you DO NOT receive tax funding, please provide a copy/copies of all ambulance licenses.

3. Number of vehicles licensed by the Bureau of Emergency Medical Services _____

Number of personnel licensed as attendants _____

Number of volunteer personnel _____

Number of paid personnel _____

4.e Describe the district you serve.

5. Do your ambulance attendants receive any type of training for the function they perform?

Yes _____ (Provide brief explanation)

No _____

SUPPLEMENTARY APPLICATION INFORMATION

FIRE PROTECTION DISTRICTS, FIRE PROTECTION ASSOCIATIONS,
RURAL VOLUNTEER FIRE DEPARTMENTS

Legal Name of Donee _____

Mailing address _____

Geographic location if different than mailing address: _____

City _____ County _____

1. Are you governed by a board?
Yes Elected Appointed
No

2.e How are you funded? (Indicate percentages)
Membership dues
Donationse
Taxese

(a) If you DO NOT receive any tax funding, please provide a letter from the presiding city/county official (mayor/pres. commissioner) which states that your department has been accepted and considered as an integral part of the city/county fire/safety program and a copy of your articles of incorporation.

(b) If you DO receive tax funding, please provide a copy of the court decree establishing your fire protection district, city ordinance creating your city fire department, etc., and/or any further information which documents receipt of tax monies.

3. Do you have a membership?
Yes
No

4.e Do you answer all fire calls?
Yes
No (Provide brief explanation)

5.e Do your firefighters receive any type of training for the function they perform?
Yes (Provide brief explanation)
No

NARRATIVE DESCRIPTION GUIDELINES FOR MUSEUMS

Legal name of institution _____ a

Address _____ City _____

The following guidelines are provided to assist in preparing a narrative description of your program and/or services offered as requested on the Application for Eligibility. Please submit information as appropriate to assist in our review and eligibility determination of your institution.

- (1)a Size and description of physical facilitiesa
- (2)a Types of objects exhibiteda
- (3)a Schedule in which facility is open to publica
- (4) Admission fees
- (5)a Means used to advertise the museum for publica patronagea
- (6)a Community and population served by the applicanta
- (7) Membership in, affiliation with, or other recognition by a local, state, regional, or national museum organizationa
- (8) Roster of fulltime staff members with their qualifications,a titles, positions, and general dutiesa
- (9) Copy of bylaws, charter, articles of incorporation
- (1) Brochures, catalogs, newsletters, etc., describing the museum's program and services

NARRATIVE GUIDELINE FOR HOMELESS PROGRAMS

Legal name of institution _____

Address _____ City _____

The following guidelines are provided to assist in preparing a narrative description of your program and/or services offered as requested on the Application for Eligibility. Please submit information as appropriate to assist in our review and eligibility determination of your institution.

- (1) Description of program and services offered to the homeless individual(s)
- (2) Method(s) of funding
- (3) Hours of operation
- (4) Qualifications and status of staff
- (5) Articles of Incorporation, by-laws, brochures, etc.
- (6) Evidence that the applicant is a publicly recognized provider of assistance to the homeless; i.e. a letter from a local city official (Mayor, Head of Welfare Department, Social Services Director, etc.) indicating services provided by applicant
- (7) Occupancy permits, fire and safety inspection certificates, documented receipt of FEMA funds for Federal/State Block Grant Funds for homeless programs

SUPPLEMENTARY APPLICATION INFORMATION

Rescue Units

Legal Name of Institution _____

Mailing address _____

Geographic location if different than mailing address: _____

City _____ County _____

1. Are you governed by a board?
Yes _____ Elected _____ Appointed _____
No _____

2. How are you funded? (Indicate percentages)
Membership dues _____
Donations _____
Taxes _____
Other _____

(a) If you DO NOT receive any tax funding, please provide a letter from the presiding city/county official (mayor/pres. commissioner) which states that your department has been accepted and considered as an integral part of the city/county safety program.

(b) If you DO receive tax funding, please provide proof of receipt of tax monies from authorized official. (county/city clerk, treasurer, etc.)

3.e Do you have a membership?
No _____
Yes _____

4.e Do you answer all calls?
No _____
Yes _____

5.e Do your volunteers receive any type of training for the function they perform?
No _____
Yes _____ (Provide brief explanation)

GUIDELINES FOR NARRATIVE DESCRIPTION FOR SHELTERED WORKSHOP

Legal Name of Institution _____

Address _____ City _____

The following guidelines are provided to assist in preparing a narrative description of your program and/or services offered as requested on the Application for Eligibility. Please submit information as appropriate to assist in our review and eligibility determination of your institution.

1. Purpose of facility or institution: provide copy of charter, articles of incorporation, bylaws, brochures, catalogs, etc., which provide description of programs, facilities, and services.
2. Does the facility operate on a full time basis for a minimum school year as prescribed for public school instruction of the mentally retarded or physically handicapped?
3. Roster of instructors with their titles and professional qualifications.
4. Outline of programs and program objectives.
5. Instructor ratio to number of pupils.
6. Ages of pupils.
7. Evidence that facility meets health and safety standards prescribed by the local or state government.
8. Size of facility: indoor and/or outdoor.
9. Does the workshop maintain health, attendance, and development and progress records for each student or trainee?
10. Does the workshop maintain professional preparation and experience records, as well as health records for each staff member?
11. Do you receive funding from grants or contracts from State of Federal Governments? (provide copies of such awards)
12. In what areas do you teach and/or instruct those enrolled at your facility? (i.e. job training, job safety, personal hygiene, social skills, basic education courses, etc.)

APPLICATION FOR ELIGIBILITY

To Receive Federal Surplus Property (41CFR 101-44.207) and/or State Surplus Property (West Virginia Code §5A-3)

I. Legal name and mailing address of applicant or organization:

<i>Name of Organization</i>		
<i>Name of Executive Officer of Organization</i>	<i>Telephone Number</i>	
<i>Organization's Mailing Address (P.O. Box Number, Street, City & State)</i>	<i>County</i>	<i>Zip Code</i>
<i>Street Address/Location (if different from Mailing Address)</i>		
<i>E-Mail Address for Receipt of Communication for Organization</i>		

II. Applicant status (Check One):

- Public Agency, including Public School *(evidence must be provided)*
 Non-profit, tax-exempt organization

III. Type or purpose of organization:

- | | | |
|---|---|--|
| <input type="checkbox"/> State | <input type="checkbox"/> Programs for Older Individuals | <input type="checkbox"/> Medical Institution |
| <input type="checkbox"/> County | <input type="checkbox"/> Child Care Centers | <input type="checkbox"/> Hospital |
| <input type="checkbox"/> City | <input type="checkbox"/> School for the Handicapped | <input type="checkbox"/> Health Center |
| <input type="checkbox"/> School District | <input type="checkbox"/> Museum | <input type="checkbox"/> Clinic |
| <input type="checkbox"/> College/University | <input type="checkbox"/> Training Center | <input type="checkbox"/> Sheltered Workshop |
| <input type="checkbox"/> Secondary School | <input type="checkbox"/> Radio/TV Station | <input type="checkbox"/> Library |
| <input type="checkbox"/> Elementary School | <input type="checkbox"/> Provider of Assistance to the Homeless or Impoverished | |
| <input type="checkbox"/> Preschool | | |

IV. Provide a written description of programs or services offered, including a description of facilities operated. (This information is required for application approval)

V. Source of Funding (Attach supporting documentation; Required for application approval):

- Tax-Supported Grant Contributions Other (specify): _____

VI. Has the organization been determined to be tax-exempt under 501 of the Internal Revenue Code of 1986?

- Yes (copy required) No

VII. Has the organization been approved, accredited, or licensed?

- Yes (copy required) No

VIII. Certification regarding debarment, suspension, ineligibility and voluntary exclusion -- lower tier covered transactions: By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 41 CFR 105-68, certifies to the best of its knowledge and belief that it and its principals:

[a] are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department of agency;

[b] where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

IX. Provide a list of types of property needed. (Attach separately).

<i>Signature of Executive Officer</i>	<i>Date</i>
---------------------------------------	-------------

STATE AGENCY FOR SURPLUS PROPERTY USE ONLY

The (New _____/Renewed _____) applicant has been determined as follows:

eligible ineligible conditionally eligible

as a... public agency non-profit education non-profit health other non-profit

Eligibility Expires: _____ **Status:** _____ **License Expires:** _____

<i>Account Number</i>	<i>Date</i>	<i>Signature of Surplus Property Manager</i>
-----------------------	-------------	--

Submit Application for Eligibility to: West Virginia State Agency for Surplus Property; 2700 Charles Avenue; Dunbar, West Virginia 25064; Telephone: (304) 766-2626; Toll-free (800) 576-7587; FAX: (304) 766-2631

**CERTIFICATIONS AND AGREEMENTS
(INCLUDING TERMS, CONDITIONS, RESERVATIONS AND RESTRICTIONS)
TO BE INCLUDED ON THE STATE AGENCY INVOICE OR DISTRIBUTION DOCUMENT**

FEDERAL PROPERTY REQUIREMENTS

(A) THE APPLICANT CERTIFIES THAT:

(1) It is a public agency; or a nonprofit educational or public health institution or organization, exempt from taxation under Section 501 of the Internal Revenue Code of 1986; within the meaning of Section 203 (f) of the Federal Property and Administrative Services Act of 1949, as amended, and the regulations of the Administrator of General Services. (2) If a public agency, the property is needed and will be used by the recipient for carrying out or promoting for the residents of a given political area one or more public purposes, or, if a nonprofit tax exempt institution or organization, the property is needed for and will be used by the recipient for educational or public health purposes, and including research for such purpose. The property is not being acquired for any other use or purpose, or for sale or other distribution; or for permanent use outside the State, except with prior approval of the State Agency for Surplus Property. (3) Funds are available to pay all costs and charges incident to donation. (4) This transaction shall be subject to the nondiscrimination regulations governing the donation of surplus personal property issued under Title VI of the Civil Rights Act of 1964; Title VI, Section 606 of the Federal Property and Administrative Services Act of 1949, as amended, and Section 504 of the Vocational Rehabilitation Act of 1973, as amended.

(B) THE APPLICANT AGREES TO THE FOLLOWING FEDERAL CONDITIONS:

(1) All items of property shall be placed in use for the purposes for which acquired within one year of receipt and shall be continued in use for such purposes for one year from the date the property was placed in use. In the event the property is not so placed in use, or continued in use, the Applicant shall immediately notify the State Agency for Surplus Property, and at the Applicant's expense, return such property to the State Agency for Surplus Property, or otherwise make the property available for transfer or other disposal by the State Agency for Surplus Property, provided the property is still usable as determined by the State Agency for Surplus Property. (2) Such special handling or use limitations as are imposed by General Services Administration (GSA) on any item(s) of property listed hereon. (3) In the event the property is not so used or handled as required by (B) (1) and (2), title and right to the possession of such property shall at the option of GSA revert to the United States of America and upon demand the Applicant shall release such property to such person as GSA or its designee shall direct.

(C) THE APPLICANT AGREES TO THE FOLLOWING FEDERAL CONDITIONS, APPLICABLE TO ITEMS WITH A UNIT ACQUISITION COST OF \$5,000 OR MORE AND PASSENGER MOTOR VEHICLES, REGARDLESS OF ACQUISITION COST, EXCEPT VESSELS 50 FEET OR MORE IN LENGTH AND AIRCRAFT:

(1) The property shall be used only for the purpose(s) for which acquired and for no other purpose(s). (2) There shall be a period of restriction which will expire after such property has been used for the purpose(s) for which acquired for a period of 18 months from the date the property is placed in use. (3) In the event the property is not so used as required by (C) (1) and (2) and Federal restrictions (B) (1) and (2) have expired the title and right to the possession of such property shall at the option of the General Services Administration revert to the State of West Virginia and the Applicant shall release such property to such person as the State Agency for Surplus Property shall direct.

(D) THE APPLICANT AGREES TO THE FOLLOWING TERMS, RESERVATION AND RESTRICTIONS:

(1) From the date it receives the property listed hereon and through the period(s) of time the conditions imposed by (B) and (C) above remain in effect, the Applicant shall not sell, trade, lease, lend, bail, cannibalize, encumber, or otherwise dispose of such property or remove it permanently, for use outside the State, without the prior approval of GSA under (B) or the State Agency for Surplus Property under (C). The proceeds from any sale, trade, lease, loan, bailment, encumbrance or other disposal of the property, when such action is authorized by GSA or by the State Agency for Surplus Property, shall be remitted promptly by the Applicant to GSA or the State Agency for Surplus Property, as the case may be. (2) In the event any of the property listed hereon is sold, traded, leased, loaned, bailed, cannibalized, encumbered, or otherwise disposed of by the Applicant from the date it receives the property through the period(s) of time the conditions imposed by (B) and (C) remain in effect, without the prior approval of GSA or the State Agency for Surplus Property, the Applicant, at the option of GSA or the State Agency for Surplus Property shall pay to GSA or the State Agency for Surplus Property, as the case may be, the proceeds of the disposal or for the fair market value or the fair rental value of the property at the time of such disposal, as determined by GSA or the State Agency for Surplus Property. (3) If at any time, from the date it receives the property through the period(s) of time the conditions imposed by (B) or (C) remain in effect, any of the property listed hereon is no longer suitable, usable, or further needed by the Applicant for the purpose(s) for which acquired, the Applicant shall promptly notify the State Agency for Surplus Property, and shall, as directed by the State Agency for Surplus Property, return the property to the State Agency for Surplus Property, release the property to another Applicant or another State Agency for Surplus Property, a department or agency of the United States, sell or otherwise dispose of the property. The proceeds from any sale shall be remitted promptly by the Applicant to the State Agency for Surplus Property. (4) The Applicant shall make reports to the State Agency for Surplus Property on the use, condition, and location of the property listed hereon, and on other pertinent matters as may be required from time to time by the State Agency for Surplus Property. (5) At the option of the State Agency for Surplus Property, the Applicant may abrogate the conditions set forth in (C) and the terms, reservations and restriction pertinent thereto in (D) by payment of an amount as determined by the State Agency for Surplus Property.

(E) THE APPLICANT AGREES TO THE FOLLOWING CONDITIONS, APPLICABLE TO ALL ITEMS OF PROPERTY LISTED HEREON:

(1) The property acquired by the Applicant is on an "as is, where is" basis, without warranty of any kind. (2) Where an Applicant carries insurance against damages to or loss of property due to fire or other hazards and where loss of or damage to donated property with unexpired terms, conditions, reservations or restrictions, occurs, the State Agency for Surplus Property will be entitled to reimbursement from Applicant out of the insurance proceeds, of an amount equal to the unamortized portion of the fair value of the damaged or destroyed donated items.

(F) TERMS AND CONDITIONS APPLICABLE TO THE DONATION OF AIRCRAFT AND VESSELS (50 FEET OR MORE IN LENGTH) HAVING AN ACQUISITION COST OF \$5,000 OR MORE, REGARDLESS OF THE PURPOSE FOR WHICH ACQUIRED:

(1) The donation shall be subject to the terms, condition, reservations, and restrictions set forth in the Conditional Transfer Document executed by the Authorized Applicant representative.

STATE PROPERTY REQUIREMENTS

(A) ELIGIBILITY:

(1) Section 3A, Article 8, Chapter 5A of the *West Virginia Code*, states that 'county commissions, county boards of education, municipalities, public service districts, county building commissions, airport authorities, parks and recreation commissions, nonprofit domestic corporations qualified as tax-exempt under Section 501 (c) (3) of the Internal Revenue Code of 1986, as amended, and volunteer fire departments in this State, when such volunteer fire departments have been held exempt from taxation under Section 501 (c) of the United State Internal Revenue Code' are eligible to participate in the State Surplus Property Program.

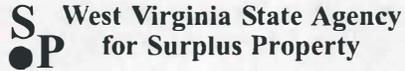
(B) COMPLIANCE:

(1) Section 3A, Article 8, Chapter 5A of the *West Virginia Code*, states that 'the duly authorized representative of such eligible organization, for whom such motor vehicle or other similar surplus equipment is purchase or otherwise obtained, shall cause ownership and property title thereto to be vested only in the official name of the authorized governing body for whom the purchase or transfer was made. Such ownership or title, or both, shall remain in the possession of the governing body and be nontransferable for a period of not less than one year from the date of such purchase or transfer of ownership of such motor vehicle or equipment prior to an elapsed period of one year may be made only by reason of certified unserviceability.

I hereby state that I have read and understand the certifications and agreements by which I am obligated to abide.

Signature of Executive Officer

Date



West Virginia State Agency
for Surplus Property

AUTHORIZED REPRESENTATIVES

I. Legal name and address of applicant or organization:

Name of Organization

Name of Executive Officer of Organization _____
Telephone Number

Mailing Address (P.O. Box Number, Street, City & State) _____
County _____
Zip Code

Street Address/Location (if different from Mailing Address)

II. The following representatives are designated to:

- A. Acquire Federal Surplus Property;
- B. Obligate necessary funds for this purpose; and,
- C. Execute Distribution Documents agreeing to terms, conditions, reservations, and restrictions applying to property obtained through the agency.

III. New Designations Additional Designations Only
(Delete all previous authorizations) (Add to previous authorizations)

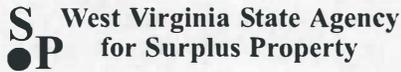
IV. Representatives:

Name	Title	E-Mail Address	Signature
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

V. Certification

Signature of Executive Officer and Title _____
Date

Submit Application for Eligibility to: West Virginia State Agency for Surplus Property;
2700 Charles Avenue, Dunbar, WV 25064; Telephone: (304) 766-2626; Toll-free (800) 576-7587; FAX: (304) 766-2631.



NONDISCRIMINATION ASSURANCE

Legal Name and Mailing Address of Applicant Organization

<i>Name of Organization</i>		
<i>Name of Executive Officer of Organization</i>	<i>Telephone Number</i>	
<i>Mailing Address (P.O. Box Number, Street, City & State)</i>	<i>Country</i>	<i>Zip Code</i>
<i>Street Address/Location (If different from Mailing Address)</i>		

The Donee listed above agrees that the program for or in connection with which any property is donated to the donee will be conducted in compliance with, and the donee will comply with and will require any other person (any legal entity) who through contractual or other arrangements with the donee is authorized to provide services or benefits under said program to comply with all requirements imposed by or pursuant to the regulations of the General Services Administration (41 CFR 101-6.2 and 101-8) issued under the provisions of Title VI of the Civil Rights Act of 1964, as amended, Section 606 of Title VI of the Federal Property and Administrative Services Act of 1949, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, Title IX of the Education Amendments of 1972, as amended, Section 303 of the Age Discrimination Act of 1975, and the Civil Rights Restoration Act of 1987, to the end that no person in the United States shall on the ground of race, color, national origin, sex, or age, or that no otherwise qualified handicapped person shall solely by reason of the handicap, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity for which the donee received Federal assistance from the General Services Administration; and hereby gives assurance that it will immediately take any measures necessary to effectuate this agreement.

The donee further agrees (1) that this agreement shall be subject in all respects to the provisions of said Federal statutes and regulations (2) that this agreement obligates the donee for the period during which it retains ownership or possession of the property, (3) that the United States shall have the right to seek judicial enforcement of this agreement, and (4) that this agreement shall be binding upon any successor in interest of the donee and the word "donee" as used herein includes any such successor in interest.

Signature of Executive Officer and Title *Date*

**Submit Application for Eligibility to: West Virginia State Agency for Surplus Property;
2700 Charles Avenue, Dunbar, WV 25064; Telephone: (304) 766-2626; Toll-free (800) 576-7587; FAX: (304) 766-2631.**

INSTRUCTIONS FOR COMPLETING THE APPLICATION FOR ELIGIBILITY FORM

(Please type or print in blue or black ink only)

SECTION I: Provide the full legal name of your organization on the first line of this section. Provide the name of the executive officer of the organization and a telephone number at which he/she may be reached. Complete the mailing address of your organization as recognized by the US Postal Service, including the zip code. Provide the street address if different from the mailing address or provide directions if located on a rural route or other remote area. List the county in which the organization is actually located and a business telephone number with area code.

SECTION II: Check the appropriate box which describes your organization. *(If you are unable to determine which status to check, please contact this office for assistance).*

SECTION III: Check the appropriate box(es) *(check as many as apply)* which indicate the type or purpose of your organization. *(Definitions have been provided on the reverse side of the application to assist in making this determination).*

SECTION IV: A comprehensive written description of all program or services provided is required. A description of the operational facilities should also be included. Be sure to include information on staff and staff qualifications, hours of operation, services and programs offered, population or enrollment, fees charged, etc. Include samples of pamphlets, catalogs, brochures or posters. If incorporated, include complete copy of Articles of Incorporation with all filing certificates and amendments, and a copy of your current By-Laws.

SECTION V: Check the appropriate box which indicates the organization's sources of funding. Supporting documentation indicating the types and amounts of funding must be submitted with the completed application.

SECTION VI: All applicants making application as "nonprofit, tax-exempt organizations" must provide a copy of the IRS determination letter indicating tax exemption under Section 501 of the IRS Code of 1954. The name of the organization on this IRS letter **must** match the name provided in Section I of this application. If not, include sufficient evidence such as amendments to Articles of Incorporation, or Assumed Name filing certificates to establish an "audit trail" of names showing the legal corrections.

SECTION VII: Applicants making application for Federal Surplus Property as "nonprofit, tax-exempt organization" are required to submit evidence that the applicant is **currently** approved, accredited, or licensed. Programs for older individuals must include evidence of funding under the Older Americans Act of 1965; Titles IV of XX of the Social Security Act; Titles VIII of X of the Economic Development Act of 1964; or the Community Services Block Grant Act. Providers of Assistance to homeless individuals must include a letter from the Mayor, County Judge, City or County Health Officer or comparable authority which certifies that applicant is a "provider of assistance to the homeless". The certification must identify the service or assistance being provided and the number of individuals receiving such assistance.

AUTHORIZED REPRESENTATIVES: The executive official must designate selected individuals within the organization to be responsible to acquire Federal Surplus Property; obligate necessary funds for this purpose; and execute Distribution Documents agreeing to terms, conditions, reservation, and restrictions applying to property obtained through the agency. The names and titles of authorized representatives must be completed with each individual's signature.

SIGNATURE/DATE: Annotate date and provide the signature of applicant's Authorized Official (President, Chairman of the Board, County Judge, Mayor, City Manager, Executive Director, Administrator, Fire Chief, or other comparable authorized official).

NOTE: INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED. USE THIS INSTRUCTIONSHEET AS YOUR CHECK LIST TO ASSURE THAT ALL REQUIRED INFORMATION AND DOCUMENTATION IS PROVIDED. IF YOU HAVE A QUESTION OR NEED ASSISTANCE CONTACT:

WEST VIRGINIA STATE AGENCY FOR SURPLUS PROPERTY
2700 CHARLES AVENUE
DUNBAR, WV 25064

Telephone: (304) 766-2626
Toll-free (800) 576-7587
FAX: (304) 766-2631

IRS TAX EXEMPTION



FILE
11/15/07

GSA Federal Acquisition Service

October 30, 2009

Mr. Steve Ekin
Director
Department of Administrative Services
Surplus Property Division
200 Piedmont Ave. SE Suite 1410 West
Atlanta, GA 30334

Dear Mr. Ekin,

The purpose of this memorandum is to revise or update guidance previously provided to you regarding the tax-exemption status of nonprofit donees within the Federal surplus property donation program. That guidance was forwarded to you in a memorandum, dated January 31, 2005, to the regional offices and the State Agencies for Surplus Property (SASPs). A copy of that memorandum is enclosed for your reference.

Under the provisions of 40 U.S.C. 549(c)(3)(B), the Administrator may transfer to a SASP surplus personal property which the SASP selects for distribution through donation within the State, for purposes of education or public health (including research), to a nonprofit educational or public health institution or organization that is exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501). On page 2 of the above-cited 2005 memorandum, in the section entitled "Section 501(c) Numerical Designations", we advised you that, for the purposes of the Federal donation program, the only acceptable numerical designation for eligibility purposes would be Section 501(c)(3) which refers to organizations to which taxpayers make tax-deductible contributions.

Since the issuance of our 2005 memorandum, this topic, i.e., the appropriate numerical designation regarding tax exempt classification for donation eligibility has remained a topic generating inquiries. Upon further review and discussion in this office, we have concluded that the previous guidance needs to be revised. This is based on our conclusion that the specific 501 numerical designation is not the controlling factor on the issue of eligibility. Neither the relevant statutory language nor the applicable regulations provide for tax exemption under Section 501(c)(3) specifically rather than Section 501 generally. As such, as long as they meet the other requirements of being a nonprofit educational or public health organization, a Section 501 tax exempt organization could be eligible to receive federal surplus property provided that such property is used

U.S. General Services Administration
2200 Crystal Drive
Arlington, VA 20406-0003
www.gsa.gov

exclusively for educational or public health purposes as specified in the statute and implementing regulations. In other words, organizations with 501 exemptions other than Section 501(c)(3) are not automatically excluded from program eligibility, but they are not automatically eligible either. The tax exempt classification is just one element to be evaluated in the eligibility determination.

Sincerely,

A handwritten signature in black ink, appearing to read "David M. Robbins". The signature is fluid and cursive, with a large initial "D" and "M".

David M. Robbins
Director
Office of Personal Property Management

Enclosure

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

of pages ▶ 3

Joe Huorecky apt./Agency	From Dave Robbins Phone #
Fax #	Fax #

JAN 31 2005

NSN 7540-01-317-7368 5099-101 GENERAL SERVICES ADMINISTRATION

MEMORANDUM FOR CHIEF, PERSONAL PROPERTY MANAGEMENT BRANCH
2FBP, 2FBP-1, 3FP-W, 3FPD, 4FD, 5FBP, 6FBP, 7FMP,
7FP-8, 9FBP, 10FZP-O

DIRECTORS OF STATE AGENCIES FOR SURPLUS
PROPERTY

FROM: DAVID ROBBINS
DIRECTOR
PROPERTY MANAGEMENT DIVISION (FBP)

SUBJECT: Tax Exemption Guidelines for Eligibility in the
Federal Donation Program

As a result of recent Donation Training classes and nationwide State Reviews conducted by our GSA Property Program, several issues concerning the tax-exemption status of nonprofit donees within the Federal Donation Program have arisen. This memorandum serves to provide updated guidelines for validating the tax-exemption requirement as part of the eligibility determination process.

IRS Letter - Advanced Ruling vs. Final Ruling

In certain instances, the IRS chooses to issue an "advanced ruling" in lieu of a "final ruling" to nonprofit organizations with respect to tax exemption. The verbiage in the advanced letter is in many ways identical to the verbiage in the final ruling letter with one major difference --- with an advanced ruling, the nonprofit organization must provide follow-up financial data within five years to the IRS or the tax-exemption is revoked. Accordingly, the nonprofit organization is then converted to a private foundation. For the five-year advanced period, IRS views the organization as a nonprofit organization. Therefore, documentation on an advanced ruling is acceptable proof of tax exemption in eligibility evaluations for the five-year advanced period. SASP's must be aware toward the latter part of the advanced period that donated Federal property still under restriction may need to be recovered from the donee if a final ruling is never received.

-2-

Section 501 (c) Numerical Designations

Several legislative and regulatory references refer to the requirement that eligible nonprofit organizations have proof of tax exemption under "501 of the Internal Revenue Code." Section 501(c) -- List of Exempt Organizations -- of the IRS Code describes a variety of organizations designated by numbers 1 through 22. For the purposes of the Federal Donation Program, the only acceptable numerical designation for eligibility purposes would be 3 (i.e. Section 501(c)(3)), which are organizations to which taxpayers make tax-deductible contributions. They are defined as follows:

"Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying out propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

IRS Documentation for Eligibility File

In the majority of cases, eligibility applicants provide the actual IRS letter (i.e. advanced or final ruling) as evidence of their non-profit status. We have recently been advised that some applicants are electing to utilize another source of reference in lieu of the formal IRS letter -- a page from the IRS publication entitled "Cumulative List of Organizations." We have verified with IRS that all organizations listed in this publication have either received an advanced ruling letter or a final ruling letter, the former designated by a specific cut-off date in the publication. Accordingly, we view the Cumulative List as adequate documentation for eligibility purposes, but again remind the SASP of the need for appropriate follow up with all organizations that have received only an advanced ruling.

Organizational Address on the IRS Letter

Previous guidelines for the eligibility review process have required the address of the organization on the IRS tax-exemption letter to be identical to the organization's physical address. While this particular guideline still offers the highest standard of proof, we recognize that there may be instances whereby the address on the IRS letter may differ from the current address of the applicant. This holds true especially with Catholic schools, whereby the address on the IRS letter is linked to the overall Catholic Church, and not each individual school location. This exception is not solely limited to the Catholic Church, and would hold true for other religious organizations. Overall, for

-3-

an IRS letter to possess a different organizational address and still be deemed acceptable, an integral link must exist between the applicant and the corresponding address/organization cited in the IRS letter. Most importantly, this connection or link should be adequately explained within the written documentation included in the applicant's eligibility submission.

Questions concerning this guidance should be addressed to Gene Johnson on 703-308-3727n

cc: Official/Reading Files – FBP
Reading File – FBP FB
D.rRobbins: 703-605-5609n
m.rstewart: 703-605-5619n

L. 93-625, § 10(c):
Amended Code Sec. 501(b) by substituting "Parts II, III,
and VI" for "Parts II and III". Effective for taxable years
beginning after December 31, 1974.

P. L. 91-172, § 101(d)(4):

Amended Code Sec. 501(b); effective January 1, 1970.
Prior to amendment, Code Sec. 501(b) read as follows:

021003 10074 1-102
exempt from taxation under subsection (a) shall be subject to
tax to the extent provided in part II of this subchapter
(relating to tax on unrelated income), but, notwithstanding
part II, shall be considered an organization exempt from
income taxes for the purpose of any law which refers to
organizations exempt from income taxes."

[Sec. 501(c)]

(c) LIST OF EXEMPT ORGANIZATIONS.—The following organizations are referred to in subsection (a):

(1) Any corporation organized under Act of Congress which is an instrumentality of the United States but only if such corporation—

(A) exempt from Federal income taxes—

(i) under such Act as amended and supplemented before July 18, 1984, or

(ii) under this title without regard to any provision of law which is not contained in this title and which is not contained in a revenue Act, or

(B) described in subsection (1).

(2) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt under this section. Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph.

(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

(5) Labor, agricultural, or horticultural organizations.

(6) Business leagues, chambers of commerce, real estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(7) Clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

(8) Fraternal beneficiary societies, orders, or associations—

(A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and

(B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

(9) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries, if no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.

(10) Domestic fraternal societies, orders, or associations, operating under the lodge system—

(A) the net earnings of which are devoted exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes, and

(B) which do not provide for the payment of life, sick, accident, or other benefits.

Sec. 501(c)

021003 10074 1-102

Organization Reference Chart

Section of 1954 Code	Description of organization	General nature of activities	Form No.	Annual return required to be filed	Contributions allowable
501(cX1)	Corporations Organized Under Act of Congress (including Federal Credit Unions)	Instrumentalities of the United States	No Form	None	Yes, if made for exclusively public purposes
501(cX2)	Title Holding Corporation For Exempt Organization	Holding title to property of an exempt organization	1024	990 ¹	Not
501(cX3)	Religious, Educational, Charitable, Scientific, Literary, Testing for Public Safety, to Foster Certain National or International Amateur Sports Competition, or Prevention of Cruelty to Children or Animals Organizations	Activities of nature implied by description of class of organization	1023	990 or 990-PF ²	Generally, Yes
501(cX4)	Civic Leagues, Social Welfare Organizations, and Local Associations of Employees	Promotion of community welfare; Charitable, educational or recreational <u>Liberty</u>	1024	990 ¹	Generally, No ³
501(cX5)	Labor, Agricultural, and Horticultural Organizations	Educational or instructive, the purpose being to improve conditions of work, and to improve products and efficiency	1024	990 ¹	Not
501(cX6)	Business Leagues, Chambers of Commerce, Real Estate Boards, Etc.	Improvement of business conditions of one or more lines of business	1024	990 ¹	Not
501(cX7)	Social and Recreation Clubs	Pleasure, recreation, social activities	1024	990 ¹	Not
501(cX8)	Funeral Beneficiary Societies and Associations	Lodge providing for payment of life, sickness, accident, or other benefits to members	1024	990 ¹	Yes, if used for Sec. 501(cX3) purposes
501(cX9)	Voluntary Employees' Beneficiary Associations (including Former Employees' Voluntary Beneficiary Associations formerly covered by section 501(cX10))	Providing for payment of life, sickness, accident, or other benefits to members	1024	990 ¹	Not
501(cX10)	Domestic Fraternal Societies and Associations	Lodge devoting its net earnings to charitable, fraternal, and other specified purposes. No life, sickness, or accident benefits to members	1024	990 ¹	Yes, if used for Sec. 501(cX3) purposes
501(cX11)	Teachers' Retirement Fund Associations	Teachers' association for payment of retirement benefit	No Form	990 ¹	Not
501(cX12)	Beneficial Life Insurance Associations, Mutual Debt or Indemnity Companies, Mutual or Cooperative Telephone Companies, Etc.	Activities of a mutually beneficial nature similar to those imposed by the description of class of organization	1024	990 ¹	Not
501(cX13)	Cemetery Companies	Burials and incidental services	1024	990 ¹	Generally, Yes
501(cX14)	State Chartered Credit Unions, Mutual Reserve Funds	Loans to members. Exemption as to building and loan associations and cooperative banks re-pealed by Revenue Act of 1951, effective 3 1/2 years after 1951	No Form	990 ¹	Not
501(cX15)	Mutual Insurance Companies or Associations	Providing insurance to members substantially at cost	1024	990 ¹	Not
501(cX16)	Cooperative Organizations to Finance Crop Operations	Financing crop operations in conjunction with activities of a marketing or purchasing association	No Form	990 ¹	Not
501(cX17)	Supplemental Unemployment Benefit Trusts	Provides for payment of supplemental unemployment compensation benefits	1024	990 ¹	Not
501(cX18)	Employee Funded Pension Trust (created before June 25, 1958)	Payment of benefits under a pension plan funded by employees	No Form	990 ¹	Not
501(cX19)	Post or Organization of War Veterans	Activities implied by nature of organization	1024	990 ¹	Yes
501(cX20)	Group Legal Services Plan Organizations	Legal services provided exclusively to employees	1024	990 ¹	Not
501(cX21)	Black Lung Benefit Trusts	Funded by coal mine operators to satisfy their liability for disability or death due to black lung diseases	No Form	990-BL	Not
501(cX22)	Employer Liability Trusts	Established by plan sponsors	No Form	990	Not
501(d)	Religious and Apostolic Associations	Regular business activities. Continuous religious community	No Form	1085	Not
501(e)	Cooperative Hospital Service Organizations	Performs cooperative services for hospitals	1023	990 ¹	Yes
501(f)	Cooperative Service Organizations of Operating Educational Organizations	Performs cooperative investment services for educational organizations	1023	990 ¹	Yes
527(a)	Farmers' Cooperative Associations	Cooperative marketing and purchasing for agricultural producers	1028	990-C	No

¹For exceptions to the filing requirement, see Chapter 2 and the instructions for Forms 990 and 990-BL (for tax years beginning before 1987).
²An organization exempt under a Subsection of Code Sec. 501 other than (cX3), may establish a charitable fund, contributions to which are deductible. Such a fund must meet the requirements of section 501(cX3) and the related notice requirements of section 506(a).

³Contributions to volunteer fire companies and similar organizations are deductible, but only if made for exclusively public purposes. See Chapter 4.
⁴Deductible as a business expense to the extent allowed by Code section 162.
⁵Deductible as a charitable expense to the extent allowed by Code section 170.

Internal Revenue Service
District Director

Department of the Treasury

P. O. Box 2508
Cincinnati, OH 45201

Date: June 28, 2001

Person to Contact:
Myrna Huber #31-07276
Telephone Number:
877-829-5500t
FAX Number:
513-263-3756t

Mrs. Deirdre Dessingue
Associate General Counsel
United States Conference
of Catholic Bishops
3211 4th Street, N.E.
Washington, D.C. 20017-1194

Dear Mrs. Dessingue:

In a ruling dated March 25, 1946, we held that the agencies and instrumentalities and all educational, charitable and religious institutions operated, supervised, or controlled by or in connection with the Roman Catholic Church in the United States, its territories or possessions appearing in *The Official Catholic Directory* 1946, are entitled to exemption from federal income tax under the provisions of section 101(6) of the Internal Revenue Code of 1939^t which corresponds to section 501(c)(3) of the 1986 Code. This ruling has been updated annually to cover the activities added to or deleted from the Directory.

The Official Catholic Directory for 2001 shows the names and addresses of all agencies and instrumentalities and all educational, charitable, and religious institutions operated by the Roman Catholic Church in the United States, its territories and possessions in existence at the time the Directory was published. It is understood that each of these is a non-profit organization, that no part of the net earnings thereof inures to the benefit of any individual, that no substantial part of their activities is for promotion of legislation, and that none are private foundations under section 509(a) of the Code.

Based on all information submitted, we conclude that the agencies and instrumentalities and educational, charitable, and religious institutions operated, supervised, or controlled by or in connection with the Roman Catholic Church in the United States, its territories or possessions appearing in *The Official Catholic Directory* for 2001 are exempt from federal income tax under section 501(c)(3) of the Code.

Donors may deduct contributions to the agencies, instrumentalities and institutions referred to above, as provided by section 170 of the Code. Bequests, legacies, devises, transfers or gifts to them or for their use are deductible for federal estate and gift tax purposes under sections 1055^t 2106, and 2522 of the Code.

Mrs. Deirdre Dessingue

Beginning January 1, 1984, unless specifically excepted, you and your subordinates must pay tax under the Federal Insurance Contributions Act (Social Security taxes) for each employee who is paid \$100 or more in a calendar year. You and your subordinates are not liable for the tax under the Federal Unemployment Tax Act (FUTA).

By May 31, 2002, please send four copies of *The Official Catholic Directory* for 2002 to the IRS TE/GE in Cincinnati, four copies to the Service Center in Ogden, two copies to the EO Divisions in Baltimore, Brooklyn, Dallas, Chicago, St. Paul, Atlanta, and Los Angeles, and six copies to the IRS National Headquarters.

The conditions concerning the retention of your group exemption as set forth in our previous determination letter of August 17, 1983, remain in full force and effect.

Sincerely,



for John E. Ricketts, Director, TE/GE
Customer Account Services



RECEIVED

U. S. TREASURY DEPARTMENT
INTERNAL REVENUE SERVICE
WASHINGTON 25, D. C.

DEC 01 2004

PDD

IN REPLY REFER TO
T:R:EO:5
JJF

AUG 31 1964

General Council of the Assemblies
of God
1445 Boonville Avenue
Springfield, Missouri 65802o

Gentlemen:

We have considered your request for a group ruling holdingo your subordinate units exempt from Federal income tax as organ- izations described in section 501(c)(3) of the Internal Revenue Code of 1954.o

Our records disclose that you were held exempt from Federal income tax under section 231(6) of the Revenue Act of 1921 on April 15, 1922. On September 14, 1935 you were held exempt undero section 101(6) of the Revenue Act of 1934, which ruling was af- firmed under the Revenue Act of 1936 on April 27, 1938. On September 20, 1955 the District Director held that since sec- tion 501(c)(3) of the 1954 Internal Revenue Code contains theo same provisions as section 101(6) of the prior Revenue Acts, previous rulings are held to be applicable under the 1954 Code.o

Based upon the information presented, it is held that youro subordinate departments, district councils, churches, institu- tions, organizations, schools and colleges, whose names appear in your Directory, revised to January 1, 1964, are exempt fromo Federal income tax as organizations described in section 501 (c)(3) of the Internal Revenue Code of 1954 as it is shown thato they are organized and operated exclusively for religious pur- poses.

You and your subordinate units are not required to fileo Federal income tax returns so long as a tax exempt status is maintained.

It will not be necessary for you and your subordinate units to file the annual information return, Form 990-A, generally re- quired of organizations exempt under section 501(c)(3) of the Code, as the specific exceptions contained in section 6033(a) ofo the Code are applicable.

RECEIVED

SEP 3 1964

GENERAL SECRETARY'S
OFFICE



FILE
11/15/07

GSA Federal Acquisition Service

October 30, 2009

Mr. Steve Ekin
Director
Department of Administrative Services
Surplus Property Division
200 Piedmont Ave. SE Suite 1410 West
Atlanta, GA 30334

Dear Mr. Ekin,

The purpose of this memorandum is to revise or update guidance previously provided to you regarding the tax-exemption status of nonprofit donees within the Federal surplus property donation program. That guidance was forwarded to you in a memorandum, dated January 31, 2005, to the regional offices and the State Agencies for Surplus Property (SASPs). A copy of that memorandum is enclosed for your reference.

Under the provisions of 40 U.S.C. 549(c)(3)(B), the Administrator may transfer to a SASP surplus personal property which the SASP selects for distribution through donation within the State, for purposes of education or public health (including research), to a nonprofit educational or public health institution or organization that is exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501). On page 2 of the above-cited 2005 memorandum, in the section entitled "Section 501(c) Numerical Designations", we advised you that, for the purposes of the Federal donation program, the only acceptable numerical designation for eligibility purposes would be Section 501(c)(3) which refers to organizations to which taxpayers make tax-deductible contributions.

Since the issuance of our 2005 memorandum, this topic, i.e., the appropriate numerical designation regarding tax exempt classification for donation eligibility has remained a topic generating inquiries. Upon further review and discussion in this office, we have concluded that the previous guidance needs to be revised. This is based on our conclusion that the specific 501 numerical designation is not the controlling factor on the issue of eligibility. Neither the relevant statutory language nor the applicable regulations provide for tax exemption under Section 501(c)(3) specifically rather than Section 501 generally. As such, as long as they meet the other requirements of being a nonprofit educational or public health organization, a Section 501 tax exempt organization could be eligible to receive federal surplus property provided that such property is used

U.S. General Services Administration
2200 Crystal Drive
Arlington, VA 20406-0003
www.gsa.gov

exclusively for educational or public health purposes as specified in the statute and implementing regulations. In other words, organizations with 501 exemptions other than Section 501(c)(3) are not automatically excluded from program eligibility, but they are not automatically eligible either. The tax exempt classification is just one element to be evaluated in the eligibility determination.

Sincerely,

A handwritten signature in black ink, appearing to read "David M. Robbins", written in a cursive style.

David M. Robbins
Director
Office of Personal Property Management

Enclosure

JAN 31 2005

MEMORANDUM FOR CHIEF, PERSONAL PROPERTY MANAGEMENT BRANCH
2FBP, 2FBP-1, 3FP-W, 3FPD, 4FD, 5FBP, 6FBP, 7FMP,
7FP-8, 9FBP, 10FZP-O

DIRECTORS OF STATE AGENCIES FOR SURPLUS
PROPERTY

FROM: DAVID ROBBINS
DIRECTOR
PROPERTY MANAGEMENT DIVISION (FBP)

SUBJECT: Tax Exemption Guidelines for Eligibility in the
Federal Donation Program

As a result of recent Donation Training classes and nationwide State Reviews conducted by our GSA Property Program, several issues concerning the tax-exemption status of nonprofit donees within the Federal Donation Program have arisen. This memorandum serves to provide updated guidelines for validating the tax-exemption requirement as part of the eligibility determination process.

IRS Letter - Advanced Ruling vs. Final Ruling

In certain instances, the IRS chooses to issue an "advanced ruling" in lieu of a "final ruling" to nonprofit organizations with respect to tax exemption. The verbiage in the advanced letter is in many ways identical to the verbiage in the final ruling letter with one major difference --- with an advanced ruling, the nonprofit organization must provide follow-up financial data within five years to the IRS or the tax-exemption is revoked. Accordingly, the nonprofit organization is then converted to a private foundation. For the five-year advanced period, IRS views the organization as a nonprofit organization. Therefore, documentation on an advanced ruling is acceptable proof of tax exemption in eligibility evaluations for the five-year advanced period. SASP's must be aware toward the latter part of the advanced period that donated Federal property still under restriction may need to be recovered from the donee if a final ruling is never received.

Section 501 (c) Numerical Designations

Several legislative and regulatory references refer to the requirement that eligible nonprofit organizations have proof of tax exemption under "501 of the Internal Revenue Code." Section 501(c) -- List of Exempt Organizations -- of the IRS Code describes a variety of organizations designated by numbers 1 through 22. For the purposes of the Federal Donation Program, the only acceptable numerical designation for eligibility purposes would be 3 (i.e. Section 501(c)(3)), which are organizations to which taxpayers make tax-deductible contributions. They are defined as follows:

"Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying out propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

IRS Documentation for Eligibility File

In the majority of cases, eligibility applicants provide the actual IRS letter (i.e. advanced or final ruling) as evidence of their non-profit status. We have recently been advised that some applicants are electing to utilize another source of reference in lieu of the formal IRS letter -- a page from the IRS publication entitled "Cumulative List of Organizations." We have verified with IRS that all organizations listed in this publication have either received an advanced ruling letter or a final ruling letter, the former designated by a specific cut-off date in the publication. Accordingly, we view the Cumulative List as adequate documentation for eligibility purposes, but again remind the SASP of the need for appropriate follow up with all organizations that have received only an advanced ruling.

Organizational Address on the IRS Letter

Previous guidelines for the eligibility review process have required the address of the organization on the IRS tax-exemption letter to be identical to the organization's physical address. While this particular guideline still offers the highest standard of proof, we recognize that there may be instances whereby the address on the IRS letter may differ from the current address of the applicant. This holds true especially with Catholic schools, whereby the address on the IRS letter is linked to the overall Catholic Church, and not each individual school location. This exception is not solely limited to the Catholic Church, and would hold true for other religious organizations. Overall, for

an IRS letter to possess a different organizational address and still be deemed acceptable, an integral link must exist between the applicant and the corresponding address/organization cited in the IRS letter. Most importantly, this connection or link should be adequately explained within the written documentation included in the applicant's eligibility submission.

Questions concerning this guidance should be addressed to Gene Johnson on 703-308-3727.

cc: Official/Reading Files – FBP
Reading File – FBP FB
D. Robbins: 703-605-5609
m. stewart: 703-605-5619

ISSUE OF PUBLIC FUNDING

Joseph M. Hvorecky

06/21/2002 12:26 PM

To: "Pepperman, Scott" <spepperman@state.pa.us>@GSAEXTERNAL
cc: David M. Robbins/FBP/CO/GSA/GOV@GSA, Judy L.
Schroyer/6FB/R06/GSA/GOV@GSA, Susan W.
Lynch/3FP-W/R03/GSA/GOV@GSA

Subject: Re: FW: Definition of Public Funding for Eligibility Purposes [1]

Scott, funny you should follow up on this with me at this point as I just spoke with our Central Office Legal on this outstanding issue (the issue is posed in the form of a question bolded below) - the response: Although we normally translate "public funding" into "receiving appropriations of some sort," if the fee-based revenue that is accumulated can be traced back to some type of State/Municipal legislation (or other directive) that allowed for such funding when the "public" entity was created, then the "public funding" tag could still remain in effect. If you have any additional questions on this clarification, give me a call.

"Pepperman, Scott" <spepperman@state.pa.us>



"Pepperman, Scott"
<spepperman@state.p
a.us>

06/19/2002 03:47 PM

To: "Joe Hvorecky (E-mail)" <joe.hvorecky@gsa.gov>

cc:

Subject: FW: Definition of Public Funding for Eligibility Purposes

Joe: Just checking to see if you got any further response from your legal on this issue. Since Joyce sent the inquiry we have received two more applications of the same type. In the past, we considered their collections as public funding, but I am not so sure that we were correct in our assumption now.

Thanks and thanks for the wedding information, we will plan accordingly.

Scott

-----Original Message-----

From: Conrad, Joyce

Sent: Thursday, June 13, 2002 4:18 PM

To: Pepperman, Scott

Subject: FW: Definition of Public Funding for Eligibility Purposes

-----Original Message-----

From: joe.hvorecky@gsa.gov [mailto:joe.hvorecky@gsa.gov]

Sent: Tuesday, April 23, 2002 11:36 AM

To: jconrad@state.pa.us

Cc: spepperman@state.pa.us

Subject: Definition of Public Funding for Eligibility Purposes

Joyce - I have not yet determined an appropriate answer to your question. Per below, I'm waiting for a legal interpretation. When I receive that, I'll promptly let you know.

-Joe Hvorecky

----- Forwarded by Joseph M. Hvorecky/3F/R03/GSA/GOV on 04/23/2002 11:33 AM

Joseph M.
Chen/LP/CO/GSA/GOV@GSA
Hvorecky
Harris/MTP/CO/GSA/GOV@GSA,

To: Sharon J.
CC: Audrey L.
Deidre Huber/FBP/CO/GSA/GOV@GSA, Judy

L.

04/23/2002
11:19 AM

Schroyer/6FB/R06/GSA/GOV@GSA
Subject: Definition of Public
Eligibility Purposes

Funding for

Sharon, here is the initial request that prompted my inquiry into how we are defining "public funds." You advised me that we might have to follow a funding trail based on fees to determine how that funding is being utilized to make a valid determination. Past eligibility determinations have noted the absence of "an appropriation of public funds from the State, county or local government" when declaring an applicant ineligible. **The question: Can an instrumentality of a State/County/City government performing a public service be eligible if its revenue is derived from fees instead of direct appropriations?**

----- Forwarded by Joseph M. Hvorecky/3F/R03/GSA/GOV on 04/23/2002 11:08 AM

"Conrad,
Joyce"
<jconrad@stat
e.pa.us>e

To: "joe.hvorecky@gsa.gov"
<joe.hvorecky@gsa.gov>
cc:
Subject:

04/15/2002
03:57 PM

April 15, 2002

Joe: Does a water authority or a municipal authority. What kind of funding do they need. Most of them have billings fees for the water or the sewage. Some have grants or taxes. Some may get a grant once a year. On the ones that don't they usually have everything else. I don't want to put these things on the wrong way. Half the people do not know what we mean by public funding. They say their billings are public because it is the fees charged to the household.

Thanks

Joyce E. Conrad

Charles
Robinson/3FP-W/R03/GSA/G
OV

02/03/2005 10:36 AM

To: Chartise.Vantrease@state.tn.us

cc: Cheryl L. Hall/4FD/R04/GSA/GOV@GSA, Donald
Clark/4FD/R04/GSA/GOV@GSA, Roman J.
Marciniak/FBP/CO/GSA/GOV@GSA, Rickey D.
bcc: Joseph M. Hvorecky/3F/R03/GSA/GOV

Subject: Fw: Eligibility

History: ↵ This message has been forwarded.

Chartise --- this is Joe answering from my Deputy's e-mail address as I am on travel in Washington, DC at the moment. I have commented on your two questions below:

1) All public agencies support their claim as "public" by demonstrating that they perform a "public purpose" and that they are "funded wholly or in part by public funds" (such funding most times must be appropriated monies). So, the library as well as any public agencies should have evidence of funding in the eligibility file. The rest of the documents you mention in this library file are appropriate.

2) Volunteer Fire Departments and Rescue Squads can only be eligible as "quasi-public" organizations. Therefore, a 501(C)(3) letter is not necessary as that only is required for nonprofit applicants. A written narrative is technically only required for nonprofits as well, but I would strongly recommend one for rescue squads and fire departments as well because very often they provide unique services and these services are important to understand from a property donation standpoint. The tax appropriation documentation sounds like appropriate evidence to justify the public funding requirement. On the training aspect, I cannot comment on who would be the authority for training - I don't think is necessarily a requirement for the file. In some fire department files and rescue squad files, I find a charter of how the organization was formed or even have something from the local township demonstrating that the fire departments/rescue squads are a critical part of their safety plan. If the latter documentation exists, that would be good to have in the file as well.

Hope this information is helpful to you. Let me know if you need any further clarification.

----- Original Messagee-----

From: "Chartise Vantrease" [Chartise.Vantrease@state.tn.us]
Sent: 02/02/2005 07:20 PM
To: Joseph.Hvorecky@gsa.gov
Subject: Eligibility

Hi Joe.

I am from the Tennessee agency for surplus property. We are currently being audited by our state department and I have several questions generated by our auditor:

1.e What documents are required in the eligibility file for a public library besides the application and the library name, address, phone, fax, e-mail, . . . found in the Tennessee Public Library Directory? The auditor tells me that their sources of funding (or operating budget) should be included as well. Is this true?

The application, which includes authorized rep listing, nondiscrimination assurance and debarment certification, and the named library that is found on the Tennessee Public Library Directory website listing are the documents currently maintained in the file.

2.e Volunteer fire departments and rescue squad questions.e

Should a narrative description and 501(c)3 letter be in the

file?

Is a funding letter written by county mayors stating the exact dollar amount of tax appropriations given to their respective fire departments who provide services to citizens in a geographical area free of charge sufficient to prove funding, or should other sources be included?

Does tax appropriations qualify fire departments and rescue squads as public agencies? Quasi-public?

As far as certification of annual training, who is the authority?

Do drills that are conducted by individual fire departments qualify as training?

The application and a letter from the city/county official stating the dollar amount of tax appropriations to the fire department and/or rescue squad are the documents currently maintained in the file.

Your assistance is genuinely appreciated. Our state department has never audited eligibility files, so this is a first. The auditor has a clear understanding of our operations and he is easy to work with. If you would kindly give me a response to the captioned questions, preferably in writing, I will be forever grateful. The information supplied last week by Don Clark was very enlightening and he assured me that you are the GURU!

Again, thanks for your time.

Joseph M.
Hvorecky/3F/R03/GSA/GOV

11/10/2005 12:00 PM

To "Jim Smith" <jim.smith@arkansas.gov>@GSAEXTERNAL

cc

bcc judith.bonner@gsa.gov; Sharon
Chen/LP/CO/GSA/GOV@GSA; David M.
Robbins/FBP/CO/GSA/GOV@GSA

Subject Re: 

Jim, based on the Federal Management Regulations 102-37, a "public agency" is defined as "any State; political subdivision thereof, including any unit of local government or economic development district; any department, agency or instrumentality thereof, including instrumentalities created by compact or other agreement between States or political subdivisions; multijurisdictional substate districts established by or pursuant to State law; or any Indian tribe, band, group, pueblo, or community located on a State reservation." We always look to evaluate eligibility of "public agencies" based on two primary criteria -- if the entity is established for a "public purpose" and if it is supported "wholly or in part by public funds." Taking the latter two aspects as well as the regulatory definition into consideration, I would have to say that the Governor's Office could fall under the category of a "public agency." As long as the public has access to the Federal property being displayed and all terms and conditions related to the use of the Federal property are met, I think this donation action is permissible.

Joseph M. Hvorecky
Director of Property Management
Mid-Atlantic Region
(215)446-5060e

"Jim Smith" <jim.smith@arkansas.gov>



"Jim Smith"
<jim.smith@arkansas.gov>

11/02/2005 09:27 AM

To "GSA - Joe Hvorecky" <joe.hvorecky@gsa.gov>

cc

Subject

Joe,

I anticipate this email finding you in the best of health. Of course I have a question that I want the best authorities help on to arrive at the best answer.

We were interviewed by Channel 11 yesterday and the spot aired at 6:00 p.m. and again at 10:00 p.m. Yes, of course I looked as well in the spot as in the tapes you had made. Can't do more when the base is so rough, but the spot did generate some interest. Actually, the Governor's office wants some music instruments to decorate the Governor's mansion and display for the public view and called to see what the process would be.

Question: The Arkansas Governor's Office and mansion is not a state agency. It is an office of state government. Is there a way to accomplish donating to the Governor's Office? If the project is carried out by building and grounds maintenance could do it and store the property when not displayed. They don't

care if the instruments can be played. They just want the display.

Thanks,

Jim

Joseph M.
Hvorecky/3F/R03/GSA/GOV
02/24/2006 04:40 PM

To "Dave Densmore"
<densmored@michigan.gov>@GSAEXTERNAL
cc Gregory M. Flores/5F/R05/GSA/GOV@GSA
bcc Sharon Chen/LP/CO/GSA/GOV@GSA; David M.
Robbins/FBP/CO/GSA/GOV@GSA; Judy L.
Schroyer/6FBD/R06/GSA/GOV@GSA; Roman J.
Marciniak/FBP/CO/GSA/GOV@GSA; Rickey D.
Parker/3FP-W/R03/GSA/GOV@GSA; Sherlean P.
Route/3FPC-W/R03/GSA/GOV@GSA; Charles
Robinson/3FP-W/R03/GSA/GOV@GSA; John
Breen/3F/R03/GSA/GOV@GSA; judith.bonner@gsa.gov
Subject Re: Fwd: Eligibility Determination -- We Are Here
Foundation, Inc. []

Dave D. -- you presented me with several pages of faxed material from the We Are Here Foundation, Inc. in their effort to satisfy the critical eligibility piece of "public funding" (noted in red below in my earlier evaluation of this donee). I reviewed the documentation and discussed it with my regional Legal Counsel. Although the Macomb County Resolution to appropriate a total of \$40,000 from the "Environmental Problems: Lake/River Fund" for debris removal in the Clinton River and the subsequent December 2003 endorsement of the affected Townships for the We Are Here Foundation to perform the service, leading to the \$40,000 award by the Macomb County Commissioners to We Are Here Foundation would constitute "public funding," I still need some additional information before rendering a final decision:

1) If the appropriated money was received at the end of 2003, how long can the \$40,000 be used for? Remember that being supported wholly or in part by public funds, a requirement for public or quasi-public eligible entities, must exist at the present time. Is We Are Here Foundation still being supported by these appropriated money?

2) What is the time frame for this debris removal project that was approved in 2003? With this kind of eligibility, once the public purpose project or appropriated funding expires, unfortunately, so does the organization's eligibility.

3) Should We Are Here Foundation demonstrate ongoing appropriated money for conservation projects such as these, are they aware that Federal property would only be donated for this purpose (in red below again) and not on behalf of other projects not tied to this specific public purpose?

Certainly, for the river project cited, We Are Here Foundation appears to be a quasi-public agency carrying out for the residents of Michigan a public purpose. However, it would not be appropriate to establish eligibility for an organization that has been granted appropriated money in the past for a one-time project.

Joseph M. Hvorecky
Director of Property Management
Mid-Atlantic Region
(215) 446-5060

"Dave Densmore" <densmored@michigan.gov>

"Dave Densmore"
<densmored@michigan.gov>

To joe.hvorecky@gsa.gov
cc

02/23/2006 02:23 PM

Subject Fwd: Eligibility Determination -- We Are Here Foundation,
Inc.

Joe, per our discussion.

Dave Densmore
Program Supervisor
Federal Surplus Program
3353 N. M.L.King Jr. Blvd
Lansing, Mi. 48906
Ph. (517)335-9110
Fax(517)335-9559
densmored@michigan.gov

>>> <joe.hvorecky@gsa.gov> 10/28/2005 3:53 PM >>>

Dave --

We have reviewed the subject applicant's eligibility package that you faxed to our office on October 10, 2005. The primary purpose of the subject applicant is "to conduct cleanup operations, monitor water quality, and perform environmental studies at the Gull Island, St. Clair Flats Canal Federal Navigation Project." This organization has received a Department of the Army license for a one year period (6/13/05 -- 6/12/06) to perform this service.

Your agency questioned whether this applicant would qualify as a nonprofit health organization. After studying the regulatory definition for a "public health institution," the latter definition encompassing nonprofit health organizations and programs, and consulting with GSA Legal Counsel on the legislative intent behind nonprofit health organizations, we do not believe this "environmental service" correctly fits under the nonprofit health umbrella. That category, nonprofit health, is reserved more for programs that either provide direct services or conducts research that directly preserves the health needs of the general public.

Having drawn the conclusion above, we have determined that the only avenue for this particular nonprofit organization to qualify for program eligibility would be as a "quasi-public" agency from a "public purpose conservation" standpoint. To be considered "quasi-public," the applicant must serve a public purpose (it does) and be supported in whole or in part by public funding. **So, the critical eligibility piece for We Are Here is to provide documentation that some type of public funding is received.**

Final point: if adequate documentation supports a "quasi-public" status, please ensure that the only Federal property that is donated is connected to We Are Here's specific program mentioned in paragraph 1 above. We Are

Here's literature describes various other services such as "advocacy, education, and character building" -- these latter services may be beneficial, but the description of these services does not support any program eligibility with respect to GSA's Donation Program.

If you have any questions regarding this eligibility determination, feel free to contact me at my number below after November 9th. Thanks.

Joseph M. Hvorecky
Director of Property Management
Mid-Atlantic Region
(215)446-5060e

ACCREDITATION INFORMATION

**WEBSITE FOR ACCREDITING
AGENCIES FOR EDUCATIONAL
ORGANIZATIONS**



U. S. Department of Education
Promoting educational excellence for all Americans

Search ED.gov»

Advanced S

Students Parents Teachers Administrators

Administrators

Learn & Manage My School

Strengthen Teacher Quality

Work with Parents & the Community

Financial Aid for Postsecondary Students

About Federal Student Aid

Accreditation & Participation

Find Grants

Recruit Principals

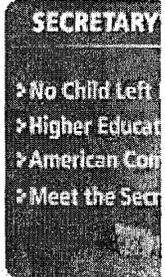
- About ED
- Budget
- Press Room
- Publications
- Teaching Resources
- Answers
- Contact
- Help
- Online Services
- Recursos en español
- State Information
- Web Survey
- Help Improve ED.gov

**FINANCIAL AID FOR POSTSECONDARY STUDENTS
Accreditation in the United States**

The goal of accreditation is to ensure that education provided by institutions of higher education meets acceptable levels of quality. Here you will find lists of regional and national accrediting agencies recognized by the U.S. Secretary of Education as reliable authorities concerning the quality of education or training offered by the institutions of higher education or higher education programs they accredit.

Table of Contents

- 1. Overview of Accreditation**
- 2. Accreditation in the U.S.**
- 3. National Recognition of Accrediting Agencies by the U.S. Secretary of Education**
 - Database of Accredited Programs and Institutions
 - Changes in the Secretarial Recognition Petition Process
- 4. Nationally Recognized Accrediting Agencies**
- 5. Regional and National Institutional Accrediting Agencies**
- 6. Specialized Accrediting Agencies**
- 7. Accrediting Agencies Recognized for their Preaccreditation Categories**
- 8. Accrediting Agencies Recognized for Title IV Purposes**
- 9. Accrediting Agencies Recognized for Distance Education**
- 10. Part 602 - Secretary's Recognition of Accrediting Agencies**
 - Subpart A - General
 - Subpart B -- The Criteria for Recognition
 - Subpart C - The Recognition Process
 - Subpart D - Limitation, Suspension, or Termination of Recognition
 - Subpart E -Department Responsibilities
- 11. National Recognition of State Approval Agencies by the U.S. Secretary of Education**
 - Criteria for the Recognition of State Agencies for Vocational Education
 - State Agencies Recognized for the Approval of Public Postsecondary Vocational Education
 - Criteria and Procedures for Recognition of State Agencies for Nurse Education
 - State Agencies and Accrediting Bodies Recognized for the Approval of Nurse Education



No Child Left Behind

Related Topics

No Related Topics

Printable view Share this page

Last Modified: 07/28/2008

**FEDERAL FINANCIAL ASSISTANCE TO
RELIGIOUS ORGANIZATIONS**



Jul 1, 2015

MEMORANDUM FOR DIRECTORS, PROPERTY DIVISIONS
DIRECTORS, STATE AGENCIES FOR SURPLUS PROPERTY

FROM:

DAVID ROBBINS 
DIRECTOR
OFFICE OF PERSONAL PROPERTY MANAGEMENT

SUBJECT: Eligibility of Religious Organizations to Participate in the Federal
Surplus Personal Property Donation Program

It has come to our attention that there is some confusion about the eligibility of religious and faith-based organizations to participate in and acquire surplus federal personal property under the Donation Program. The purpose of this memo is to clarify the circumstances under which such organizations can be found eligible.

Generally, religious and faith-based organizations may compete for Federal surplus property through the Donation Program, without impairing their independence, autonomy, expression, or religious character. This religious independence includes the organization's hiring practices. As such, the organization may not be precluded from receiving Federal surplus property on the basis of its hiring practices. In order to participate, the organization must meet all of the eligibility requirements for any non-profit donee, but must also offer a secular program of education or public health for which it may request the Federal surplus property. The education or public health program must be available to all citizens regardless of religious affiliation, and must be separate in time or location from any religious activities conducted by the organization.

The property received under the donation program cannot be used in any program other than the secular program for which it was acquired. In particular, the donated property may not be used for any religious program or activity. A faith-based organization may not use Federal surplus property at the same time and in the same place as it engages in inherently religious activities, such as worship, religious instruction or proselytization. The secular program or activities for which the property was acquired may be offered at the same time in a different location, or at a different time in the same location, as inherently religious activities. The organization must not discriminate against beneficiaries of the program for which the property was acquired on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice. The organization may use the Federal surplus property when engaged in nonreligious activities, such as in classrooms where secular subjects like English, Biology, History, etc. are taught, but only if the property was acquired to support such activities or programs.

Each State Agency for Surplus Property (SASP) is required to monitor the use of donated property to ensure that the property is used in compliance as stated herein.

The authorities for this guidance are as follows:

(1) Establishment Clause of the United States Constitution, which prohibits the Federal government from promoting religion;

(2) Executive Order 13279, "Equal Protection of the Laws for Faith-Based and Community Organizations," Sec 2 (e), which states that the Federal Government must implement Federal programs in accordance with the Establishment Clause and the Free Exercise Clause of the First Amendment to the Constitution. Therefore, organizations that engage in inherently religious activities, such as worship, religious instruction, and proselytization, must offer those services separately in time or location from any programs or services supported with direct Federal financial assistance.

(3) Executive Order 13279, Sec 2 (d), which states that all organizations that receive Federal financial assistance under social services programs should be prohibited from discriminating against beneficiaries or potential beneficiaries of the social services programs on the basis of religion or religious belief. Accordingly, organizations, in providing services supported in whole or in part with Federal financial assistance, and in their outreach activities related to such services, should not be allowed to discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice."

If you have any questions, please contact Christopher Willett, Utilization and Donation Programs Division, at 703-605-2873 or email: christopher.willett@gsa.gov.



Joseph M.
Hvorecky/3QSC/R03/GSA/G
OV

04/21/2008 11:10 AM

To David M. Robbins/FBP/CO/GSA/GOV@GSA

cc

bcc Stephen R. Olds/3QSC/R03/GSA/GOV

Subject Fw: Classroom in a synagogue

Roman called me on this and I did review his response and comment before he sent it. Just wanted you to know that I had a brief follow up call with Sharon Chen this morning on this particular matter. What I thought Roman was calling me on initially on this was the fact that this is a "synagogue" and may restrict access to people based on being of the Jewish faith. Judy Schroyer and I dealt with something similar with a Christian group not too long ago that restricted access to those who believe in Jesus Christ as their savior. Judy did not see religion covered by our nondiscrimination assurance and raised the issue with me -- I pointed her back to our Constitution and said the Federal Government can't be seen as endorsing one particular religion with our federal financial assistance. Sharon agreed with me on this. When I briefly raised this to Roman the other day, he quickly dismissed my concern to that point -- I just wanted to offer you this additional comment as I will be taking this stance when "faith-based" issues are raised at the upcoming EI/Com/SAR training. Again, I'm OK with a any faith-based organization primarily serving a certain faith provided access to their services is open to all.

Joseph M. Hvorecky
Director of Property Management (3QSC)
Federal Acquisition Service
(215) 446-5060 - phone
(215) 446-5116 - faxe

----- Forwarded by Joseph M. Hvorecky/3QSC/R03/GSA/GOV on 04/21/2008 11:03 AM -----



David M.
Robbins/QSC/CO/GSA/GOV

04/18/2008 02:26 PM

To Sharon Chen/LP/CO/GSA/GOV@GSA

cc Joseph M. Hvorecky/3F/R03/GSA/GOV@GSA, Roman J.
Marciniak/FBP/CO/GSA/GOV@GSA

Subject Fw: Classroom in a synagogue

Sharon.....

We've had some discussions about this today, but we responded, needing to close out this congressional inquiry. Evidently the constituent synagogue doesn't want to go to the cost/time to get an IRS 501(c)(3) exemption. They are stating that, as a synagogue.....religious institution, they are tax exempt.... but I don't necessarily see in 26 USC 501 such a blanket exemption.....and would there still need to be some documentation of such, from the IRS? Perhaps they do need to document their status through the IRS but just don't want to, in which case there is nothing we can do to assist in that regard.....

Thanks
Dave

----- Forwarded by David M. Robbins/QSC/CO/GSA/GOV on 04/18/2008 02:12 PM -----



Roman J.
Marciniak/QSCA/CO/GSA/G
OV

04/18/2008 01:58 PM

To Brenda A. Short/S/CO/GSA/GOV@GSA

cc Joe Hvorecky, David M. Robbins/FBP/CO/GSA/GOV@GSA,
Nancy J. Brotherton/QSCA/CO/GSA/GOV@GSA

Subject Classroom in a synagogue

I work for the Washington State SASP. I received the attached document from Steve Ekin and am confused as to the message I need to be giving my museum donees.

The last paragraph on the attachment (note "c") has a section highlighted in yellow and "museums" written in red in the middle of the paragraph. What do these mean?

It looks like the change for note "b" has already been made to 40 USC 549(c)(3)(B)(vii), and the changes to the museum definition in 41 CFR 102-37 has not been made. Is this correct? I saw the museum wording in 23 PL 114-287 (23).

Do I need to go back to each museum already approved for eligibility and verify that their business hours are approximately 9am-4pm (or a reasonable variation)?

Thank you for your help in understanding this. I am only a few months into my tenure with the federal program.

Jonathan Franklin ■ DES Surplus Operations Federal Program ■ cell: 360.507.6021 ■ Mon-Fri 7:00am – 3:30pm

WA ST DEPARTMENT OF ENTERPRISE SERVICES ■ 7511 New Market Street SW / MS#41030 ■ Tumwater, WA 98504

Federal Property Preview Available by Appointment

Services Provided by DES Surplus Operations: Federal Government Transfer Items, 1033 Law Enforcement Support, Dispose of Surplus, Priority Sale Items, Public Sale Item

From: Eaves, Stacy (DES)
Sent: Tuesday, February 14, 2017 8:36 AM
To: Franklin, Jonathan R. (DES) <jonathan.franklin@des.wa.gov>
Cc: Richardson, Dale L. (DES) <dale.richardson@des.wa.gov>
Subject: FW: Interim Guidance on Donations to Museums

You'll want to update your museum eligibility notes.

From: Ekin, Steven [mailto:Steven.Ekin@doas.ga.gov]
Sent: Thursday, February 09, 2017 12:33 PM
To: Ekin, Steven <Steven.Ekin@doas.ga.gov>
Subject: FW: Interim Guidance on Donations to Museums

Please see the attachment.

Brenda --

Nancy Brotherton of the U&D Program Division referred your phone call to me this morning.

My understanding of the situation is that you were contacted by the office of Congressman Jim Gerlach of Pennsylvania regarding a constituent that represents a synagogue with a classroom that wants to participate in the Computers for Learning (CFL) Program. In your phone call you stated that the Synagogue does not have a 501 (c)(3) tax exempt number and does not want to go through either the expense or time required to obtain one from the Internal Revenue Service.

It should be noted up front that CFL is an agency authority. As such, the implementation of CFL may vary from agency to agency. The guidelines that follow apply specifically to GSA and to agencies using GSA's CFL website at computersforlearning.gov. It should also be noted that the guidelines that follow apply not only to classrooms in a synagogue, but also to those located in a church, temple, or other structure of a particular religious sect.

The synagogue can request participation in CFL either as a school or as an educational nonprofit organization.

As a school, the synagogue needs to provide an NCES Number issued by the National Center for Education Statistics (NCES) within the United States Department of Education as evidence that it is recognized by the state as an accredited school. The accreditation covers such matters as length of the school year, qualifications of teachers, and curriculum.

As an educational non-profit, the synagogue falls under Title 40 USC 549 and the regulations [Title 41 CFR 102-37] governing the Federal Surplus Personal Property Donation Program. Under the authorities of the Federal Surplus Personal Property Donation Program, the synagogue must still provide evidence that its classroom instruction meets the State prescribed academic or instructional standards. The latter requirement is normally satisfied by a generic type of letter from the state Department of Education on their official letterhead in lieu of a formal accreditation.

As an educational non-profit, the synagogue also needs to provide evidence that it is exempt from Federal income tax under Section 501 of the Internal Revenue Code [Title 26 USC 501]. This can only be done through a tax-exempt number [501(c)(3)] issued by the Internal Revenue Service. However, the 501(c)(3) number does not need to be issued to a specific organization, such as the synagogue school at a given location. An "umbrella" type of tax exemption certificate approving all synagogue related classrooms would be sufficient.

Under the guidelines of Executive Order 12999, the synagogue classroom must serve some portion of prekindergarten through 12 th grade.

Roman

Roman J. Marciniak, Jr.
Director, Utilization and Donation Program Division (QSCA)
Office of Personal Property Management
Federal Acquisition Service (FAS), GSA
Phone: 703.605.2905
Fax: 703.605.9833

MUSEUMS/SHELTERED WORKSHOPS

Federal Surplus Personal Property Donation Program – Eligibility of Public Museums

INTERIM GUIDANCE UNTIL REVISION OF CODE OF FEDERAL REGULATIONS, TITLE 41, CHAPTER 102-37

Section 23 of Public Law (P.L.) 114-287 clarified the 40 USC definition of a “museum” as treated under the Federal Surplus Personal Property Donation Program (Donation Program). See original and revised text at notes (a) and (b) respectively.

As a Federal law takes precedence over any GSA regulation authorized under 40 USC, Federal agencies, State Agencies for Surplus Property, and state donees may immediately consider the revisions in this note to be effective immediately. A change to the FMR 102-37 will be initiated as soon as possible to codify this change in 41 CFR regulations.

Effective immediately, the definition of a “museum” for the purpose of obtaining Federal surplus property under the Donation Program will not include a restriction on the number of hours the museum must be open, but only include a provision that the museum accede to any request for admission during “business hours,” interpreted here to be approximately 9:00 am to 4:00 pm, although reasonable variation from these hours may be considered due to individual circumstances (such as a museum located in a commercial location with strict business hours, or restrictions based on zoning or other state or local ordinances).

All other requirements for determining the eligibility of a museum remain in effect. The existing FMR 102-37 definition of a museum is provided under note (c).

Questions on Donation Program eligibility should be addressed to GSA’s Office of Personal Property Management, Federal Acquisition Service, at 703-605-5609.

Questions on Federal personal property policy should be addressed to GSA’s Office of Government-wide Policy at 540-735-4682.

Notes

(a) Original text for 40 USC 549(c)(3)(B)(vii) regarding “museums”:

(vii) a museum attended by the public; or

(b) Replacement text for 40 USC 549(c)(3)(B)(vii) as made by P.L. 114-287:

SEC. 23. ADDITIONAL PROPERTY.

Section 549(c)(3)(B)(vii) of title 40, United States Code, is amended to read as follows:

“(vii) a museum attended by the public, and, for purposes of determining whether a museum is attended by the public, the Administrator shall consider a museum to be public if the nonprofit educational or public health institution or organization, at minimum, accedes to any request submitted for access during business hours

(c) Current FMR 102-37, Appendix C, Definition of a museum:

Appendix C to Part 102-37—Glossary of Terms for Determining Eligibility of Public Agencies and Nonprofit Organizations

Museum means a public or nonprofit institution that is organized on a permanent basis for essentially educational or aesthetic purposes and which, using a professional staff, owns or uses tangible objects, either animate or inanimate; cares for these objects; and exhibits them to the public on a regular basis (at least 1000 hours a year). As used in this part, the term *museum* includes, but is not limited to, the following institutions if they satisfy all other provisions of this definition: Aquariums and zoological parks; botanical gardens and arboretums; nature centers; museums relating to art, history (including historic buildings), natural history, science, and technology; and planetariums. For the purposes of this definition, an institution uses a professional staff if it employs at least one fulltime staff member or the equivalent, whether paid or unpaid, primarily engaged in the acquisition, care, or public exhibition of objects owned or used by the institution. This definition of *museum* does not include any institution that exhibits objects to the public if the display or use of the objects is only incidental to the primary function of the institution.



Joseph Hvorecky - 3QSC <joe.hvorecky@gsa.gov>

Fwd: Interim Guidance on Donations to Museums

Joseph Hvorecky - 3QSC <joe.hvorecky@gsa.gov>
To: Joseph Hvorecky <joe.hvorecky@gsa.gov>

Tue, May 9, 2017 at 8:34 AM

----- Forwarded message -----

From: **Joseph Hvorecky - 3QSC** <joe.hvorecky@gsa.gov>
Date: Tue, Feb 14, 2017 at 10:10 PM
Subject: Re: Interim Guidance on Donations to Museums
To: Cynthia Gardiner - QSCA <cynthia.gardiner@gsa.gov>
Cc: "Lori Marrs (10QSC)" <lori.marrs@gsa.gov>, Gregory Flores <gregory.flores@gsa.gov>, "Karen Craig (3QSCA)" <karen.craig@gsa.gov>, Kevin Murphy <kevin.murphy@gsa.gov>, Mark Brantley <mark.brantley@gsa.gov>, Rickey Parker <rick.parker@gsa.gov>, Sandra Klar <sandra.klar@gsa.gov>

Here is my two cents for what it's worth based on my prior evaluation of many museums. In my opinion, this language below extends tremendous flexibility to museums in terms of hours of operation:

"...only include a provision that the museum accede to any request for admission during "business hours," interpreted here to be approximately 9:00 am to 4:00 pm, although reasonable variation from these hours may be considered due to individual circumstances (such as a museum located in a commercial location with strict business hours, or restrictions based on zoning or other state or local ordinances)."

We have always taken into consideration in the past stated verbiage on museum promotional material that read: "and by appointment" to justify a certain number of hours of operation if the museum could demonstrate based on an appointment request history trend that access was granted at other times other than the stated business hours if the routine business hours fell a little short of the 1000 hours. With the 1000 hour requirement now replaced with this "adherence to request for access during business hours," this to me could mean an increase of scheduled appointments for individual/group visits during the defined business hours. Note as well the word "approximately" is inserted before the time frame as well, so 9:30am to 4pm or 9:00 to 3:30pm could be OK (even more flexible with the "reasonable variation" provision included). I am not interpreting this change to mean a SASP having to go back to currently eligible museums and ensuring their hours of operation are set from 9am to 4pm -- rather, those currently eligible museums simply have to certify they would accommodate requests for admission between the approximate hours from 9am to 4pm, likely for group trips, special group events, etc. I am zeroing in on the word "request," and I don't equate that with a museum having to establish routine, normal hours of operation from approximately 9am to 4pm.

Joseph M. Hvorecky
Director
Personal Property Management
GSA Mid-Atlantic Zone
phone (215) 266-4505
fax (215) 829-2760

On Tue, Feb 14, 2017 at 5:38 PM, Cynthia Gardiner - QSCA <cynthia.gardiner@gsa.gov> wrote:

Please see Jonathan and Bob's exchange on museum eligibility. Thoughts? Also, please note that Scott wants to discuss this with us on Thursday when he visits Central Office.

Thanks!

Cynthia Patton Gardiner
Director
Utilization & Donation Program Division
Office of Personal Property Management (QSC)
GSA, Federal Acquisition Service
703-605-2758

----- Forwarded message -----

From: **Scott Pepperman** <executivedirector@nasasp.org>
Date: Tue, Feb 14, 2017 at 2:19 PM
Subject: Re: Interim Guidance on Donations to Museums
To: Bob Holcombe - M1AD <robert.holcombe@gsa.gov>
Cc: "Cynthia Patton (QSCA)" <cynthia.gardiner@gsa.gov>

Thanks Bob for keeping me in the loop. Cynthia, this is one of the issues we want to discuss with you on Thursday morning. I will send a list of the issues for discussion (not a long one) later today so we don't catch anyone off guard.

Best Wishes.

On Tue, Feb 14, 2017 at 2:15 PM, Bob Holcombe - M1AD <robert.holcombe@gsa.gov> wrote:

Hi, Scott..

FYI>.

Bob H.

----- Forwarded message -----

From: **Bob Holcombe - M1AD** <robert.holcombe@gsa.gov>
Date: Tue, Feb 14, 2017 at 2:14 PM
Subject: Re: Interim Guidance on Donations to Museums
To: "Franklin, Jonathan R. (DES)" <jonathan.franklin@des.wa.gov>
Cc: Patricia Ferebee - M1AD <pat.ferebee@gsa.gov>, Gary Thompson <gary.thompson@gsa.gov>, "Cynthia Patton (QSCA)" <cynthia.gardiner@gsa.gov>

Hi, Jonathan.

Regarding the highlighted text in paragraph (c); the yellow highlight is the section of the definition in the current FMR 102-37 impacted by this change to the law. You'll notice that (long) highlighted section includes the provision that museums must be open at least 1000 hours. Frankly, I'm not sure how/why the word "museum" is in red font here; that isn't intentional nor significant. Simply, that paragraph (c) is the text currently in our FMR 102-37 appendix at the definition of "museum" and can also be seen there.

And yes, paragraph (b) is the text in the new law, which replaces the text shown in paragraph (a).

As far as being retroactive - I'd have to defer to Cynthia (cc'd) on that, as that's more a question of donee eligibility. It would probably make the most sense to inform your museums of the change to the law, and that if their hours do not already match up with the hours suggested by this guidance (or as reasonably modified on a case-by-case basis), they should realize that they must accede to any request to open during those hours. In some cases, that may mean their doors may officially be open LESS hours each year than they are now. In high-traffic areas (urban areas?) this might mean they must be open MORE hours in each year if they get frequent requests for entry.

I'd also suggest you confirm my interpretations with your NASASP leadership.

Bob H.

On Tue, Feb 14, 2017 at 1:36 PM, Franklin, Jonathan R. (DES) <jonathan.franklin@des.wa.gov> wrote:

Hello Bob,

I work for the Washington State SASP. I received the attached document from Steve Ekin and am confused as to the message I need to be giving my museum donees.

The last paragraph on the attachment (note "c") has a section highlighted in yellow and "museums" written in red in the middle of the paragraph. What do these mean?

It looks like the change for note "b" has already been made to 40 USC 549(c)(3)(B)(vii), and the changes to the museum definition in 41 CFR 102-37 has not been made. Is this correct? I saw the museum wording in 23 PL 114-287 (23).

Do I need to go back to each museum already approved for eligibility and verify that their business hours are approximately 9am-4pm (or a reasonable variation)?

Thank you for your help in understanding this. I am only a few months into my tenure with the federal program.

Jonathan Franklin ■ DES Surplus Operations Federal Program ■ cell: 360.507.6021 ■ Mon-Fri 7:00am – 3:30pm

WA ST DEPARTMENT OF ENTERPRISE SERVICES ■ 7511 New Market Street SW / MS#41030 ■ Tumwater, WA 98504

Federal Property Preview Available by Appointment

Services Provided by DES Surplus Operations: Federal Government Transfer Items, 1033 Law Enforcement Support, Dispose of Surplus, Priority Sale Items, Public Sale Item

From: Eaves, Stacy (DES)
Sent: Tuesday, February 14, 2017 8:36 AM
To: Franklin, Jonathan R. (DES) <jonathan.franklin@des.wa.gov>
Cc: Richardson, Dale L. (DES) <dale.richardson@des.wa.gov>
Subject: FW: Interim Guidance on Donations to Museums

You'll want to update your museum eligibility notes.

From: Ekin, Steven [mailto:Steven.Ekin@doas.ga.gov]
Sent: Thursday, February 09, 2017 12:33 PM
To: Ekin, Steven <Steven.Ekin@doas.ga.gov>
Subject: FW: Interim Guidance on Donations to Museums

Please see the attachment.

MUSEUMS ATTENDED BY THE PUBLIC907 - Guidelines for Making Eligibility Determinations

Definition and clarification of terms. Only institutions that meet all the elements of the basic definition for a museum can be considered for eligibility. Under this definition, as set forth in FPMR 101-44.207(a)(16), a museum is a "public or private nonprofit institution which is organized on a permanent basis essentially for educational or esthetic purposes and which, using a professional staff, owns or uses tangible objects, whether animate or inanimate; cares for these objects; and exhibits them to the public on a regular basis either free or at a nominal charge." When considering the eligibility of an institution as a museum, the following expansion of key words used in the definition will apply:

a.a Public. The institution is supported in whole or in part with public funds. Any museum established as a part of, and operated by a State or local government agency would be eligible to participate in the donation program as a part of the State or local government's eligibility as a public agency. Eligibility for these museums would be established with the State agency in the same manner as for any other public agency program.

b.a Nonprofit. The museum has documentary evidence of its tax-exempt status under section 501 of the Internal Revenue Code of 1954.

c.a Organized. The institution is a duly constituted body with expressed responsibilities. It has an organizing document (articles of incorporation or other written instrument by which it was created) affirming its legal existence and the purpose(s) for which it was formed.

d.a Permanent. The institution is expected to continue in perpetuity.

e.a Essentially for educational or esthetic purposes. The institution is organized and operated primarily for educational or esthetic purposes. It seeks to further public understanding and appreciation of science, history, art or culture by knowledgeable use of its objects.

f. Professional staff. An institution uses a professional staff if it employs full-time at least one qualified staff member, whether paid or unpaid, who devotes his or her time primarily to the acquisition, care, or public exhibition of objects owned or used by the museum. For the purposes of this definition, a qualified professional is one who, by virtue of education, training, or experience is capable of making museological decisions consonant with the experience of his or her peers. No minimum qualifications are prescribed.

g.a Owns or uses tangible objects. The tangible objects, animate and inanimate, forming the museum's collection may either be owned by the institution or on loan to it. The objects, moreover, should reflect the museum's stated purpose(s) and have intrinsic value to science, history, art or culture.

Appendix B

TAB 6
MUSEUMS

February 10, 1987

FSS P 4025.5 CHGE 1

h.e Cares for these objects. The keeping of adequate records pertaining to ownership, identification and location of the museum's holdings and the application of current professionally accepted methods to their security and to the minimization of damage and deterioration.

i. Exhibits them to the public on a regular basis. The museum must be open to the public-at-large and have regular and predictable hours which constitute substantially more than a token opening, so that access is reasonably convenient to the public. An institution does not exhibit objects to the public for purposes of this definition if the display or use of the objects is only incidental to the primary function of the institution; e.g., an institution which is engaged primarily in the sale of antiques, objets d'art, or other artifacts and which incidentally provides displays to the public. That an institution lacks its own facilities for exhibits is not disqualifying of its exhibits objects through such means as educational programs or traveling exhibits.

j.e Free or at a nominal charge. The museum either charges a small admission fee or it is open to the public free of charge.

Documentation needed to establish eligibility. In order to properly evaluate the eligibility of its museum applicants, State agencies should obtain documentation such as the following and any other relevant information which may be of value in making a determination. This is in accordance with FPMR 101-44.207(f)(1)(iii) which requires that sufficient details and specifics about an applicant's program and facilities be made available so that the State agency can determine the program eligibility qualifications of the applicant. The following should be of assistance in making this determination:

a.e A detailed narrative description of the applicant's program, services, or activities. The following information should be included in the narrative:

- (1)e The size (in square feet) and a description of its physical facilities;
- (2)e The types of objects exhibited;
- (3)e Schedule in which the facility is open to the public without prearrangement;
- (4)e Amount of admission fees, if any (If the fee seems to be excessive, the museum should be asked to submit a statement explaining how the charges are determined, and whether the charges are based on providing its services to the public at the lowest feasible cost);
- (5)e Means used to advertise the museum for public patronage;
- (6)e Community and population served by the applicant; and

February 10, 1987

(7)e Membership in, affiliation with, or other recognition by a local, State, regional or national museum organization. (This is only to evidence that the institution is operating as a museum. The FPMR imposes no requirement of accreditation or approval on museums.)

b.e A roster of the institution's full-time staff members with their professional qualifications (training and experience), titles or positions, and general duties.

c.e A photostatic copy of a ruling or determination letter from the Internal Revenue Service recognizing that the applicant is exempt from Federal income taxation under section 501 of the Internal Revenue Code of 1954.

d.e A copy of the institution's charter, bylaws, or other governing instrument.

e.e A copy of the applicant's current year budget and identification of amounts and sources from which funds are received.

f.e A copy of any brochures, newsletters, catalogs, written advertisements, etc., describing the museum's programs and services.

SHELTERED WORKSHOPS

You must differentiate between sheltered workshops which are conducting training services projects under grants from the Vocational Rehabilitation Administration pursuant to the provisions of Section 13.(a) of Public Law 89-333 of the Vocational Rehabilitation Act Amendments of 1965a, and those that operate primarily to provide sheltered employment for the physically handicapped or mentally retarded and do not provide training. The latter CAN NOT be considered for even partial eligibility under the donation program as schools for the mentally retarded or physically handicapped under these guidelines.

To qualify you must provide information that relates to the following areas:

1.a Purpose: You must be an institution of a facility operated primarily to provide specialized instruction to students with physical handicaps, or limited mental capacity, or a combination of these handicaps.a

2.a Qualification: You must operate on a full-time basis for a minimum school year prescribed for public school instruction of the mentally retarded or physically handicapped, as applicable.a

3.a Staff: You must provide a roster of instructors with their titles and individual professional qualifications. The staff of instructors must either meet the State standards for public school instructors or the mentally retarded or physically handicapped, as appropriate, or one of the following:a

a.a The staff must consist of a minimum of not less than two professionals, one of whom must be a State certified teacher, with a minimum 4-year college degree, and, must be assisted by a minimum of one teacher who is state certified with a minimum of 2 years of college.

b.a The staff of instructors for trade schools, handicraft schools, vocational schools, vocational rehabilitation centers, sheltered workshop training, job skill training centers, etc., for the mentally retarded or physically handicapped, may be considered as qualified instructors if certified in writing by State or local superintendent of public instruction, State or local director of vocational education for public schools, or, State director of vocational rehabilitation regarding instructors in vocational rehabilitation facilities and instructors in sheltered workshop training.

4.a Program Objectives: You must submit a statement or outline of your program and program objectives. Objectives for the mentally retarded and physically handicapped are considered similar to those for other children and adults, but with necessary modifications.a

5.a Sizes of Groups: You must indicate that a minimum of two adult staff members, one of whom shall be a professional, must be immediately available to any enrollment of retarded or handicapped pupils. There is no limit on group size, however, the ratio of

public to teach must be sufficient to ensure that the pupils are receiving proper attention and guidance at all times.

6.0 Ages of Pupils: Ages will usually range from age 3 up to any age depending on the type of program. You must clarify how your program will operate in this area.

7.0 Physical Facilities: You must submit evidence that your facility meets the health and safety standards prescribed by the local or state governmental body. The facility must have adequate indoor and outdoor physical facilities and equipment for carrying out its programmed educational and/or training activities.

8.0 Health Practices. You must provide evidence that your program meets the requirements of the State or local health authorities for the protection of the health of all adults and pupils or trainees in the school or facility.

9.0 School Records: You must provide evidence that you maintain health, attendance, and development and progress records for each student or trainee. You must demonstrate that you can maintain professional preparation and experience records and health records for each staff member.

10.0 State Agency Documentation: You must submit the forms and documentation required by the state Agency to certify compliance with specific laws.

11.0 If you are a public agency you must submit any records or documentation required to demonstrate your status as a public agency.

12.0 If you are a nonprofit, tax-exempt organization, you must submit evidence of tax-exempt status (IRS 501(c) status), and a copy of your Articles of Incorporation.



September 20, 2018

MEMORANDUM FOR DIRECTORS, GSA PERSONAL PROPERTY ZONES
DIRECTORS, STATE AGENCIES FOR SURPLUS PROPERTY

FROM: SUSANNE COMBS
DIRECTOR, OFFICE OF PERSONAL PROPERTY MANAGEMENT e-Signed by Susanne Combs
on 2018-09-19

SUBJECT: Updated Eligibility Guidance for Museums

The purpose of this memorandum is to supplement the Interim Guidance communicated on February 9, 2017, with respect to the planned language revision of Federal Management Regulation (FMR) Part 102-37 for the definition of a “museum” as promulgated by the Federal Assets Sale and Transfer Act of 2016 (Public Law 114-287). The interim guidance entitled “Federal Surplus Personal Property Donation Program - Eligibility of Public Museums” issued by the General Services Administration’s (GSA’s) Office of Governmentwide Policy on February 9, 2017, advised that the updated definition of a museum would no longer include a requirement on the number of hours that the museum must be open (*i.e.*, 1,000 hours annually), but only include a provision that the “nonprofit educational or public health institution or organization, at a minimum, accedes to any request submitted for access during business hours.” Those hours are interpreted to be approximately 9am to 4pm, with some reasonable variation from these hours to be considered on a case-by-case basis (*e.g.*, museum’s location being in a commercial sector with unique business hours).

In light of this new guidance, GSA will implement the following procedures to validate a program applicant is a museum:

1. Evaluate the applicant in accordance with the guidelines outlined in GSA’s Donation Handbook, (Attachment 1 - section 907, pages 136-136.2); and
2. Review the Museum Access Agreement signed by the museum’s chief executive (Attachment 2). The Museum Access Agreement must be included in all new museum eligibility files and will be required at the time of all eligibility file updates of museum donees previously determined eligible under the older definition.

If you have any questions regarding this updated eligibility guidance for museums, please contact Cynthia Gardiner, Director, Utilization and Donation Program, at 703-605-2758.

2 Attachments

MUSEUMS ATTENDED BY THE PUBLIC907 - Guidelines for Making Eligibility Determinations

Definition and clarification of terms. Only institutions that meet all the elements of the basic definition for a museum can be considered for eligibility. Under this definition, as set forth in FPMR 101-44.207(a)(16), a museum is a "public or private nonprofit institution which is organized on a permanent basis essentially for educational or esthetic purposes and which, using a professional staff, owns or uses tangible objects, whether animate or inanimate; cares for these objects; and exhibits them to the public on a regular basis either free or at a nominal charge." When considering the eligibility of an institution as a museum, the following expansion of key words used in the definition will apply:

a.e Public. The institution is supported in whole or in part with public funds. Any museum established as a part of, and operated by a State or local government agency would be eligible to participate in the donation program as a part of the State or local government's eligibility as a public agency. Eligibility for these museums would be established with the State agency in the same manner as for any other public agency program.

b.e Nonprofit. The museum has documentary evidence of its tax-exempt status under section 501 of the Internal Revenue Code of 1954.

c.e Organized. The institution is a duly constituted body with expressed responsibilities. It has an organizing document (articles of incorporation or other written instrument by which it was created) affirming its legal existence and the purpose(s) for which it was formed.

d.e Permanent. The institution is expected to continue in perpetuity.

e.e Essentially for educational or esthetic purposes. The institution is organized and operated primarily for educational or esthetic purposes. It seeks to further public understanding and appreciation of science, history, art or culture by knowledgeable use of its objects.

f. Professional staff. An institution uses a professional staff if it employs full-time at least one qualified staff member, whether paid or unpaid, who devotes his or her time primarily to the acquisition, care, or public exhibition of objects owned or used by the museum. For the purposes of this definition, a qualified professional is one who, by virtue of education, training, or experience is capable of making museological decisions consonant with the experience of his or her peers. No minimum qualifications are prescribed.

g. Owns or uses tangible objects. The tangible objects, animate and inanimate, forming the museum's collection may either be owned by the institution or on loan to it. The objects, moreover, should reflect the museum's stated purpose(s) and have intrinsic value to science, history, art or culture.

Appendix B

February 10, 1987

FSS P 4025.5 CHGE 1

h.e Cares for these objects. The keeping of adequate records pertaining to ownership, identification and location of the museum's holdings and the application of current professionally accepted methods to their security and to the minimization of damage and deterioration.

i. Exhibits them to the public on a regular basis. The museum must be open to the public-at-large and have regular and predictable hours which constitute substantially more than a token opening, so that access is reasonably convenient to the public. An institution does not exhibit objects to the public for purposes of this definition if the display or use of the objects is only incidental to the primary function of the institution; e.g., an institution which is engaged primarily in the sale of antiques, objets d'art, or other artifacts and which incidentally provides displays to the public. That an institution lacks its own facilities for exhibits is not disqualifying if it exhibits objects through such means as educational programs or traveling exhibits.

j.e Free or at a nominal charge. The museum either charges a small admission fee or it is open to the public free of charge.

Documentation needed to establish eligibility. In order to properly evaluate the eligibility of its museum applicants, State agencies should obtain documentation such as the following and any other relevant information which may be of value in making a determination. This is in accordance with FPMR 101-44.207(f)(1)(iii) which requires that sufficient details and specifics about an applicant's program and facilities be made available so that the State agency can determine the program eligibility qualifications of the applicant. The following should be of assistance in making this determination:

a.e A detailed narrative description of the applicant's program, services, or activities. The following information should be included in the narrative:

(1)e The size (in square feet) and a description of its physical facilities;

(2)e The types of objects exhibited;

(3) Schedule in which the facility is open to the public without prearrangement;

(4) Amount of admission fees, if any (If the fee seems to be excessive, the museum should be asked to submit a statement explaining how the charges are determined, and whether the charges are based on providing its services to the public at the lowest feasible cost);

(5) Means used to advertise the museum for public patronage;

(6)e Community and population served by the applicant; and

Appendix B

February 10, 1987

(7) Membership in, affiliation with, or other recognition by a local, State, regional or national museum organization. (This is only to evidence that the institution is operating as a museum. The FPMR imposes no requirement of accreditation or approval on museums.)

b. A roster of the institution's full-time staff members with their professional qualifications (training and experience), titles or positions, and general duties.

c. A photostatic copy of a ruling or determination letter from the Internal Revenue Service recognizing that the applicant is exempt from Federal income taxation under section 501 of the Internal Revenue Code of 1954.

d. A copy of the institution's charter, bylaws, or other governing instrument.

e. A copy of the applicant's current year budget and identification of amounts and sources from which funds are received.

f. A copy of any brochures, newsletters, catalogs, written advertisements, etc., describing the museum's programs and services.

ATTACHMENT 2

MUSEUM ACCESS AGREEMENT

As part of the Federal Surplus Personal Property Donation Program eligibility requirements for "museums," pursuant to Section 23 of Public Law 114-287 and Federal Management Regulation (FMR) Part 102-37, I agree that from an operational standpoint toward fulfilling our museum's mission and function for the general public that

_____ will:
(Print Name of Museum)

Accede to any request submitted for access during typical "business" hours, interpreted here to be approximately 9:00am to 4:00pm, Monday through Friday, although a reasonable variation from these hours may be considered due to individual circumstances (e.g., location of museum requiring strict business hours that deviate from the aforementioned time parameter).

(Print Name of Chief Museum Official) (Title)

(Signature) (Date)

(Phone)

(Museum Address)

(City, State) (Zip)



September 20, 2018

MEMORANDUM FOR DIRECTORS, GSA PERSONAL PROPERTY ZONES
DIRECTORS, STATE AGENCIES FOR SURPLUS PROPERTY

FROM: SUSANNE COMBS
DIRECTOR, OFFICE OF PERSONAL PROPERTY MANAGEMENT

e-Signed by Susanne Comb:
on 2018-09-19

SUBJECT: Updated Eligibility Guidance for Museums

The purpose of this memorandum is to supplement the Interim Guidance communicated on February 9, 2017, with respect to the planned language revision of Federal Management Regulation (FMR) Part 102-37 for the definition of a “museum” as promulgated by the Federal Assets Sale and Transfer Act of 2016 (Public Law 114-287). The interim guidance entitled “Federal Surplus Personal Property Donation Program - Eligibility of Public Museums” issued by the General Services Administration’s (GSA’s) Office of Governmentwide Policy on February 9, 2017, advised that the updated definition of a museum would no longer include a requirement on the number of hours that the museum must be open (*i.e.*, 1,000 hours annually), but only include a provision that the “nonprofit educational or public health institution or organization, at a minimum, accedes to any request submitted for access during business hours.” Those hours are interpreted to be approximately 9am to 4pm, with some reasonable variation from these hours to be considered on a case-by-case basis (*e.g.*, museum’s location being in a commercial sector with unique business hours).

In light of this new guidance, GSA will implement the following procedures to validate a program applicant is a museum:

1. Evaluate the applicant in accordance with the guidelines outlined in GSA’s Donation Handbook, (Attachment 1 - section 907, pages 136-136.2); and
2. Review the Museum Access Agreement signed by the museum’s chief executive (Attachment 2). The Museum Access Agreement must be included in all new museum eligibility files and will be required at the time of all eligibility file updates of museum donees previously determined eligible under the older definition.

If you have any questions regarding this updated eligibility guidance for museums, please contact Cynthia Gardiner, Director, Utilization and Donation Program, at 703-605-2758.

2 Attachments

MUSEUMS ATTENDED BY THE PUBLIC907 - Guidelines for Making Eligibility Determinations

Definition and clarification of terms. Only institutions that meet all the elements of the basic definition for a museum can be considered for eligibility. Under this definition, as set forth in FPMR 101-44.207(a)(16), a museum is a "public or private nonprofit institution which is organized on a permanent basis essentially for educational or esthetic purposes and which, using a professional staff, owns or uses tangible objects, whether animate or inanimate; cares for these objects; and exhibits them to the public on a regular basis either free or at a nominal charge." When considering the eligibility of an institution as a museum, the following expansion of key words used in the definition will apply:

- a. Public. The institution is supported in whole or in part with public funds. Any museum established as a part of, and operated by a State or local government agency would be eligible to participate in the donation program as a part of the State or local government's eligibility as a public agency. Eligibility for these museums would be established with the State agency in the same manner as for any other public agency program.
- b. Nonprofit. The museum has documentary evidence of its tax-exempt status under section 501 of the Internal Revenue Code of 1954.
- c. Organized. The institution is a duly constituted body with expressed responsibilities. It has an organizing document (articles of incorporation or other written instrument by which it was created) affirming its legal existence and the purpose(s) for which it was formed.
- d. Permanent. The institution is expected to continue in perpetuity.
- e. Essentially for educational or esthetic purposes. The institution is organized and operated primarily for educational or esthetic purposes. It seeks to further public understanding and appreciation of science, history, art or culture by knowledgeable use of its objects.
- f. Professional staff. An institution uses a professional staff if it employs full-time at least one qualified staff member, whether paid or unpaid, who devotes his or her time primarily to the acquisition, care, or public exhibition of objects owned or used by the museum. For the purposes of this definition, a qualified professional is one who, by virtue of education, training, or experience is capable of making museological decisions consonant with the experience of his or her peers. No minimum qualifications are prescribed.
- g. Owns or uses tangible objects. The tangible objects, animate and inanimate, forming the museum's collection may either be owned by the institution or on loan to it. The objects, moreover, should reflect the museum's stated purpose(s) and have intrinsic value to science, history, art or culture.

h. Cares for these objects. The keeping of adequate records pertaining to ownership, identification and location of the museum's holdings and the application of current professionally accepted methods to their security and to the minimization of damage and deterioration.

i. Exhibits them to the public on a regular basis. The museum must be open to the public-at-large and have regular and predictable hours which constitute substantially more than a token opening, so that access is reasonably convenient to the public. An institution does not exhibit objects to the public for purposes of this definition if the display or use of the objects is only incidental to the primary function of the institution; e.g., an institution which is engaged primarily in the sale of antiques, objets d'art, or other artifacts and which incidentally provides displays to the public. That an institution lacks its own facilities for exhibits is not disqualifying of it exhibits objects through such means as educational programs or traveling exhibits.

j. Free or at a nominal charge. The museum either charges a small admission fee or it is open to the public free of charge.

Documentation needed to establish eligibility. In order to properly evaluate the eligibility of its museum applicants, State agencies should obtain documentation such as the following and any other relevant information which may be of value in making a determination. This is in accordance with FPMR 101-44.207(f)(1)(iii) which requires that sufficient details and specifics about an applicant's program and facilities be made available so that the State agency can determine the program eligibility qualifications of the applicant. The following should be of assistance in making this determination:

a. A detailed narrative description of the applicant's program, services, or activities. The following information should be included in the narrative:

(1) The size (in square feet) and a description of its physical facilities;

(2) The types of objects exhibited;

(3) Schedule in which the facility is open to the public without prearrangement;

(4) Amount of admission fees, if any (If the fee seems to be excessive, the museum should be asked to submit a statement explaining how the charges are determined, and whether the charges are based on providing its services to the public at the lowest feasible cost);

(5) Means used to advertise the museum for public patronage;

(6) Community and population served by the applicant; and

February 10, 1987

(7) Membership in, affiliation with, or other recognition by a local, State, regional or national museum organization. (This is only to evidence that the institution is operating as a museum. The FPMR imposes no requirement of accreditation or approval on museums.)

b. A roster of the institution's full-time staff members with their professional qualifications (training and experience), titles or positions, and general duties.

c. A photostatic copy of a ruling or determination letter from the Internal Revenue Service recognizing that the applicant is exempt from Federal income taxation under section 501 of the Internal Revenue Code of 1954.

d. A copy of the institution's charter, bylaws, or other governing instrument.

e. A copy of the applicant's current year budget and identification of amounts and sources from which funds are received.

f. A copy of any brochures, newsletters, catalogs, written advertisements, etc., describing the museum's programs and services.

MUSEUM ACCESS AGREEMENT

As part of the Federal Surplus Personal Property Donation Program eligibility requirements for “museums,” pursuant to Section 23 of Public Law 114-287 and Federal Management Regulation (FMR) Part 102-37, I agree that from an operational standpoint toward fulfilling our museum’s mission and function for the general public that

_____ will:
(Print Name of Museum)

Accede to any request submitted for access during typical “business” hours, interpreted here to be approximately 9:00am to 4:00pm, Monday through Friday, although a reasonable variation from these hours may be considered due to individual circumstances (e.g., location of museum requiring strict business hours that deviate from the aforementioned time parameter).

(Print Name of Chief Museum Official) (Title)

(Signature) (Date)

(Phone)

(Museum Address)

(City, State) (Zip)

**PROVIDER OF ASSISTANCE TO THE
IMPOVERISHED**



U.S. GENERAL SERVICES ADMINISTRATION
Federal Supply Service

MAR 3 1998

MEMORANDUM FOR CHIEF, PERSONAL PROPERTY MANAGEMENT BRANCH
2FBP, 2FBP-1, 3FP-W, 3FPD, 4FD, 5FBP, 6FBP, 7FMP,
7FP-8, 9FBP, 10FZP-O

DIRECTORS OF STATE AGENCIES FOR SURPLUS PROPERTY

FROM: DEIDRE HUBER *Deidre Huber*
DIRECTOR
PROPERTY MANAGEMENT DIVISION (FBP)e

SUBJECT: Eligibility and Compliance Guidance for the
Donation program under P.L. 105-50

The following guidance is furnished for determining eligibility and compliance of providers of assistance to the families and individuals whose annual incomes are below the poverty line as defined in Public Law 105-50 and further defined by FPMR temporary regulation H-30.

The law is specific in that it establishes eligibility for "providers of assistance to families or individuals whose annual incomes are below the poverty line (as that term is defined in section 673 of the Community Services Block Grant Act)". This means organizations that provide services or goods to the impoverished as their primary functions are eligible to receive property through the donation program to accomplish their mission and function. Activities that conduct outreach programs that are not operated primarily in support of the impoverished are not eligible.

In determining eligibility, the State Agency for Surplus Property (SASP) should follow the same principles and guidelines identified in 41 CFR 101-44.207(f). This would include having the program applicant provide:

A copy of the letter from the Internal Revenue Service or proof of granting it tax exempt status under section 501 of the Internal Revenue Code;

A detailed description of services and programs offered, including how it determines financial eligibility for its services;

Details on its physical facilities including hours its facility is staffed;

Washington, DC 20406

MAR 11 1998

Qualifications of staff and general duties as appropriate;

Copies of its charter, bylaws, articles of incorporation, and any program literature; and

Licenses for operation or proof of accreditation when required by State law or local ordinance (e.g., daycare center).

The applicant should provide evidence that it is publicly recognized as a provider of assistance to the impoverished. This may be accomplished in several ways. Examples are:

A letter of certification from a public official having responsibility for the programs for the impoverished (the mayor, county supervisor or the head of an agency that oversees programs). The documents should indicate that the services provided by the organization, requesting eligibility, are primarily provided to the impoverished and is recognized under the same name as the Section 501 status documentation.

Another means of validating eligibility is by its membership or affiliation with a national organization or group that provides support to the impoverished. The Second Harvest National Food Bank Network, Habitat for Humanity and the Salvation Army are examples of such organizations. Additionally, there are several Internet WEB sites that list organizations that work with the poor and impoverished. A few are as follows:

<http://www.guidestar.org>
www.nonprofits.org
www.give.org
www.bbb.org

The State Agencies should require as much documentation and information as necessary to make a valid determination. The above information is a start to making those determinations.

Nonprofit providers of services to the impoverished can receive property that will enable them to provide such services. (Examples: A nonprofit legal assistance office could receive office furniture and equipment to enable them to perform their mission. A nonprofit organization providing tutoring and literacy instructions likewise could receive appropriate equipment and supplies to support its mission.)

Community Action Programs, because they receive block grant funds to assist the impoverished, are now eligible to receive property. Again the type of property they could receive would be property needed to perform their mission.

Organizations that provide home construction or repair services could receive property that would include building supplies and

materials (consumables) and equipment to build or repair homes for the impoverished. This would include both consumable and non-consumable property. The consumable property would include major kitchen appliances (stoves, ranges, and refrigerators). These items would be consistent with property that is conveyed when one purchases a house and would not include furniture. Only those providers that can demonstrate that their primary mission is to provide household furniture to families or individuals with incomes below the poverty line would be eligible to receive a furniture for that purpose.

Organizations that distribute food to the impoverished would be authorized to receive food and equipment to handle food in the performance of their mission.

Organizations such as the Kiwanis, Rotary, Shriners, etc. generally would not qualify. However, these organizations may be the sponsor of an eligible program that does qualify. In those cases, they would be eligible to receive property in support of that specific program, but must be advised that the property is for use only in support of that specific program.

Organizations that obtain property through donations from the public and industry and then sell a portion of such property as part of means for raising funds must be advised that any property acquired through the donation program cannot be sold. All property must be used for the organization's own use or distributed to impoverished recipients. Reasonable controls must be in place to insure that donated Federal property is not sold and only donated or used in support of the impoverished.

Providers that distribute donated property to the impoverished, or use it in projects where it will become the private property of the impoverished, should have a system that provides a means to track donation/use of the property. Tracking consumable items of surplus property such as canned food or individual items of building supplies that are commingled with other similar types property may not be feasible. In this case, providers must keep track of the projects in which these items are used.

The SASP will be responsible for compliance checks and reviews as required by the FPMR and their State Plans of Operations. Compliance time frames will vary by the type of property as with other donees. Administrative equipment or equipment used in the performance of the organization's mission will have the standard 12 months to be placed in use and 12 or more months for the property to be used for the purpose for which it was donated before title passes. Consumable items (food and building supplies) would be considered as used for the purpose for which they were donated upon receipt by the eligible donee organization and included in the organization's inventory for distribution to individuals, families or project. However, the organization should have some means of tracking the distribution for all such property they handle.

The GSA reviews for eligibility and compliance will follow the same methodology used for eligibility and compliance for donations to providers of assistance to the impoverished as for all other donations. There will be no special emphasis on this new category of donee.

There will be no special reporting requirements for this category of donee. However, the statistics of donations to the impoverished are to be included in the normal GSA 3040 report. The temporary regulation implementing this new authority was published and effective on February 19, 1998, at 63 Federal Register 8351.

Questions concerning this guidance should be addressed to Bobe Goulet, Property Management Division, telephone number (703) 308-0374.



GSA Mid-Atlantic Region

October 16, 2003

Mr John D. Lippa
Director
Bureau of Supplies and
Surplus Operations
Commonwealth of Pennsylvania
2221 Forster Street
Harrisburg, PA 17125

Dear Mr. Lippa:

On August 11, 2003, Scott Pepperman of your staff forwarded via fax to our office a list of questions pertaining to the Public Law 105-50 Eligibility and Compliance Guidance provided in GSA Central Office's memorandum dated March 3, 1998. The majority of the questions you submitted seemed to focus more on compliance than eligibility.

Per below, addressing all your questions in the order you posed them in your August 11, 2003 fax transmission, we have attempted to supplement our Central Office's previous guidance on this subject:

PUBLIC LAW 105-50 ELIGIBILITY AND COMPLIANCE GUIDELINES

"Eligibility"

1) One important eligibility requirement for provider programs to the impoverished is a "letter of certification from a public official **having responsibility** for the program for the impoverished."

Clarification: The appropriate certifier "having responsibility" would be the chief public official or program director who has administrative oversight - this would be someone with sufficient knowledge of public assistance to the needy who can verify that the applicant's contribution of assistance in this area is significant. This could be the Mayor or other chief legislative official of a locality (as opposed to a lower level elected official such as a committee representative) or the lead official of a social services agency (as opposed to a clerical employee in the agency). *Recognize that where public agencies/programs are concerned, it is not sufficient for the chief administrator of the public applicant to endorse his/her own program.

U.S. General Services Administration
The Strawbridge's Building
20 North Eighth Street
Philadelphia, PA 19107-3191
www.gsa.gov

"Compliance"

2) One key compliance component for provider programs to the impoverished is that "reasonable controls must be in place to ensure that donated Federal property is not sold and **only donated or used in support of the impoverished.**"

Clarification: A) The ultimate intent of the property is to assist the impoverished and the provider program must demonstrate that the property is directly assisting the impoverished. A provider program must not acquire the Federal property simply to sell in order to offset its program expenses. B) The eligible provider of assistance to the impoverished (i.e. donee listed on the SASP's distribution document) "makes the donation" and the type of property donated should be appropriate based on the provider's mission. C) For consumable property, the provider program maintaining a written register of recipients is sufficient for satisfying terms and conditions. For nonconsumable property, a written register of recipients and their location is a vital control because the normal periods of restriction are still applicable. The provider program needs to be aware of this in its donation/distribution policy and procedures. D) The SASP's compliance responsibility is similar to any other donation transactions. E) If the eligible provider program's mission is "only to repair and then disseminate computers to other provider programs for the impoverished," it may be permissible for this initial donee to pass the donated property to other provider programs for the impoverished. However, that initial recipient who does the repairs would remain responsible from a compliance standpoint.

"Compliance"

3) One unique characteristic of property donations to provider programs for the impoverished is that "property can be used in projects where the property becomes private property of the impoverished."

Clarification: "Computers, vehicles or furniture" not tied to a building or repair project could be issued to an impoverished individual provided reasonable controls are in place. *Recognize that this kind of activity would depend on the mission of the organization that your agency deemed eligible and whether or not allowing Federal property to become private property fits that particular mission. "Reasonable controls" would be some type of donation procedure whereby the provider can track the location/use of the property distributed through the property's compliance period.

"Compliance"

4) Your agency questions whether "one donee organization can transfer property to another eligible organization for use as a provider for the impoverished."

Response: Donees should be acquiring Federal property for use to support the mission of their organization. If a donee was deemed eligible having a mission to support other

provider programs for the impoverished (such as the computer repair/reclamation program mentioned earlier under 2E), then the transfer activity posed above is feasible. There is a preference, however, that the SASP redistribute the property to the second provider with this type of transaction with the second provider then being the responsible entity. In this instance as in all instances where the impoverished are concerned, the SASP maintains its standard compliance oversight with such a transaction.

If you have any additional questions concerning this matter, feel free to contact me on (215) 446-5060.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph M. Hvorecky". The signature is written in a cursive style with a large, sweeping initial "J".

Joseph M. Hvorecky
Director
Property Management Division

Good Afternoon Joe. We have put together the following questions based on our meeting with you recently on some of the topics that we discussed. Thanks for your prompt attention to them.

Scott

ELIGIBILITY QUESTIONS FOR GSA

The Pennsylvania State Agency for Surplus Property has a question concerning Public Law 105-50 Guidelines for Eligibility and Compliance issued by the General Services Administration in Deidre Huber's memorandum of March 1998.

1. The guidelines indicate, "The applicant should provide evidence that it is publicly recognized as a provider of assistance to the impoverished. This may be accomplished in several ways."

- One of the ways is to provide "a letter of certification from a public official having responsibility for the program for the impoverished (i.e. the mayor, county supervisor or the head of an agency that oversees programs.)"

- Define what "having responsibility for" means. *CEO, LEAD official (not sec - not pastor of church)*

2. Also indicated in the aforementioned guidelines, is the statement that "All property must be used for the organization's own use or distributed to impoverished recipients. Reasonable controls must be in place to insure that donated Federal property is not sold and only donated or used in support of the impoverished"

- Define "only donated...in support of the impoverished"
- Who makes the donation and under what provisions?
- If the Provider makes the donation and maintains a register, are they making the donation on behalf of the federal government and thereby relieved of all accountability for use and compliance restrictions imposed by the transfer document?
- If yes, what would the State Agencies responsibility be in such a transaction?
- Can the Provider accomplish this through an other Provider organization? (An example might be a Provider that has a training program for the impoverished that repairs computers and then gives/donates them to a Provider who trains the impoverished on them and then donates them to the impoverished individual.)

Program does not sell to help its expenses - impoverished are being assisted

ASK #10900

Skill has compliance responsibility

The organization does type of property donated needs to be used by the impoverished

The next paragraph states "That providers that distribute donated property to the impoverished or use it in projects where it will become private property of the impoverished." It is stated that consumable items like food, clothing and building materials and certain non-consumable items used in housing projects may become the property of the impoverished. Also indicated in reference to housing building and repair projects. Providers whose primary mission is to provide furniture to the impoverished would be eligible to receive furniture for that purpose.

- Does that mean that Providers with a primary mission related to specific items like computers, vehicles or furniture, not used in a building or repair project, etc. could be issued to an impoverished individual with reasonable controls put into place?
- If so, what would GSA deem as reasonable controls?

ask summary

We also seek advice on the following questions:

- Can any donee organization, including Providers, transfer donated property to another eligible organization for use as a Provider for the impoverished?
- If yes, what would the State Agencies responsibility be regarding such a transaction?

not clear

Thank you.

RESCUES AND FIRE VOLUNTEER ORGS

July 16, 1980

11
"quasi-public"

PUBLIC SAFETY

404 - Volunteer Rescue Squads and Fire Departments

Reference is made relative to a determination of eligibility of volunteer rescue squads and fire departments that are nongovernmental in that they do not meet the criteria of being a public agency, but which are nonprofit and tax-exempt.

Public Law 94-519 sets out two basic categories of eligible donees. The first is any public agency is eligible when such property is used in carrying out or promoting for the residents of a given political area one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety. The second category is nonprofit educational or public health institutions, such as medical institutions, hospitals, clinics, health centers, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, child care centers, etc. The enumeration of the kinds of services is illustrative and not intended to be exclusive.

To meet the qualifications of a public agency, such agency, organization or institution must be supported in whole or in part with public funds. By public funds it is meant such funds as may have been appropriated by the State, county, or local government in support of the function performed. An organization supported by a grant or gift would not fall within the definition of a public agency. Therefore, a situation in which the county provides water and radios and authorizes the purchase of gasoline from county sources is not one which can be categorized as a public agency. However, if further evidence can be established that the volunteer fire department, even though not fully funded by the county, has been accepted by the county and considered as an integral part of its safety program and has been chartered as an approved fire department by the proper approving or authorizing authority of the county or State or local government, we perforce may accept such an organization as a quasi-public agency carrying out for the residents of a given political area one or more public purposes such as public safety. To arrive at such a conclusion with respect to the volunteer fire department, basic information suggested above should be furnished.

The same conclusion could be arrived at with respect to volunteer rescue squads which are frequently associated with county, State, or city hospitals, and the personnel have been trained under specific guidelines and approved by the local government involved, as trained and qualified to perform the functions of rescue squads. Again, the required specifics should be furnished prior to any definite judgment.

Some of the questions which need answering are: (1) Is the rescue squad affiliated with a health service--hospital, clinics, etc? (2) Is the

Appendix B

July 16, 1980

FSS P 4025.5

rescue squad one which has been approved or certificated by the proper health official of the community being served? (3) What is its basis for being designated a rescue squad and for what purpose? (4) With respect to funding, is it tax supported in whole or part, or is it only given grants or gifts of property or the use of property, and what is the legal authority for the gift or grant by the local government?

Appendix B



General Services Administration
Federal Supply Service
Washington, DC 20406

04 NOV 1996

MEMORANDUM FOR GREGORY M. FLORES
PERSONAL PROPERTY BRANCH CHIEF (5FBP)

FROM: VICTOR ARNOLD-BIK
CHIEF
PROPERTY MANAGEMENT BRANCH (FBPR)

Victor Arnold-Bik

SUBJECT: Eligibility Determination for "Rescue 40"
(Lisbon OH)

This is in response to your September 18, 1996, memorandum requesting the Property Management office review the eligibility file for "Rescue 40", a non-profit, tax exempt activity.

After reviewing the information submitted, the following eligibility determination concerning "Rescue 40" is furnished.

Section 203(j) (3) (B) of the Federal Property and Administrative Services Act of 1949, as amended, (The Property Act) was checked for possible eligibility as nonprofit educational or public health institution. Rescue 40, although a nonprofit tax exempt organization, does not meet the provisions of this section of the Property Act. The volunteer rescue organization is not identified as a public corporation for public purpose nor is it indicated in the application that it is receiving an appropriation of public funds from the State of Ohio, a county or local government. It is noted that the Middleton Township Trustees, Negley, Ohio and Rescue 40 entered into an agreement to pay \$300 to Rescue 40 for services rendered. It should be noted that in paragraph 2, sentence 2 begins with "Contract is subject to yearly renewal" and paragraph 3 specifies that either party may terminate the agreement with 30 days written notice. The funds identified in this agreement, \$300, does not constitute an appropriation of public funds. Although public funds are used it is in payment for services rendered under the agreement or contract. This type of payment would equal the payment under any contract for services and is distinguishable from being an entity appropriated with public funds.

It is noted that the Great Lakes Region had made determinations of ineligibility previously which this office agrees with. The rationale for the determination was based on the lack of public funding for the activity which apparently has not changed.

OPTIONAL FORM 98 (7-90)

Federal Recycling Program



FAX TRANSMITTAL

of pages = 2

To	JOE HVORECKY	From	DOUG JANKA
Dept./Agency	PER CONVERSATION	Phone #	513-755-6594
Fax #	215-656-3946	Fax #	513-755-7461

In response to your concern regarding whether proof of receipt of public funds is required by GSA policy, I direct your attention to the donation handbook (FSS P 4025.5) appendix B, cases 402 and 404 address similar situations. The determination made by the regional office is consistent with that made under case 404. There is no required form for substantiating receipt public fund, but the controller's office of the agency with which the rescue squad is claiming affiliation should be able to provide information regarding whether the Rescue 40 entity is supported in whole or in part with public funds.

Therefore, we agree with your prior conclusion that Rescue 40 is not eligible to receive surplus Federal property under the GSA donation program. To become eligible, Rescue 40 would have to demonstrate that it meets the qualifications of a public agency by proving that it is supported in full or in part by public funds. In addition, several specific questions which must be answered prior to determining eligibility of Rescue 40 are contained in the above referenced donation handbook cases.

In response to your concerns for eligibility requirements of volunteer fire departments and crash/rescue squads it is felt, that the Federal Property Management Regulations (FPMR), paragraph 207, gives enough detailed information for determining eligibility. Additionally the cases cited in the donation handbook cover such situations to aid the region in making eligibility determinations.

If you have any questions concerning this matter please contact Bob Goulet of this office.



OFFICE OF LEGAL AND LEGISLATIVE SERVICES

Finance and Administration Cabinet
 Capitol Annex Building
 Frankfort, Kentucky 40601
 (502) 564-6660

TO: Doug Lathrem, Branch Manager
 Surplus Property Branch
 Division of Properties

FROM: Charles D. Wickliffe
 General Counsel

DATE: October 12, 1990

SUBJECT: Volunteer Fire Departments

This is responsive to your request for advice as to whether volunteer fire departments are considered public agencies for purposes of participating in the Federal Surplus Property Program administered by the Surplus Property Branch. You advise that regulations pertaining to the Federal program stipulate that "... organizations applying for eligibility to participate must submit proof that they are either nonprofit and tax exempt under Section 501 of the Internal Revenue Service Code, or that they are a public agency." The United States General Services Administration has advised that if volunteer fire departments are considered public agencies by the State, they will be deemed eligible to participate in the program.

Organized volunteer fire departments may be considered, for all intents and purposes, to be public agencies, whether they are taxing districts, or they exist on the basis of private contributions raised by various fund activities ranging from bake sales to car washes. (See, e.g., KRS 75.010(1) and KRS 65.182.)

The General Assembly has established a volunteer fire department aid fund financed through a surcharge on fire insurance premiums. KRS 17.250. This fund is used, inter alia, to help finance training for volunteer fire fighters and the purchase of equipment for volunteer fire departments. KRS 61.316 authorizes the payment of a death benefit to the spouse of any volunteer fire fighter who dies in line of duty, the same as for law enforcement officers and professional fire fighters, who die in line of duty. KRS 61.315.

A "volunteer fire fighter" is defined in KRS 61.316, as

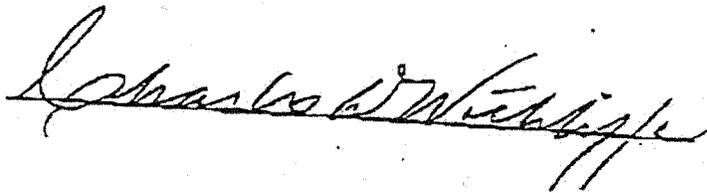
"... any person who is a member of or employed by a volunteer fire department of any

elig

Doug Lathremo
Page 2
October 12, 1990

county, city, fire district or other organized volunteer fire department operated and maintained on a nonprofit basis in the interest of health and safety of the inhabitants of this Commonwealth."
(Emphasis supplied.)

Based on these authorities, it is concluded that any organized volunteer fire department whose members meet the above definition of "volunteer fire fighter" may be properly considered to be a "public agency" for purposes of participating in the Kentucky State Government's surplus property program, and, subject to acceptance by the General Services Administration, the Federal surplus property program, administered by the Surplus Property Branch.



cc: Don Speer

VETERAN ORGS AND MILITARY MUSEUMS

Eligibility for Veteran's Organizations Participation in the Donation Program

INTERIM GUIDANCE UNTIL ADDITION OF VETERANS ORGANIZATIONS IN THE CODE OF FEDERAL REGULATIONS, TITLE 41, CHAPTER 102-37

The FOR VETS Act of 2013 expands the authority for certain Veterans Organizations to participate in the Donation Program. The statute establishes those organizations eligible to participate as organizations whose membership comprises substantially veterans (as defined under section 101 of title 38) and whose representatives are recognized by the Secretary of Veterans Affairs under section 5902 of title 38.

The definition of veteran is pretty straightforward as cited in title 38:

The term "veteran" means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

For the purposes of eligibility, "membership comprises substantially veterans" means an organization that is made up of at least 33% veterans in that organization. Local chapters, districts, or other organizational entities of the organization (as many of the "recognized" organizations are national organizations) may be considered as such veterans organizations.

Current listing of organizations whose representatives are recognized by the Secretary of Veterans Affairs under the applicable reference remains unchanged. They are:

- African American PTSD Association
- American Ex-Prisoners of War, Inc.
- American GI Forum National Veterans Outreach Program
- American Legion
- AMVETS
- Armed Forces Services Corporation
- Army and Navy Union, U.S.A., Inc.
- Associates of Vietnam Veterans of America
- Blinded Veterans Association
- Catholic War Veterans of the U.S.A., Inc.
- Disabled American Veterans
- Fleet Reserve Association
- Gold Star Wives of America, Inc.
- Italian American War Veterans of the United States, Inc.
- Jewish War Veterans of the U.S.A.
- Legion of Valor of the United States of America, Inc.
- Marine Corps League
- Military Order of the Purple Heart
- National Amputation Foundation, Inc.
- National Association for Black Veterans, Inc.
- National Association of County Veterans Service Officers
- Navy Mutual Aid Association
- Non Commissioned Officers Association of the U.S.A
- Paralyzed Veterans of America
- Polish Legion of American Veterans, U.S.A

The Retired Enlisted Association
United Spanish War Veterans
United Spinal Association, Inc.
Veterans of Foreign Wars of the United States
Veterans of the Vietnam War, Inc. & the Veterans Coalition
Vietnam Era Veterans Association
Vietnam Veterans of America

As now placed in Section 549, Title 40 of the United States Code, veterans organizations are simply that. They are not required to be nonprofit, tax exempt organizations and the usage requirement, previously stated that they acquire surplus personal property for the purposes of education or public health, no longer exists. The only requirement now specified in the statute is that property is donated for "purposes of providing services to veterans". This opens up donation for a myriad of new purposes and allows the SASPs to even support programs such as for homeless veterans, if operated by an eligible veterans organization.

6.a Direct Removal of Property. When the donee elects to pickup property from the DRMO, the individual must be properly identified. Upon arrival at the DRMO, the individual shall identify themselves, sign the DRMS Visitor/Vehicle Register, and indicate the purpose of their visit. SEA National Organizations shall present identification as prescribed in F 1 of this chapter. In the case of SEA non-National Organizations, the sponsoring Military Service shall provide the DRMO with a letter (original not a copy) identifying the accountable officer, or designee authorized to sign requisitions. The letter shall include the full name, activity, DoDAAC, telephone number, and address of individuals authorized to sign requisitions (SF 123) on behalf of the accountable officer. This letter will be updated at least annually.

7.a All other donees, having properly identified themselves, may remove property upon a DRMO's receipt of a fully executed SF 123.

a.a All transportation costs shall be borne by the SASP or designated donee who is responsible for removing the property or for making arrangement with common carriers for its shipment. The DRMO may not act as agent or shipper. Until release, each DRMO is responsible for the care and handling of its property. Only direct costs of care and handling incurred in the actual packing, crating, preparation for shipment, and loading shall be paid by the SASP or designated donee. These costs shall be those actual or carefully estimated costs incurred by DoD activities for labor, material, or services used in accomplishing donation of property.

b.a Advance payment for care and handling costs normally shall be required; however, a State and local governmental units may be exempted from this requirement and authorized to make payment within 60 days from date of receipt of property. Advance payment, however, may be required in any case where there is a question with respect to prompt payment after billing, especially where there has been previous unsatisfactory experience.

8.a Late Requests. Except under extreme circumstances, surplus property which has been made available for donation and not requested prior to the end of the Blue Light period, is not subject to donation after such property has been reported for sale and a solicitation was prepared in final format. Donees requesting property after it has been reported for sale shall be advised to submit their request to the Central Office, GSA, for coordination with DLA and final determination. If the request is approved, DLA shall advise DRMS that an approved SF 123 shall be provided through normal channels. Other donees requesting property after the end of the Blue Light period shall be advised that the property is no longer available for donation.

H.a SPECIAL DONATIONS (GIFTS), LOANS AND EXCHANGES^a

1. Under 10 USC 2572, the Secretary of a Military Department or the Secretary of the Treasury, subject to regulation under 40 USC 486 and under department regulations, is permitted

DoD 4160.21-M

to lend, give or exchange for historical, ceremonial or display purposes, without expense to the United States, books, manuscripts, works of art, drawings, plans, models and condemned or obsolete combat material that are not needed by that department. Except for relevant records for aircraft and associated engines and equipment, (except for those authorized under 10 USC 2572) records of the Government may not be released.

a. The following types of organizations are authorized to receive loans and donations:

(1) Veterans' Organizations

(a) Posts or local units of recognized war veterans' organizations shall include the written approval of their national HQ with their applications for loan or donation of property.

1. Veterans's organizations must be sponsored by a Military Service, The Services approve organizations based on their size and purpose, the Services rendered to veterans, and the requirement that the organization be composed of honorably discharged American soldiers, sailors, airmen, Marines, or coast guardsmen.

2. Organizations seeking Service approval shall submit to the Service a statement that the veterans' organization is composed of personnel honorably discharged from the Service and the following information:

a. Citation to, or a copy of, the act granting charter or recognition as a bona fide veterans' organization (Federal or State).

b. Statement outlining the purpose of the association and the intended use of the requested property.

c. Names, titles, and addresses of all officers.

d. Copy of the last financial statement.

e. Copy of the constitution or charter and by-laws of the association.

f. Total membership.

(b) A local or national unit of any war veterans association of a foreign nation which is recognized by the national government of that nation (or by the government of one of the principal political subdivisions of that nation).

(2) Soldiers' Monument Association

(3) Museum

(a) Types of Museums:

1 State Museum. A museum established and operated by any of the 50 State governments.

2 Incorporated Museum. An incorporated museum operated and maintained for educational purposes only, whose charter denies it the right to operate for a profit. (Must be chartered as a nonprofit educational museum by the State in which the facility is located and determined by the Internal Revenue Service to qualify for tax exemption.) Foreign Civilian museums must meet and equal or have similar standards under appropriate law.

3 Foreign Museums. A museum established and operated by a foreign nation's government or principal subdivision of that nation.

(b) Military Services shall ensure museums meet the following criteria:

1 Meet state (or equivalent foreign national) criteria of a state or incorporated, not for profit museum,

2 Have an existing facility suitable for the display and protection of the type of property desired for loan or donation. If the requester has a facility under construction which will meet those requirements, interim eligibility may be granted when the project can reasonably be expected to meet the requirement in terms of item and configuration.

3 Have a professional staff which can care for and accept responsibility for the loaned or donated property,

4 Have assets which, in the determination of the loaning/donating service, indicate the capability of the loanee/borrower to provide the required care and security of historical property.

5 The Curator of a Military Service shall maintain an official record of all DoD material on loan to an approved museum.

NOTE: The individual Military Services may establish different eligibility requirements dependent upon the unique nature of the specific historical armored vehicles, aircraft, vessels, etc.).

(4) Municipal Corporation. A city, borough, or incorporated town

(5) A Post of Sons of Veterans Reservee

(6) Historical Societies or Historical Institutions of a State or Foreign Nation.

Eligibility for Veteran's Organizations Participation in the Donation Program

INTERIM GUIDANCE UNTIL ADDITION OF VETERANS ORGANIZATIONS IN THE CODE OF FEDERAL REGULATIONS, TITLE 41, CHAPTER 102-37

The FOR VETS Act of 2013 expands the authority for certain Veterans Organizations to participate in the Donation Program. The statute establishes those organizations eligible to participate as organizations whose membership comprises substantially veterans (as defined under section 101 of title 38) and whose representatives are recognized by the Secretary of Veterans Affairs under section 5902 of title 38.

The definition of veteran is pretty straightforward as cited in title 38:

The term "veteran" means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

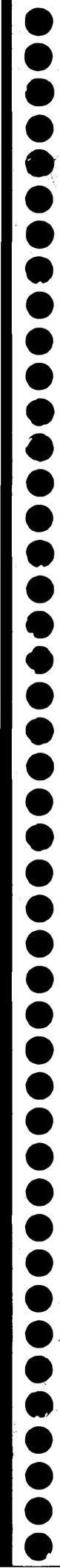
For the purposes of eligibility, "membership comprises substantially veterans" means an organization that is made up of at least 33% veterans in that organization. Local chapters, districts, or other organizational entities of the organization (as many of the "recognized" organizations are national organizations) may be considered as such veterans organizations.

Current listing of organizations whose representatives are recognized by the Secretary of Veterans Affairs under the applicable reference remains unchanged. They are:

- African American PTSD Association
- American Ex-Prisoners of War, Inc.
- American GI Forum National Veterans Outreach Program
- American Legion
- AMVETS
- Armed Forces Services Corporation
- Army and Navy Union, U.S.A., Inc.
- Associates of Vietnam Veterans of America
- Blinded Veterans Association
- Catholic War Veterans of the U.S.A., Inc.
- Disabled American Veterans
- Fleet Reserve Association
- Gold Star Wives of America, Inc.
- Italian American War Veterans of the United States, Inc.
- Jewish War Veterans of the U.S.A.
- Legion of Valor of the United States of America, Inc.
- Marine Corps League
- Military Order of the Purple Heart
- National Amputation Foundation, Inc.
- National Association for Black Veterans, Inc.
- National Association of County Veterans Service Officers
- Navy Mutual Aid Association
- Non Commissioned Officers Association of the U.S.A
- Paralyzed Veterans of America
- Polish Legion of American Veterans, U.S.A

The Retired Enlisted Association
United Spanish War Veterans
United Spinal Association, Inc.
Veterans of Foreign Wars of the United States
Veterans of the Vietnam War, Inc. & the Veterans Coalition
Vietnam Era Veterans Association
Vietnam Veterans of America

As now placed in Section 549, Title 40 of the United States Code, veterans organizations are simply that. They are not required to be nonprofit, tax exempt organizations and the usage requirement, previously stated that they acquire surplus personal property for the purposes of education or public health, no longer exists. The only requirement now specified in the statute is that property is donated for "purposes of providing services to veterans". This opens up donation for a myriad of new purposes and allows the SASPs to even support programs such as for homeless veterans, if operated by an eligible veterans organization.



SERVICE EDUCATIONAL ACTIVITIES



U.S. GENERAL SERVICES ADMINISTRATION
Federal Supply Service

FEB - 2 1999

MEMORANDUM FOR CHIEF, PERSONAL PROPERTY MANAGEMENT BRANCH
2FBP, 2FBP-1, 3FP-W, 3FPD, 4FD, 5FBP, 6FBP, 7FMP,
7FP-8, 9FBP, 10FZP-O

Directors, State Agencies for Surplus Property

FROM:

DEIDRE HUBER *Deidre Huber*
DIRECTOR
PROPERTY MANAGEMENT DIVISION (FBP)

SUBJECT:

Guidelines for Service Educational Activities
Support by State Agencies for Surplus Property

The attached guidelines are furnished for your use in supporting
Service Educational Activities (SEAs). Additionally, you will
find the list of nationally recognized organizations and the
service points of contact.

Attachments

*SEND SEA Requests to:
Office of the Undersecretary of
Defense
L/M/R/M
3000 Defense Pentagon
Washington, DC
20301-3000*

FEB - 2 1999

Washington, DC 20406

*Can only obtain
DOD property*



SERVICE EDUCATIONAL ACTIVITIES (SEAs)

GUIDELINES

The following operational guidance is furnished regarding the support of the Service Educational Activities (SEAs).

GSA will transfer/allocate DOD surplus property to State Agencies for Surplus Property (SASPs) for donation to SEAs, in the same manner as other donees. The SEAs are subject to the same terms and conditions for donated property as other donees except for those conditions specified in FPMR 101-44.208(a)(3) and (4). SASPs shall distribute property, provide oversight and monitor compliance of SEA donees. DOD will continue to determine SEA eligibility.

~~Property Generation:~~ GSA will transfer surplus personal property under the control of DOD (paragraph 203(j)(2)), to SASPs for distribution to SEAs. Allocation of surplus personal property will be made in accordance with FPMR 101-44.2. Surplus property generated by Federal civil agencies is not eligible for donation to SEAs.

~~Type Property Restrictions:~~ Nationally approved SEAs have no limits as to what type of DOD property the SEAs identified under the national programs can obtain.

Service approved SEAs will be limited to the type of property identified in the property table of allowance identified by the Military service as part of their acceptance/approval as a SEA.

~~Eligibility Determination:~~ The Department of Defense through the Defense Logistics Agency (DLA) and the Military Services will determine eligibility. GSA Property Management Division will furnish the list of eligible national organizations to the GSA Regional offices and the SASPs.

Service approved SEAs will be identified on a case-by-case basis within each State as the activity applies for eligibility and support from the SASP. The SEA will verify that an activity is a service approved SEA using the letter or other official documents that the Service issued to indicate the activity approval/acceptance as an SEA.

An IRS 501 determination does not need to be maintained in the SEA donee files as eligibility is based on the DOD determination.

SEA eligibility files will be maintained separately from other donee files for ease of review. The files will have a copy of the official Service determination or appropriate documentation recognizing the activity as a member of a national recognized organization. Such documentation could include a copy of the activity's charter or

certification identifying the activity as a recognized entity of a national organization or the official Service approval documentation whichever is applicable.

~~Level of support:~~ SASPs will determine the level at which they will support the national organizations (troop, unit, local council, or combination, etc).

National organization SEAs that have operations in multiple State jurisdictions should apply for eligibility for support in each State where they have an operational entity.

~~Compliance:~~ The SASPs will be responsible for compliance checks and reviews as required by the FPMR and their State Plans of Operation. Compliance time frames will be the same as for all other donees. At the time donable surplus property is acquired by a donee, the donee's authorized representative shall indicate on the SASPs distribution document the primary purpose for which the property is to be used.

~~Service and Handling Charge:~~ The SASPs may assess the normal service and handling charges for property donated to SEAs.

~~Forms:~~ SASPs will use their State agency distribution document when distributing property to SEAs.

~~Terms and Conditions:~~ The standard restrictions that apply are as follows: (1) the property must be placed into use within 12 months from date of receipt; (2) if property is not placed in use for the purposes for which it was donated within 1 year of donation or ceases to be used by the donee for those purposes within 1 year of being placed in use, the donee shall return the property to the SASP at its own expense. Non-combat aircraft and vessels will continue to be in use for 60 months from the date the property was placed into use; the restriction on combat aircraft shall be in perpetuity.

The SASPs cannot impose any additional terms and conditions, or use limitation, other than those listed above.

The property may be warehoused the minimal amount of time (the time it takes to process the donation).

~~Return of Property:~~ The SEA will return property under the same guidelines as other donees

Property requiring DEMIL shall be returned, controlled and disposed of in the same manner as other DEMIL property in the hands of a donee.

3040 Reporting. SASPs will indicate transfers to SEAs in the remarks section of the report. Regional staff will include a report for SEAs in the same manner as providers of assistance to the homeless.

The GSA State reviews will include the SEA donees during the review process.

17 '98 10:25

American Red Cross
Attn: Mr. William Wynn
1401 Lockport Place
Arlington, VA 22079
703-781-1007

Big Brothers/Big Sisters of America
Attn: Al Wardler
North 13th Street
230 Philadelphia, PA 19107-1538
215-567-7000

Armed Services YMCA of the USA
Attn: Sal Mirkarimi
1225 Brandon Avenue, Ste 215
Springfield, VA 22150-2510
703-866-12608

Boys & Girls Clubs of America
Attn: Mr. Les Nichols
1230 W. Peachtree St NW
Atlanta, GA 30309-3447
404-815-57468

Boy Scouts of America
Attn: Carl Christensen
1325 W. Walnut Hill Lane
Irving, TX 75015-2079
972-580-2214

Camp Fire Boys and Girls
Attn: Mr. Jim Cleary
4601 Madison
Kansas City, MO 64112-1278
816-756-1950 ext 3048

Center For Excellence In Education
Attn: Maite P. Ballesterro
7710 Old Springhouse Road Suite 100
McLean, VA 22102
703-448-9062

Civilian Marksmanship Program
Attn: David Willis, Col (Ret)
Eric Industrial Park Bldg 650
Port Clinton, OH 43452
419-635-2141

Girl Scouts of the USA
Agency Vizhinay
120 Ruth Avenue
New York, NY 10018-2702
212-852-80008

Little League Baseball, Inc.
Attn: Mr. James Stopper
PO Box 3485 Rt 15
So. Williamsport, PA 17701
717-326-1921

Marine Cadets of America
Attn: George F. Keyes, Col (Ret)
Naval & Marine Corps Reserve Ctr Ft Nathan Hale Park
New Haven, CT 06512-3694
703-468-87628

Marine Corps League
Attn: Mr. Robert Becker, Jr.
PO Box 3070
Merrifield, VA 22116
703-207-9588

NAFEO
Attn: Dr. Henry Ponder
1701 Georgia Ave Ste 200
Silver Springs, MD 209108
410-650-24408

National Ski Patrol
Attn: Ms. Frankie Barr
133 South Van Gordan Ste 100
Lakewood, CO 80228
303-988-1111

JS Olympic Committee
Attn: Mr. Ron Karolick
750 East Boulder Street
Colorado Springs, CO 80909-5760
719-578-4634

US Naval Sea Cadets
Attn: Cpt Michael Ford
2300 Wilson Blvd
Arlington, VA 22201-3308
703-243-6910

Young Marines of the MLC
Attn: Mr. James Parker
PO Box 70735 Southwest Station
Washington, DC 20024-0735
202-8745

8HQrs Air Force ROTC/CLG
Attn: Mr. Charles Worthy
551 E. Maxwell Blvd8
Maxwell AFB, AL 36112-61068
334-953-2845

Service POC

US Army Cadet Cmd
Attn: ATCC-RM (Bittenbender)
11 Monroe, VA 23651-5000
57-727-4658

Service POC

Dept of Navy JROTC - Attn: Cmd Shoody
Attn: Chief of Naval Education Code N2/085
250 Dallas Street
Pensacola, FL 32508-5220
850-452-4950 ext 3288

Service POC

9 (TUE) 15:17 FBP

TEL: 703 557 272891415748

P. 006-

C 17 '98 10:26

PAGE. 002

SO World Headquarters
ATTN: Mr. Al Hessler
11 Indiana Ave
Washington, DC 20004
2-610-6477

HQ US Marine Corps (LPP-2)
ATTN: Mr. George Barchuk
2 Navy Annex
Washington, DC 20380-1775
703-696-1052

Service
POC

Educational Activities of Special Interest to the Armed Services

Certain schools and the following national organizations are eligible to receive donations of Department of Defense (DoD) surplus property:

- American National Red Cross;
- Armed Services YMCA of the USA;
- Big Brothers/Big Sisters of America;
- Boys and Girls Clubs of America;
- Boy Scouts of America;
- Camp Fire, Inc.;
- Center for Excellence in Education;
- Girl Scouts of the USA;
- Little League Baseball, Inc.;
- Marine Cadets of America;
- National Association for Equal Opportunity in Higher Education;
- National Civilian Community Corps;
- National Ski Patrol System, Inc.;
- Naval Sea Cadet Corps;
- United Service Organizations, Inc.;
- U.S. Olympic Committee;
- Young Marines of the Marine Corps; and
- League/Marine Corps League.

These Service Educational Activities (SEAs) have a formal donation agreement with DoD that outlines the general terms and conditions for obtaining DoD surplus property. State Agencies for Surplus Property (SASPs) can provide general information concerning designation of schools or organizations as an SEA. Formal designation as an SEA comes from the Department of Defense.

Individual units of the national organizations, such as Boy Scout or Girl Scout Troops and Red Cross Chapters, should contact their regional or national headquarters for guidance regarding the donation and use of DoD surplus property.

Schools with military training programs (such as military junior colleges, military institutes, high schools that host a Junior Reserve Officer Training Corps unit or a National Defense Cadet Corps unit, naval honor schools, and state maritime academies) should contact their sponsoring military service.

SBA 8(A) PROGRAMS

MEMORANDUM OF AGREEMENT BETWEEN
THE U.S. SMALL BUSINESS ADMINISTRATION,
THE U.S. GENERAL SERVICES ADMINISTRATION
AND
THE STATE AGENCY FOR SURPLUS PROPERTY
FOR THE STATE OF

I. PURPOSE:

This Memorandum of Agreement (MOA) is entered into between the U.S. Small Business Administration (SBA), the U.S. General Services Administration (GSA), and the State Agency for Surplus Property (SASP) for the State of _____, to set forth the terms and conditions with respect to Federal surplus property which is transferred to 8(a) Business Development (BD) Program Participants (Participants).

II. AUTHORITY:

- a. The Small Business Act provides that eligible 8(a) BD Program Participants may receive Federal surplus property in accordance with 15 U.S.C. § 636(j)(13)(F).
- b. SASPs may enter into cooperative agreements with Federal agencies designated by GSA in accordance with 40 U.S.C §549(f)(1)(D).
- c. At any time there is a dispute regarding the terms of this MOA, the provisions of 40 U.S.C §549 and 41 CFR Chapter 102 shall prevail.

III. CONDITIONS:

a. USE: Eligible Participants may obtain Federal surplus property from the SASP in the State(s) where the Participant is located and operates, provided the Participant represents and agrees in writing:

(1) That the intended use of the property is consistent with the objectives of the Participant's 8(a) business plan;

(2) That it will use the property to be acquired in the normal conduct of its business activities;

(3) That it will not sell or transfer the property to any party during its term of participation in the 8(a) BD Program and for one year after it leaves the 8(a) BD Program, unless it has received express written authorization to dispose from the SASP and GSA pursuant to 41 CFR §102-37.320.

(4) That it will use the property as intended within one year of receipt;

(5) That it will give SBA, GSA, and/or the SASP access to inspect the property and all records pertaining to it; and

(6) That should the Participant violate any of the paragraphs above, the

Participant will return the property to the donating SASP at the Participant's expense, or if the Participant has sold, transferred, or otherwise disposed of the acquired surplus property in violation of the agreement covering sale and disposal, the Participant will be liable to the Federal Government for the Fair Market Value (as determined by GSA or the donating SASP) or the sale price of the property, whichever is greater.

(7) For Federal surplus property that is damaged or non-working that an 8(a) Participant received directly from a Federal agency and not picked up from a SASP location, the 8(a) Participant shall immediately contact the coordinating SASP's point of contact (POC) to return the property for a refund in accordance with the SASP's State Plan of Operation no later than 7 business days after receiving the property. NOTE: No service charge refund or credit will be allowed on returned property which was screened by the Participant directly at a Federal holding agency unless there is evidence of concealed damage or condition misrepresentation at the time of actual screening by the Participant. The final determination will be made by the SASP Program Administrator and favorable rulings will conform to the refund procedure of the SASP's State Plan of Operation.

(8) TITLE: Title to Federal surplus property other than an aircraft or vessel, as defined in 41 CFR 102, acquired from a SASP will pass to the Participant when the Participant executes the applicable SASP distribution documents and takes possession of the property. In all cases, regardless of title passage, the conditions of use, including sale and transfer restrictions, in Section III and compliance requirements in Section IV(c) still apply.

b. AIRCRAFT AND VESSELS:

(1) Terms and conditions of donations of aircraft and vessels, specified at 41 CFR 102-37.460 apply to donations of such items to 8(a) Participants as well.

(2) Aircraft and Vessel donations have a mandatory five year period of restriction that begins when the aircraft or vessel is placed in use for the purpose stated in the letter of intent. SBA's 8(a) BD Program Participants must have at least five years remaining in the 8(a) BD Program to be eligible for Aircraft or Vessel donations.

(3) The aircraft or vessel must be placed in "USE" for the purpose for which it was acquired no later than one year after acquisition.

(4) Conditional title to a surplus aircraft or vessel, as defined in 41 CFR 102, acquired from a SASP will pass to the Participant when the Participant executes the applicable SASP distribution documents and takes possession of the property. Full title for an aircraft (other than combat configured aircraft) or vessel, will not pass until the following conditions are met: (1) the Participant has placed the property in "USE" for five

years and (2) one year has passed since the Participant graduated from the SBA 8(a) BD Program. In all cases, regardless of title passage, the conditions of use, including sale and transfer restrictions, in Section III and compliance requirements in Section IV(c) still apply. (Title for combat configured aircraft never passes; therefore SBA, GSA, and the SASP will not approve any request for combat configured aircraft.)

c. FOREIGN GIFTS: SBA, GSA, and the SASP will not approve any request for Foreign Gifts.

d. FAIR MARKET VALUE: GSA or the donating SASP shall determine fair market value in accordance with commercially recognized means of (1) appraisal conducted by an appraisal firm or trade organization or (2) retail value valuation ascertained by reviewing current and reliable non-discounted retail catalogs, retail price lists, or retail Website valuations.

IV. THE SBA SHALL:

a. EDUCATION: Assist in educating Participants on the availability of Federal surplus property and the terms, conditions, and limitations of use.

b. PROCEDURES AND VERIFICATION OF ELIGIBILITY: After the SASP has received the 8(a) Participant's certification of eligibility in accordance with 13 CFR 124.405(d), the SASP shall submit to the servicing SBA District Office Attachment 1, Property Request, to validate the eligibility of the 8(a) Participant for receipt of property. SBA will submit their written approval to the servicing SASP.

c. COMPLIANCE:

(1) SBA will periodically review whether Participants that have received Federal surplus property have used and maintained the property as agreed. This review may include site visits to visually inspect the property to ensure that it is being used in a manner consistent with the terms of its transfer. SBA shall utilize the SASP's quarterly inventory listing to report at the end of each fiscal year to GSA a consolidated list of all Federal surplus property items released to its 8(a) Participants. The list will include: the name of the 8(a) Participant and the donating SASP, the invoice number(s) and a description of the property, date of acquisition, and if the property has been disposed of. The list will be submitted to the Director of the Utilization and Donation Program Division, GSA Office of Personal Property Management.

(2) Where SBA receives credible information that transferred Federal surplus property may have been disposed of or otherwise used in a manner that is not consistent with the terms of the transfer, SBA may investigate such a claim to determine its validity.

(3) SBA may take any action to correct any noncompliance involving the use of transferred property still in possession of the Participant or to enforce any terms,

conditions, reservations, or restrictions imposed on the property by the distribution document. Actions to enforce compliance, or which may be taken as a result of noncompliance, include the following:

- (i) Requiring that the property be placed in proper use within a specified time;
- (ii) Requiring that the property be returned to the donating SASP;
- (iii) Recovering the Fair Market Value of the property, as determined by GSA or the donating SASP, or the sale price of the property, whichever is greater; or
- (iv) Initiating proceedings to terminate the Participant from the 8(a) BD Program.

(4) GSA will provide guidance and/or advice on Compliance-related issues when requested by SBA. GSA Points of Contact for assistance on Compliance-related issue are listed in Section VI(c) of this document.

V. THE SASP SHALL:

a. RELEASE OF PROPERTY: Be responsible for releasing property to Participants.

b. VERIFICATION OF ELIGIBILITY: Prior to allocating any property, the SASP shall have in its possession a determination from SBA that the Participant seeking to acquire the Federal surplus property is eligible and that the identified use of the property is consistent with the Participant's business plan objectives. A SASP may not release property to a Participant without this verification.

c. FEES: Charge Participants fees in the same manner that they are assessed for other donees under the Federal surplus personal property program in accordance with 40 U.S.C. §549.

d. RECORDS: Maintain accurate records on all property transferred to Participants, including the acquisition value, fees, and the number of 8(a) Participants registered with the SASPs and provide such information to SBA's Office of Program Review quarterly, Attn: Randy Greene at randy.greene@sba.gov.

VI. POINTS OF CONTACT

a. SBA:

Sharon A. Gurley
sharon.gurley@sba.gov
202-205-7084
Director, Office of Program Review
Office of Business Development

b. GSA

Cynthia Gardiner
cynthia.gardiner@gsa.gov
703-605-2758
Director
Utilization and Donation Program Div.
Office of Personal Property Management

c. GSA POCs for Compliance Notification and Assistance

POC	Title	Areas of Oversight
Greg Flores greogry.flores@gsa.gov 312-209-0208	Program Specialist, Mid-Atlantic Zone	CT, DE, MA MD, ME, NH, NJ, NY, PA, PR, RI, VI, VT, VA, WV and DoD Vessels
Kevin Stallings kevin.stallings@gsa.gov 404-331-1110	U&D Chief, Southeast-Great Lakes Zone	AL, FL, GA, IN, IL, KY, MI, MN, MS, NC, OH, SC, TN, WI and Civilian Vessels
Lori Mars lori.marrs@gsa.gov 817-850-8148	U&D Chief, Southwest-Central Zone	AR, CO, KS, IA, LA, MO, MT, ND, NE, NM, OK, SD, TX, UT AND WY IA, KS, MO, NE, AR, LA, NM, OK, TX, CO, MT, ND, SD, UT, WY
Sandra Klar sandra.klar@gsa.gov 415-522-3041	U&D Chief, Pacific Rim Zone	AK, AS, AZ, CA, GU, HI, ID, MP, NV OR, WA and All Aircraft
Rickey Parker rick.parker@gsa.gov 202-619-8968	U&D Chief, National Capital Zone	Washington, DC

d. The SBA POC addressed above in Section VI will be the POCs for any compliance issues identified by GSA and SASPs where there is no response or indication of action by the SBA District Office.

VII. TERM:

This MOA will take effect as soon as SBA, GSA, and the SASP for the State of _____ have signed it. It will remain in effect indefinitely until superseded by a modified MOA, cancelled, or terminated pursuant to Section VIII of this document.

VIII. AMENDMENT AND TERMINATION:

The parties may modify this MOA by written mutual consent. An administrative change, such as change in the named POC, may be made by notification to all parties without a formal modification. Any party may terminate this MOA by providing the other parties with thirty (30) calendar days written notice, or as otherwise stipulated by law.

IX. GENERAL CONDITIONS

A. This MOA is neither a fiscal nor a funds obligation document. Nothing in

(ATTACHMENT 1): PROPERTY REQUEST

Verification by issuing SASP:

SASP APPROVAL _____ SASP APPROVAL DATE _____

ACCOUNT NO. _____ 8(a) FIRM _____

DISTRICT OFFICE _____ 8(a) ADDRESS _____

Item No.	Description	NSN #	Serial/Vin #	Qty	Handling Fee	Adjusted Hand. Fee	Total Due	Acq \$ Each	Total Acq Cost

- Firm is 8(a) active
- Firm will use the property in the normal conduct of its business activities
- That the intended use of the property is consistent with the objectives of the participant's 8(a) business plan
- Eligible Participants may obtain Federal surplus property from the SASP in the State where the Participant is located and operates
- The firm will not sell or transfer the property to any party during its term of participation in the 8(a) BD program and for one year after it leaves the 8(a) BD program
- The firm will use the property as intended within one year of receipt

SBA BOS APPROVAL* _____

*** Please give this request priority by approving in (3) three business days.**



U.S. General Services Administration

NOV 30 2004

MEMORANDUM FOR: CHIEF, PERSONAL PROPERTY MANAGEMENT
2FBP, 2FBP-1, 3FP, 4FB, 5FBP, 6FBD, 7FPF,
7FP, 9FBP, 10FZP-0

FROM: DAVID ROBBINS 
DIRECTOR
PROPERTY MANAGEMENT DIVISION

SUBJECT: DONATIONS TO SMALL BUSINESS ADMINISTRATION
(SBA) 8(a)
PROGRAM PARTICIPANTS

SBA has requested that GSA rescind prior procedural guidance for transfers of surplus property to SBA 8(a) program participants. We had initially not done so because there was no agreed upon process to replace the procedure.

This memo rescinds all prior guidance on processing such transfers, specifically the FBP memorandum dated February 22, 1999. From this point forward, there will be no special requirements or processing on the part of GSA for these transfers for donation.

By virtue of individual agreements between each SASP and the SBA, the SASP, as of the date of this memorandum, can make all property available for donation to 8(a) participants. The SBA will have to approve eligibility of the 8(a) to receive property and ultimately has responsibility for compliance under the terms of the standard agreement.

Mr. Jim Smith, President of NASASP, will be mailed similar guidance on November 30, 2004. Also, the SBA will be advised of this change in processing.



U.S. General Services Administration

NOV 30 2004

Mr. James H. Smith, Jr.
President
National Association of State Agencies for Surplus Property
8700 Remount Road
North Little Rock, AR 72118

Dear Mr. Smith:

The Small Business Administration (SBA) has requested that GSA rescind prior procedural guidance for transfers of surplus property to SBA 8(a) program participants. We had initially not done so because there was no agreed upon process to replace the procedure.

This letter rescinds all prior guidance on processing such transfers, specifically the FBP memorandum dated February 22, 1999. From this point forward, there will be no special requirements or processing on the part of GSA for these transfers for donation.

By virtue of individual agreements between each SASP and the SBA, the SASP, as of the date of this letter, can make all property available for donation to 8(a) participants. The SBA will have to approve eligibility of the 8(a) to receive property and ultimately has responsibility for compliance under the terms of the standard agreement.

Please ensure that your membership is aware of this change in processing.

Sincerely,

A handwritten signature in black ink, appearing to read "David M. Robbins".

David M. Robbins
Director
Property Management Division

Justia > Law > United States > Code of Federal Regulations > Title 13 - Business Credit and Assistance > CHAPTER I--SMALL BUSINESS ADMINISTRATION > PART 124--8(a) BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATIONS > § 124.405 How does a Participant obtain Federal Government surplus property?

13 C.F.R. § 124.405 How does a Participant obtain Federal Government surplus property?

Title 13 - Business Credit and Assistance

Title 13: Business Credit and Assistance

PART 124—8(a) BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATIONS

Subpart A—8(a) Business Development
Business Development

[Browse Previous](#)

§ 124.405 How does a Participant obtain Federal Government surplus property?

(a) *General.* (1) Pursuant to 15 U.S.C. 636(j)(13)(F), eligible Participants may receive surplus Federal Government property from State Agencies for Surplus Property (SASPs). The procedures set forth in 41 CFR Part 101–44 and this section will be used to transfer surplus property to eligible Participants.

(2) The property which may be transferred to SASPs for further transfer to eligible Participants includes all personal property which has been determined to be “donable” as defined in 41 CFR 101–44.001–3.e

(b) *Eligibility to receive Federal surplus property.* To be eligible to receive Federal surplus property, on the date of transfer a concern must:

- (1) Be in the 8(a) BD program;
- (2) Be in compliance with all program requirements, including any reporting requirements;
- (3) Not be debarred, suspended, or declared ineligible under part 9, subpart 9.4 of the Federal Acquisition Regulations, Title 48 of the Code of Federal Regulations;
- (4) Not be under a pending 8(a) BD program suspension, termination or early graduation proceeding; and
- (5) Be engaged or expect to be engaged in business activities making the item useful to it.

(c) *Use of acquired surplus property.* (1) Eligible Participants may acquire surplus Federal property from any SASP located in any state, provided the concern represents and agrees in writing:

(i) As to what the intended use of the surplus property is to be and that this use is consistent with the objectives of the concern's 8(a) business plan;

(ii) That it will use the property to be acquired in the normal conduct of its business activities or be liable for the fair rental value from the date of its receipt;

(iii) That it will not sell or transfer the property to be acquired to any party other than the Federal Government during its term of participation in the 8(a) program and for one year after it leaves the program;

(iv) That, at its own expense, it will return the property to a SASP or transfer it to another Participant if directed to do so by SBA because it has not used the property as intended within one year of receipt;

(v) That, should it breach its agreement not to sell or transfer the property, it will be liable to the Government for the established fair market value or the sale price, whichever is greater, of the property sold or transferred; and

(vi) That it will give SBA access to inspect the property and all records pertaining to it.

(2) A firm receiving surplus property pursuant to this section assumes all liability associated with or stemming from the use of the property.

(3) If the property is not placed in use for the purposes for which it was intended within one year of its receipt, SBA may direct the concern to deliver the property to another Participant or to the SASP from which it was acquired.

(4) Failure to comply with any of the commitments made under paragraph (c)(1) of this section constitutes a basis for termination from the 8(a) program.

(d) *Procedures for acquiring Federal Government surplus property.* (1) Participants may participate in the surplus property distribution program administered by the SASPs to the same extent, but with no special priority over, other authorized transferees. See 41 CFR subpart 101-44.2.

(2) Each Participant seeking to acquire Federal Government surplus property from a SASP must:

(i) Certify in writing to the SASP that it is eligible to receive the property pursuant to paragraph (b) of this section;

(ii) Make the written representations and agreement required by paragraph (c)(1) of this section; and

(iii) Identify to the SASP its servicing SBA field office.

(3) Upon receipt of the required certification, representations, agreement, and information set forth in paragraph (d)

(2) of this section, the SASP must contact the appropriate SBA field office and obtain SBA's verification that the concern seeking to acquire the surplus property is eligible, and that the identified use of the property is consistent with the concern's business activities. SASPs may not release property to a Participant without this verification.

(4) The SASP and the Participant must agree on and record the fair market value of the surplus property at the time of the transfer to the Participant. The SASP must provide to SBA a written record, including the agreed upon fair market value, of each transaction to a Participant when any property has been transferred.

(e) *Costs.* Participants acquiring surplus property from a SASP must pay a service fee to the SASP which is equal to the SASP's direct costs of locating, inspecting, and transporting the surplus property. If a Participant elects to incur the responsibility and the expense for transporting the acquired property, the concern may do so and no

transportation costs will be charged by the SASP. In addition, the SASP may charge a reasonable fee to cover its costs of administering the program. In no instance will any SASP charge a Participant more for any service than their established fees charged to other transferees.

(f) *Title.* The title to surplus property acquired from a SASP will pass to the Participant when the Participant executes the applicable SASP distribution documents and takes possession of the property.

(g) *Compliance.* (1) SBA will periodically review whether Participants that have received surplus property have used and maintained the property as agreed. This review may include site visits to visually inspect the property to ensure that it is being used in a manner consistent with the terms of its transfer.

(2) Participants must provide SBA with access to all relevant records upon request.

(3) Where SBA receives credible information that transferred surplus property may have been disposed of or otherwise used in a manner that is not consistent with the terms of the transfer, SBA may investigate such claim to determine its validity.

(4) SBA may take any action to correct any noncompliance involving the use of transferred property still in possession of the Participant or to enforce any terms, conditions, reservations, or restrictions imposed on the property by the distribution document. Actions to enforce compliance, or which may be taken as a result of noncompliance, include the following:

(i) Requiring that the property be placed in proper use within a specified time;

(ii) Requiring that the property be transferred to another Participant having a need and use for the property, returned to the SASP serving the area where the property is located for distribution to another eligible transferee or to another SASP, or transferred through GSA to another Federal agency;

(iii) Recovery of the fair rental value of the property from the date of its receipt by the Participant; and

(iv) Initiation of proceedings to terminate the Participant from the 8(a) BD program.

(5) Where SBA finds that a recipient has sold or otherwise disposed of the acquired surplus property in violation of the agreement covering sale and disposal, the Participant is liable for the agreed upon fair market value of the property at the time of the transfer, or the sale price, whichever is greater. However, a Participant need not repay any amount where it can demonstrate to SBA's satisfaction that the property is no longer useful for the purpose for which it was transferred and receives SBA's prior written consent to transfer the property. For example, if a piece of equipment breaks down beyond repair, it may be disposed of without being subject to the repayment provision, so long as the concern receives SBA's prior consent.

(6) Any funds received by SBA in enforcement of this section will be remitted promptly to the Treasury of the United States as miscellaneous receipts.

[Browse Previous](#)

transportation costs will be charged by the SASP. In addition, the SASP may charge a reasonable fee to cover its costs of administering the program. In no instance will any SASP charge a Participant more for any service than their established fees charged to other transferees.

(f) *Title*. The title to surplus property acquired from a SASP will pass to the Participant when the Participant executes the applicable SASP distribution documents and takes possession of the property.

(g) *Compliance*. (1) SBA will periodically review whether Participants that have received surplus property have used and maintained the property as agreed. This review may include site visits to visually inspect the property to ensure that it is being used in a manner consistent with the terms of its transfer.

(2) Participants must provide SBA with access to all relevant records upon request.

(3) Where SBA receives credible information that transferred surplus property may have been disposed of or otherwise used in a manner that is not consistent with the terms of the transfer, SBA may investigate such claim to determine its validity.

(4) SBA may take any action to correct any noncompliance involving the use of transferred property still in possession of the Participant or to enforce any terms, conditions, reservations, or restrictions imposed on the property by the distribution document. Actions to enforce compliance, or which may be taken as a result of noncompliance, include the following:

(i) Requiring that the property be placed in proper use within a specified time;

(ii) Requiring that the property be transferred to another Participant having a need and use for the property, returned to the SASP serving the area where the property is located for distribution to another eligible transferee or to another SASP, or transferred through GSA to another Federal agency;

(iii) Recovery of the fair rental value of the property from the date of its receipt by the Participant; and

(iv) Initiation of proceedings to terminate the Participant from the 8(a) BD program.

(5) Where SBA finds that a recipient has sold or otherwise disposed of the acquired surplus property in violation of the agreement covering sale and disposal, the Participant is liable for the agreed upon fair market value of the property at the time of the transfer, or the sale price, whichever is greater. However, a Participant need not repay any amount where it can demonstrate to SBA's satisfaction that the property is no longer useful for the purpose for which it was transferred and receives SBA's prior written consent to transfer the property. For example, if a piece of equipment breaks down beyond repair, it may be disposed of without being subject to the repayment provision, so long as the concern receives SBA's prior consent.

(6) Any funds received by SBA in enforcement of this section will be remitted promptly to the Treasury of the United States as miscellaneous receipts.

[Browse Previous](#)

**MEMORANDUM OF AGREEMENT BETWEEN
THE U.S. SMALL BUSINESS ADMINISTRATION,
THE U.S. GENERAL SERVICES ADMINISTRATION
AND
THE STATE AGENCY FOR SURPLUS PROPERTY
FOR THE STATE OF ALASKA**

I. PURPOSE:

This Memorandum of Agreement (MOA) is entered into between the U.S. Small Business Administration (SBA), the U.S. General Services Administration (GSA), and the State Agency for Surplus Property (SASP) for the State of Alaska, to set forth the terms and conditions with respect to federal surplus property which is transferred to 8(a) Business Development (BD) Program Participants (Participants).

II. AUTHORITY:

a. The Small Business Act provides that eligible 8(a) BD program Participants are qualified to receive federal surplus property in accordance with 15 U.S.C. § 636(j)(13)(F).

b. SASPs may enter into cooperative agreements with federal agencies designated by GSA in accordance with 40 U.S.C §549(f)(1)(D).

c. At any time there is a dispute within this MOA, the provisions of 40 U.S.C §549 and 41 CFR Chapter 102 shall prevail.

III. CONDITIONS:

a. **USE:** Eligible Participants may obtain Federal surplus property from the SASP in the States where the Participant is located and operates, provided the Participant represents and agrees in writing:

(1) That the intended use of the property is consistent with the objectives of the Participant's 8(a) business plan;

(2) That it will use the property to be acquired in the normal conduct of its business activities;

(3) That it will not sell or transfer the property to any party during its term of participation in the 8(a) BD program and for one year after it leaves the 8(a) BD program, unless it has received express written authorization from the donating SASP and SBA;

s (4) That it will use the property as intended within one year of receipt;

(5) That it will give SBA, GSA and/or the SASP access to inspect the property and all records pertaining to it; and

(6) That should the Participant violate any of the paragraphs above, the Participant will return the property to the donating SASP at the Participant's expense, or if the Participant has sold, transferred, or otherwise disposed of the acquired surplus property in violation of the agreement covering sale and disposal, the Participant will be liable to the Federal Government for the fair market value (as determined by GSA or the SASP) or the sale price of the property, whichever is greater.

(7) Terms and conditions of donations of aircraft and vessels, specified at 41 CFR 102-37.460 apply to donations of such items to 8a participants as well.

b. **CONDITIONAL TITLE:** The title to surplus property other than an aircraft or vessel, as defined in 41 CFR 102, acquired from a SASP will pass to the Participant when the Participant executes the applicable SASP distribution documents and takes possession of the property. The title for an aircraft (other than combat configured aircraft) or vessel will not pass until five years after the property has been entered into "USE". The aircraft or vessel must be placed in "USE" for the purpose which acquired no later than one year after acquisition. In all cases, regardless of title passage, the conditions of use in section III and compliance requirements in section IVc still apply. (Title for combat configured aircraft never passes; therefore SBA, GSA, and the SASP will not approve any request for combat configured aircraft.)

c. **FOREIGN GIFTS:** SBA, GSA, and the SASP will not approve any request for Foreign Gifts.

d. **FAIR MARKET VALUE:** This value is based on the GSA/SASP Fair Market Value.

IV. THE SBA SHALL:

a. **EDUCATION:** Assist in educating Participants on the availability of surplus property, and the terms, conditions and limitations of use.

b. **VERIFICATION OF ELIGIBILITY:** Upon receipt of a request from a Participant to participate in the surplus property program, the servicing SBA District Office will verify in writing to the SASP that the Participant is an eligible 8(a) Participant. SBA will respond in writing to each subsequent request from the SASP for an eligibility determination concerning particular property.

c. **COMPLIANCE:**

(1) SBA will periodically review whether Participants have used and maintained the property as agreed. This review may include site visits to visually inspect the property to ensure that it is being used in a manner consistent with the terms of its transfer.

(2) Where SBA receives credible information that transferred surplus property may have been disposed of or otherwise used in a manner that is not consistent with the terms of the transfer, SBA may investigate such claim to determine its validity.

(3) SBA may take any action to correct any noncompliance involving the use of transferred property still in possession of the Participant or to enforce any terms, conditions, reservations, or restrictions imposed on the property by the distribution document. Actions to enforce compliance, or which may be taken as a result of noncompliance, include the following:

- (i) Requiring that the property be placed in proper use within a specified time;
- (ii) Requiring that the property be returned to the donating SASP;
- (iii) Recovery of the fair market value of the property or sale price; or
- (iv) Initiation of proceedings to terminate the Participant from the 8(a) BD program.

V. THE SASP SHALL:

a. ALLOCATION: Be responsible for allocating property to Participants.

b. VERIFICATION OF ELIGIBILITY: Prior to allocating any property, the SASP shall have in its possession a determination from SBA that the Participant seeking to acquire the surplus property is eligible, and that the identified use of the property is consistent with the Participant's business plan objectives. A SASP may not release property to a Participant without this verification.

c. FEES: Charge Participants fees in the same manner that they are assessed for other donees under the surplus property program.

d. RECORDS: Maintain accurate records on all property transferred to Participants, including the acquisition value, fees, and the number of 8(a) contractors registered with the SASPs, and provide such information to SBA's Office of Program Review quarterly, Attn: Randy Greene at randy.greene@sba.gov.

VI. POINTS OF CONTACT

a. SBA:

Darryl K. Hairston
Associate Administrator
Office of Business Development

Sharon A. Gurley
Director, Office of Program Review
Office of Business Development

b. GSA

William Kemp
Director
Utilization and Donation Program Division
Office of Personal Property Management

e.c. The SBA POCs addressed above will be the POCs for any compliance issues identified by e GSA and SASPs where there is no response or indication of action by the SBA District Office.e

VII. TERM:e

This MOA will take effect as soon as SBA, GSA, and the State of Alaska have signed it. It will remain in effect until September 1, 2017.e

VIII. AMENDMENT AND TERMINATION:

The parties may modify this MOA by written mutual consent. An administrative change, such as change in the named Points of Contact may be made by notification to all parties without a formal amendment. Any party may terminate this MOA by providing the other parties with thirty (30) calendar days written notice, or as otherwise stipulated by law. This MOA shall not be interpreted as creating any binding legal obligations between the parties.e

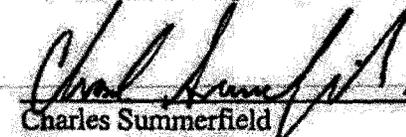
IN WITNESS THEREOF, the parties hereto have executed this MOA as of the last date written below.e



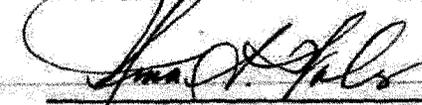
David M. Robbins Oct 21, 2013
Director Date
U.S. General Services Administration
Office of Personal Property Management
GSA, Federal Acquisition Service



A. John Shoraka 10/29/13
Associate Administrator for Date
Government Contracting and
Business Development
U. S. Small Business



Charles Summerfield 10-21-13
Director Date
State Agency for Surplus Property
State of Alaska



Mina A. Wales 10/20/13
Deputy Assistant Administrator for Date
Communications and Public Liaison
U. S. Small Business Administration



Chris Banks
11/21/13

MEMORANDUM OF AGREEMENT BETWEEN
THE U.S. SMALL BUSINESS ADMINISTRATION,
THE U.S. GENERAL SERVICES ADMINISTRATION
AND
THE STATE AGENCY FOR SURPLUS PROPERTY
FOR THE STATE OF

I. PURPOSE:

This Memorandum of Agreement (MOA) is entered into between the U.S. Small Business Administration (SBA), the U.S. General Services Administration (GSA), and the State Agency for Surplus Property (SASP) for the State of _____, to set forth the terms and conditions with respect to Federal surplus property which is transferred to 8(a) Business Development (BD) Program Participants (Participants).

II. AUTHORITY:

- a. The Small Business Act provides that eligible 8(a) BD Program Participants may receive Federal surplus property in accordance with 15 U.S.C. § 636(j)(13)(F).
- b. SASPs may enter into cooperative agreements with Federal agencies designated by GSA in accordance with 40 U.S.C §549(f)(1)(D).
- c. At any time there is a dispute regarding the terms of this MOA, the provisions of 40 U.S.C §549 and 41 CFR Chapter 102 shall prevail.

III. CONDITIONS:

a. USE: Eligible Participants may obtain Federal surplus property from the SASP in the State(s) where the Participant is located and operates, provided the Participant represents and agrees in writing:

(1) That the intended use of the property is consistent with the objectives of the Participant's 8(a) business plan;

(2) That it will use the property to be acquired in the normal conduct of its business activities;

(3) That it will not sell or transfer the property to any party during its term of participation in the 8(a) BD Program and for one year after it leaves the 8(a) BD Program, unless it has received express written authorization to dispose from the SASP and GSA pursuant to 41 CFR §102-37.320.

(4) That it will use the property as intended within one year of receipt;

(5) That it will give SBA, GSA, and/or the SASP access to inspect the property and all records pertaining to it; and

(6) That should the Participant violate any of the paragraphs above, the

Participant will return the property to the donating SASP at the Participant's expense, or if the Participant has sold, transferred, or otherwise disposed of the acquired surplus property in violation of the agreement covering sale and disposal, the Participant will be liable to the Federal Government for the Fair Market Value (as determined by GSA or the donating SASP) or the sale price of the property, whichever is greater.

(7) For Federal surplus property that is damaged or non-working that an 8(a) Participant received directly from a Federal agency and not picked up from a SASP location, the 8(a) Participant shall immediately contact the coordinating SASP's point of contact (POC) to return the property for a refund in accordance with the SASP's State Plan of Operation no later than 7 business days after receiving the property. NOTE: No service charge refund or credit will be allowed on returned property which was screened by the Participant directly at a Federal holding agency unless there is evidence of concealed damage or condition misrepresentation at the time of actual screening by the Participant. The final determination will be made by the SASP Program Administrator and favorable rulings will conform to the refund procedure of the SASP's State Plan of Operation.

(8) TITLE: Title to Federal surplus property other than an aircraft or vessel, as defined in 41 CFR 102, acquired from a SASP will pass to the Participant when the Participant executes the applicable SASP distribution documents and takes possession of the property. In all cases, regardless of title passage, the conditions of use, including sale and transfer restrictions, in Section III and compliance requirements in Section IV(c) still apply.

b. AIRCRAFT AND VESSELS:

(1) Terms and conditions of donations of aircraft and vessels, specified at 41 CFR 102-37.460 apply to donations of such items to 8(a) Participants as well.

(2) Aircraft and Vessel donations have a mandatory five year period of restriction that begins when the aircraft or vessel is placed in use for the purpose stated in the letter of intent. SBA's 8(a) BD Program Participants must have at least five years remaining in the 8(a) BD Program to be eligible for Aircraft or Vessel donations.

(3) The aircraft or vessel must be placed in "USE" for the purpose for which it was acquired no later than one year after acquisition.

(4) Conditional title to a surplus aircraft or vessel, as defined in 41 CFR 102, acquired from a SASP will pass to the Participant when the Participant executes the applicable SASP distribution documents and takes possession of the property. Full title for an aircraft (other than combat configured aircraft) or vessel, will not pass until the following conditions are met: (1) the Participant has placed the property in "USE" for five

years and (2) one year has passed since the Participant graduated from the SBA 8(a) BD Program. In all cases, regardless of title passage, the conditions of use, including sale and transfer restrictions, in Section III and compliance requirements in Section IV(c) still apply. (Title for combat configured aircraft never passes; therefore SBA, GSA, and the SASP will not approve any request for combat configured aircraft.)

c. FOREIGN GIFTS: SBA, GSA, and the SASP will not approve any request for Foreign Gifts.

d. FAIR MARKET VALUE: GSA or the donating SASP shall determine fair market value in accordance with commercially recognized means of (1) appraisal conducted by an appraisal firm or trade organization or (2) retail value valuation ascertained by reviewing current and reliable non-discounted retail catalogs, retail price lists, or retail Website valuations.

IV. THE SBA SHALL:

a. EDUCATION: Assist in educating Participants on the availability of Federal surplus property and the terms, conditions, and limitations of use.

b. PROCEDURES AND VERIFICATION OF ELIGIBILITY: After the SASP has received the 8(a) Participant's certification of eligibility in accordance with 13 CFR 124.405(d), the SASP shall submit to the servicing SBA District Office Attachment 1, Property Request, to validate the eligibility of the 8(a) Participant for receipt of property. SBA will submit their written approval to the servicing SASP.

c. COMPLIANCE:

(1) SBA will periodically review whether Participants that have received Federal surplus property have used and maintained the property as agreed. This review may include site visits to visually inspect the property to ensure that it is being used in a manner consistent with the terms of its transfer. SBA shall utilize the SASP's quarterly inventory listing to report at the end of each fiscal year to GSA a consolidated list of all Federal surplus property items released to its 8(a) Participants. The list will include: the name of the 8(a) Participant and the donating SASP, the invoice number(s) and a description of the property, date of acquisition, and if the property has been disposed of. The list will be submitted to the Director of the Utilization and Donation Program Division, GSA Office of Personal Property Management.

(2) Where SBA receives credible information that transferred Federal surplus property may have been disposed of or otherwise used in a manner that is not consistent with the terms of the transfer, SBA may investigate such a claim to determine its validity.

(3) SBA may take any action to correct any noncompliance involving the use of transferred property still in possession of the Participant or to enforce any terms,

conditions, reservations, or restrictions imposed on the property by the distribution document. Actions to enforce compliance, or which may be taken as a result of noncompliance, include the following:

- (i) Requiring that the property be placed in proper use within a specified time;
- (ii) Requiring that the property be returned to the donating SASP;
- (iii) Recovering the Fair Market Value of the property, as determined by GSA or the donating SASP, or the sale price of the property, whichever is greater; or
- (iv) Initiating proceedings to terminate the Participant from the 8(a) BD Program.

(4) GSA will provide guidance and/or advice on Compliance-related issues when requested by SBA. GSA Points of Contact for assistance on Compliance-related issue are listed in Section VI(c) of this document.

V. THE SASP SHALL:

a. RELEASE OF PROPERTY: Be responsible for releasing property to Participants.

b. VERIFICATION OF ELIGIBILITY: Prior to allocating any property, the SASP shall have in its possession a determination from SBA that the Participant seeking to acquire the Federal surplus property is eligible and that the identified use of the property is consistent with the Participant's business plan objectives. A SASP may not release property to a Participant without this verification.

c. FEES: Charge Participants fees in the same manner that they are assessed for other donees under the Federal surplus personal property program in accordance with 40 U.S.C. §549.

d. RECORDS: Maintain accurate records on all property transferred to Participants, including the acquisition value, fees, and the number of 8(a) Participants registered with the SASPs and provide such information to SBA's Office of Program Review quarterly, Attn: Randy Greene at randy.greene@sba.gov.

VI. POINTS OF CONTACT

a. SBA:

Sharon A. Gurley
sharon.gurley@sba.gov
202-205-7084
Director, Office of Program Review
Office of Business Development

b. GSA

Cynthia Gardiner
cynthia.gardiner@gsa.gov
703-605-2758
Director
Utilization and Donation Program Div.
Office of Personal Property Management

c. GSA POCs for Compliance Notification and Assistance

POC	Title	Areas of Oversight
Greg Flores greogry.flores@gsa.gov 312-209-0208	Program Specialist, Mid-Atlantic Zone	CT, DE, MA MD, ME, NH, NJ, NY, PA, PR, RI, VI, VT, VA, WV and DoD Vessels
Kevin Stallings kevin.stallings@gsa.gov 404-331-1110	U&D Chief, Southeast-Great Lakes Zone	AL, FL, GA, IN, IL, KY, MI, MN, MS, NC, OH, SC, TN, WI and Civilian Vessels
Lori Mars lori.marrs@gsa.gov 817-850-8148	U&D Chief, Southwest-Central Zone	AR, CO, KS, IA, LA, MO, MT, ND, NE, NM, OK, SD, TX, UT AND WY IA, KS, MO, NE, AR, LA, NM, OK, TX, CO, MT, ND, SD, UT, WY
Sandra Klar sandra.klar@gsa.gov 415-522-3041	U&D Chief, Pacific Rim Zone	AK, AS, AZ, CA, GU, HI, ID, MP, NV OR, WA and All Aircraft
Rickey Parker rick.parker@gsa.gov 202-619-8968	U&D Chief, National Capital Zone	Washington, DC

d. The SBA POC addressed above in Section VI will be the POCs for any compliance issues identified by GSA and SASPs where there is no response or indication of action by the SBA District Office.

VII. TERM:

This MOA will take effect as soon as SBA, GSA, and the SASP for the State of _____ have signed it. It will remain in effect indefinitely until superseded by a modified MOA, cancelled, or terminated pursuant to Section VIII of this document.

VIII. AMENDMENT AND TERMINATION:

The parties may modify this MOA by written mutual consent. An administrative change, such as change in the named POC, may be made by notification to all parties without a formal modification. Any party may terminate this MOA by providing the other parties with thirty (30) calendar days written notice, or as otherwise stipulated by law.

IX. GENERAL CONDITIONS

A. This MOA is neither a fiscal nor a funds obligation document. Nothing in

(ATTACHMENT 1): PROPERTY REQUEST

Verification by issuing SASP:

SASP APPROVAL _____ SASP APPROVAL DATE _____

ACCOUNT NO. _____ 8(a) FIRM _____

DISTRICT OFFICE _____ 8(a) ADDRESS _____

Item No.	Description	NSN #	Serial/Vin #	Qty	Handling Fee	Adjusted Hand. Fee	Total Due	Acq \$ Each	Total Acq Cost

- Firm is 8(a) active
- Firm will use the property in the normal conduct of its business activities
- That the intended use of the property is consistent with the objectives of the participant's 8(a) business plan
- Eligible Participants may obtain Federal surplus property from the SASP in the State where the Participant is located and operates
- The firm will not sell or transfer the property to any party during its term of participation in the 8(a) BD program and for one year after it leaves the 8(a) BD program
- The firm will use the property as intended within one year of receipt

SBA BOS APPROVAL* _____

* Please give this request priority by approving in (3) three business days.

Justia > Law > United States > Code of Federal Regulations > Title 13 - Business Credit and Assistance > CHAPTER I--SMALL BUSINESS ADMINISTRATION > PART 124--8(a) BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATIONS > § 124.405 How does a Participant obtain Federal Government surplus property?

13 C.F.R. § 124.405 How does a Participant obtain Federal Government surplus property?

Title 13 - Business Credit and Assistance

Title 13: Business Credit and Assistance

PART 124--8(a) BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS

DETERMINATIONS

Subpart A--8(a) Business Development

Business Development

[Browse Previous](#)

§ 124.405 How does a Participant obtain Federal Government surplus property?

(a) *General.* (1) Pursuant to 15 U.S.C. 636(j)(13)(F), eligible Participants may receive surplus Federal Government property from State Agencies for Surplus Property (SASPs). The procedures set forth in 41 CFR Part 101-44 and this section will be used to transfer surplus property to eligible Participants.

(2) The property which may be transferred to SASPs for further transfer to eligible Participants includes all personal property which has been determined to be "donable" as defined in 41 CFR 101-44.001-3.

(b) *Eligibility to receive Federal surplus property.* To be eligible to receive Federal surplus property, on the date of transfer a concern must:

- (1) Be in the 8(a) BD program;
- (2) Be in compliance with all program requirements, including any reporting requirements;
- (3) Not be debarred, suspended, or declared ineligible under part 9, subpart 9.4 of the Federal Acquisition Regulations, Title 48 of the Code of Federal Regulations;
- (4) Not be under a pending 8(a) BD program suspension, termination or early graduation proceeding; and
- (5) Be engaged or expect to be engaged in business activities making the item useful to it.

(c) *Use of acquired surplus property.* (1) Eligible Participants may acquire surplus Federal property from any SASP located in any state, provided the concern represents and agrees in writing:

(i) As to what the intended use of the surplus property is to be and that this use is consistent with the objectives of the concern's 8(a) business plan;

(ii) That it will use the property to be acquired in the normal conduct of its business activities or be liable for the fair rental value from the date of its receipt;

(iii) That it will not sell or transfer the property to be acquired to any party other than the Federal Government during its term of participation in the 8(a) program and for one year after it leaves the program;

(iv) That, at its own expense, it will return the property to a SASP or transfer it to another Participant if directed to do so by SBA because it has not used the property as intended within one year of receipt;

(v) That, should it breach its agreement not to sell or transfer the property, it will be liable to the Government for the established fair market value or the sale price, whichever is greater, of the property sold or transferred; and

(vi) That it will give SBA access to inspect the property and all records pertaining to it.

(2) A firm receiving surplus property pursuant to this section assumes all liability associated with or stemming from the use of the property.

(3) If the property is not placed in use for the purposes for which it was intended within one year of its receipt, SBA may direct the concern to deliver the property to another Participant or to the SASP from which it was acquired.

(4) Failure to comply with any of the commitments made under paragraph (c)(1) of this section constitutes a basis for termination from the 8(a) program.

(d) *Procedures for acquiring Federal Government surplus property.* (1) Participants may participate in the surplus property distribution program administered by the SASPs to the same extent, but with no special priority over, other authorized transferees. See 41 CFR subpart 101-44.2.

(2) Each Participant seeking to acquire Federal Government surplus property from a SASP must:

(i) Certify in writing to the SASP that it is eligible to receive the property pursuant to paragraph (b) of this section;

(ii) Make the written representations and agreement required by paragraph (c)(1) of this section; and

(iii) Identify to the SASP its servicing SBA field office.

(3) Upon receipt of the required certification, representations, agreement, and information set forth in paragraph (d) (2) of this section, the SASP must contact the appropriate SBA field office and obtain SBA's verification that the concern seeking to acquire the surplus property is eligible, and that the identified use of the property is consistent with the concern's business activities. SASPs may not release property to a Participant without this verification.

(4) The SASP and the Participant must agree on and record the fair market value of the surplus property at the time of the transfer to the Participant. The SASP must provide to SBA a written record, including the agreed upon fair market value, of each transaction to a Participant when any property has been transferred.

(e) *Costs.* Participants acquiring surplus property from a SASP must pay a service fee to the SASP which is equal to the SASP's direct costs of locating, inspecting, and transporting the surplus property. If a Participant elects to incur the responsibility and the expense for transporting the acquired property, the concern may do so and no

transportation costs will be charged by the SASP. In addition, the SASP may charge a reasonable fee to cover its costs of administering the program. In no instance will any SASP charge a Participant more for any service than their established fees charged to other transferees.

(f) *Title*. The title to surplus property acquired from a SASP will pass to the Participant when the Participant executes the applicable SASP distribution documents and takes possession of the property.

(g) *Compliance*. (1) SBA will periodically review whether Participants that have received surplus property have used and maintained the property as agreed. This review may include site visits to visually inspect the property to ensure that it is being used in a manner consistent with the terms of its transfer.

(2) Participants must provide SBA with access to all relevant records upon request.

(3) Where SBA receives credible information that transferred surplus property may have been disposed of or otherwise used in a manner that is not consistent with the terms of the transfer, SBA may investigate such claim to determine its validity.

(4) SBA may take any action to correct any noncompliance involving the use of transferred property still in possession of the Participant or to enforce any terms, conditions, reservations, or restrictions imposed on the property by the distribution document. Actions to enforce compliance, or which may be taken as a result of noncompliance, include the following:

(i) Requiring that the property be placed in proper use within a specified time;

(ii) Requiring that the property be transferred to another Participant having a need and use for the property, returned to the SASP serving the area where the property is located for distribution to another eligible transferee or to another SASP, or transferred through GSA to another Federal agency;

(iii) Recovery of the fair rental value of the property from the date of its receipt by the Participant; and

(iv) Initiation of proceedings to terminate the Participant from the 8(a) BD program.

(5) Where SBA finds that a recipient has sold or otherwise disposed of the acquired surplus property in violation of the agreement covering sale and disposal, the Participant is liable for the agreed upon fair market value of the property at the time of the transfer, or the sale price, whichever is greater. However, a Participant need not repay any amount where it can demonstrate to SBA's satisfaction that the property is no longer useful for the purpose for which it was transferred and receives SBA's prior written consent to transfer the property. For example, if a piece of equipment breaks down beyond repair, it may be disposed of without being subject to the repayment provision, so long as the concern receives SBA's prior consent.

(6) Any funds received by SBA in enforcement of this section will be remitted promptly to the Treasury of the United States as miscellaneous receipts.

[Browse Previous](#)

transportation costs will be charged by the SASP. In addition, the SASP may charge a reasonable fee to cover its costs of administering the program. In no instance will any SASP charge a Participant more for any service than their established fees charged to other transferees.

(f) *Title*. The title to surplus property acquired from a SASP will pass to the Participant when the Participant executes the applicable SASP distribution documents and takes possession of the property.

(g) *Compliance*. (1) SBA will periodically review whether Participants that have received surplus property have used and maintained the property as agreed. This review may include site visits to visually inspect the property to ensure that it is being used in a manner consistent with the terms of its transfer.

(2) Participants must provide SBA with access to all relevant records upon request.

(3) Where SBA receives credible information that transferred surplus property may have been disposed of or otherwise used in a manner that is not consistent with the terms of the transfer, SBA may investigate such claim to determine its validity.

(4) SBA may take any action to correct any noncompliance involving the use of transferred property still in possession of the Participant or to enforce any terms, conditions, reservations, or restrictions imposed on the property by the distribution document. Actions to enforce compliance, or which may be taken as a result of noncompliance, include the following:

(i) Requiring that the property be placed in proper use within a specified time;

(ii) Requiring that the property be transferred to another Participant having a need and use for the property, returned to the SASP serving the area where the property is located for distribution to another eligible transferee or to another SASP, or transferred through GSA to another Federal agency;

(iii) Recovery of the fair rental value of the property from the date of its receipt by the Participant; and

(iv) Initiation of proceedings to terminate the Participant from the 8(a) BD program.

(5) Where SBA finds that a recipient has sold or otherwise disposed of the acquired surplus property in violation of the agreement covering sale and disposal, the Participant is liable for the agreed upon fair market value of the property at the time of the transfer, or the sale price, whichever is greater. However, a Participant need not repay any amount where it can demonstrate to SBA's satisfaction that the property is no longer useful for the purpose for which it was transferred and receives SBA's prior written consent to transfer the property. For example, if a piece of equipment breaks down beyond repair, it may be disposed of without being subject to the repayment provision, so long as the concern receives SBA's prior consent.

(6) Any funds received by SBA in enforcement of this section will be remitted promptly to the Treasury of the United States as miscellaneous receipts.

[Browse Previous](#)

**SAMPLE ELIGIBILITY DETERMINATIONS
(TN AND GA SASPS)**

October 11, 2001

Ms. Brenda D. Grant
Assistant Director
Tennessee Department of General Services
Property Utilization Division
6500 Centennial Boulevard
Nashville, TN 37243-0543

Dear Ms. Grant:

In response to your letter dated September 10, 2001, requesting an eligibility determination for Feed America First (FAF), we have reviewed both your evaluation of the application as well as the applicant's written submission and concur with most of your findings. Nevertheless, we believe the applicant could be eligible under P.L. 105-50, the law granting eligibility to legitimate provider programs for the impoverished, if additional supporting documentation is obtained.

We concur with your determination that FAF would not qualify for program eligibility as a "nonprofit health organization" as indicated on page one of their application. We also concur that the applicant does not meet the qualifications necessary for a homeless provider program (i.e. food bank) under the Stewart B. McKinney Act, as FAF does not provide "direct assistance" to the homeless. Therefore, the only eligibility avenue to pursue is through P.L. 105-50, which authorizes the transfer of surplus personal property to organizations that provide assistance to impoverished individuals and families. The remaining threshold question is whether FAF's free food distribution to charities that directly serve the poor, rather than directly to the poor themselves, disqualifies FAF from participation in the Federal Donation Program.

We believe that the scope and intent of P.L. 105-50 is broad enough to include an applicant who can show that the primary services it provides, and for which it will use the donated property, directly serve the impoverished even though the applicant does not distribute directly to the impoverished. Although a change in the applicant's mission statement to include "direct distribution to impoverished individuals and families" would formally commit the applicant to its current claim, the lack of such a reference should not render FAF ineligible in terms of organizational purpose.

Ultimately, your agency needs to base FAF's eligibility on the guidelines for providers to

the impoverished that are outlined in the enclosed memorandum dated March 3, 1998, from Deidre Huber, Operational Director of GSA's Property Management Division in Washington, DC. In addition to the purpose/mission of a provider to the impoverished (which we have addressed previously in this letter), a second key element highlighted in the enclosed guidelines is the support the applicant provides to certify that the clientele served are primarily impoverished. To satisfy this "approval" requirement, FAF does provide a letter dated October 18, 2000 from the Director of the Tennessee State Division of Charitable Solicitations acknowledging FAF's registration with that state office. However, the content of the letter suggests this registration is simply a procedural matter for any organization affiliated with charitable contributions, and therefore, the letter cannot serve as proper certification.

If a more appropriate "approval" related to FAF's customer base is obtained, we conclude that FAF can be declared eligible for program participation. Nonetheless, although FAF's targeted needs appear limited at the present time to surplus transportation equipment and not surplus food, we are instructing your agency to remind FAF, should eligibility be granted, that donated Federal property must be used within FAF's operational location. Based on FAF's mission to feed the hungry both domestically and "abroad," FAF needs to be aware that donated property used for "foreign assistance" is not within the scope of our Federal terms and conditions.

If you have any questions regarding this eligibility determination, feel free to contact me on (215) 656-3922.

Sincerely,

BS/

Joseph M. Hvorecky
Deputy Director
Property Management Division

Enclosure

JMH cc: 3FPD (Official, Reading files), 3FP, 4FP
3FPD:JHVORECKY:jh: 656-3922:10/11/01



STATE OF TENNESSEE
DEPARTMENT OF GENERAL SERVICES
PROPERTY UTILIZATION DIVISION
6500 Centennial Boulevard, Nashville, Tennessee 37243-0543

September 10, 2001

Mr. Joe Hvorecky
GSA Mid-Atlantic Region
Property Management Division (3FPD)
100 Penn Square East
Philadelphia, PA 19107

SEP 12 2001

Dear Joe:

I am attaching copies of various documents from Feed America First, an organization that wishes to participate in our program. I have issued my determination that they are not eligible, but they disagree with my decision and wish to appeal for further consideration. I need your help in making this determination.

I will set out the reasons for my ineligible determination.

1. They have checked on the front of the application that they are trying to become eligible under the health umbrella as "Hunger Relief." My first determination was to look at them as possibly a food bank that was serving homeless individuals.
2. Please note on page 9 under "Programs" where it states, "The sole mission for Feed America First is the procurement and distribution of food to the agencies that feed the hungry, domestically and abroad.
3. I refer to GSA guidelines which state that, "Food banks remain ineligible if they do not operate a program for the homeless. If such an entity operates a broad spectrum of programs through which assistance to the homeless is peripheral and incidental, the entity would not be eligible to receive surplus property." From the information provided, any assistance to the homeless would be peripheral to their mission.
4. I also looked at the possibility of an organization which provides assistance to the impoverished. However, after reviewing the first paragraph of page 10, it is

WAREHOUSES:

6500 Centennial Boulevard, Nashville, Tennessee 37243-0543 (615) 350-3373 Fax (615) 350-3379
1902 Highway 70E, Jackson, Tennessee 38305 (901) 423-5859 Fax (901) 423-6475
839 Dawn Lane, Dandridge, Tennessee 37725 (865) 397-9407 Fax (865) 397-4669

Joe Hvorecky
Page 2
September 10, 2001

obvious that this organization is a clearinghouse and provides food for distribution for other agencies which actually serve the impoverished. I can find nowhere in the guidelines I have that an agency such as this would be eligible under the impoverished criteria.

5. Page 1 of the attachment, which is the last correspondence I received from Mr. Henry, the Executive Director, goes into how food was distributed to individuals. However, since the main mission is to provide food to the agencies that provide the direct service, would this not still exempt them from being eligible?
6. Also since it doesn't appear that they are doing any type of determinations as to recipient financial eligibility, I also think this would disqualify them.

Any assistance in this matter will be appreciated. Organizations such as this always appear to be the most difficult to determine. I don't want to exclude anyone from the program if there is any possibility at all that they can participate. However, on the other hand, I don't want anyone participating that falls outside the guidelines.

Please feel free to call me to discuss further if you feel it necessary. Your response in writing, negative or otherwise, would be appreciated so that I may inform this applicant of the decision and also use for future reference for this type of organization.

Sincerely,



Brenda D. Grant
Assistant Director
TN SASP

bg
attachments

David Graham
Tennessee Dept of General Services
Property Utilization Division
6500 Centennial Blvd.
Nashville, TN 37243-0543

8/28/01

Dear Mr. Graham:

You recently sent me a letter officially notifying Feed America First that we were not approved to purchase surplus property. I write today to appeal that ruling, and to ask that you reconsider our application, on the basis of the following facts.

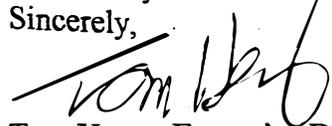
My understanding is that we were refused eligibility because Feed America First works with social service agencies, rather than with people in need. I want to point out that in the last three months, June, July, and August, Feed America First has distributed over 200,000 pounds of food, at no charge to families or agencies, and that about half of that food we have given directly to individuals and families. This week, we distributed 15,000 pounds of breads by driving around to low-income housing in Hardin and McNairy Counties, and knocking on doors. Last month, we distributed 40,000 pounds of potatoes to the poor in the area, by handing out 50# bags to mothers and fathers.

We also work closely with RHEMA Ministries of Savannah, which is why we met in your office when I accompanied JE Williams two weeks ago.

The transportation equipment we hope to purchase from State Surplus will allow us to load up a pickup, and head to the projects to make certain that the food donated to us goes to the people in need. We currently provide food to 80+ ministries and agencies, as our application states, but a significant portion goes from our hands into those of needy families. Please reconsider our application.

You may reach me at 615-512-5915, if you should have questions.

Sincerely,



Tom Henry, Executive Director



STATE OF TENNESSEE
DEPARTMENT OF GENERAL SERVICES
PROPERTY UTILIZATION DIVISION
6500 Centennial Boulevard, Nashville, Tennessee 37243-0543

August 14 2001

Thomas R. Henry, Executive Director
Feed America First of Tennessee
P. O. Box 10269
Murfreesboro TN 37129

Dear Mr. Henry:

We have reviewed your application for eligibility to participate in Tennessee's Surplus Property Program.

Federal Regulations require that an applicant organization must be either a public agency (requiring an act of legislation), or a non-profit, tax exempt (under Section 501, Internal Revenue Service Code) accredited educational institution, licensed health facility, or a provider of assistance to the homeless or impoverished.

Based on the information submitted and complying with Federal regulations, your eligibility application cannot be approved.

Thank you for your interest in the Federal and State Surplus Property Programs. If your circumstances change or if you have any questions, please do not hesitate to call me.

Sincerely,

David H. Graham
Director

dhg/cv

Mailed 8-14-2001

WAREHOUSES:

6500 Centennial Boulevard, Nashville, Tennessee 37243-0543 (615) 350-3373 Fax (615) 350-3379
1902 Highway 70E, Jackson, Tennessee 38305 (901) 423-5859 Fax (901) 423-6475
839 Dawn Lane, Dandridge, Tennessee 37725 (865) 397-9407 Fax (865) 397-4669



APPLICANT INFORMATION

I. LEGAL NAME AND MAILING ADDRESS OF APPLICANT ORGANIZATION

FEED AMERICA FIRST OF TENNESSEE

Name of Organization

P O BOX 10269

Mailing Address (P.O. Box #, Street, City, State, Zip Code)

MURFREESBORO TN 37129

Street Address/Location (if different from mailing address)

Telephone # 615-512-5915 Fax # _____ County Rutherford

II. APPLICANT STATUS (CHECK ONE):

(If designated a Service Educational Activity (SEA) by the Department of Defense, sign Part III and Authorized Representatives, Page 2.)

- Public Agency
 - State • County • City • Public Education • Public Health • Other (Specify)

Non-profit, Tax-Exempt Organization

- A. Must attach narrative description of program or services offered, including a description of facilities operated.
- B. Must attach copy of IRS determination letter of tax-exemption under Section 501 of Internal Revenue Code of 1954.
- C. Must attach proof that organization is accredited, licensed or approved.
- D. Must provide sources of funding (tax supported, grant, etc.) and attach supporting documentation.

- Education
 - College/University • Secondary School • Elementary School • Preschool
 - School for Handicapped • School for Retarded • Training Center • Sheltered Workshop
 - RadiolTV Station • Other (Specify) _____

- Health
 - Hospital • Clinic • Nursing Home • Health Center
 - Other (Specify) HUNGER RELIEF

- Provider of Assistance to the Homeless
- Provider of Assistance to the Impoverished
- Program for Older Individuals
- Library
- Museum
- Volunteer Fire/Police Department
- Rescue Squad/Emergency Management Agency/Civil Defense (other than public agency)

III. _____ THOMAS R HENRY _____ Thomas R Henry
Date Print Name/ Title of Organization Official Signature of Organization Official

FOR STATE AGENCY USE ONLY

This applicant has been determined:
as: • eligible • non-eligible • conditionally eligible
• public agency • non-profit education • non-profit health
• other (specify) _____

Donee ID # _____ Institution Code _____ 3040 Code _____ Eligibility Code _____

Signature of State Agency Director _____ Date _____
GS-0994 (Rev 5/99) 1 RDA1876



AUTHORIZED REPRESENTATIVES

() NEW DESIGNATION(S)
(Delete all previous designations)

() ADDITIONAL DESIGNATION(S) ONLY
(Add to previous authorization)

The following representatives are designated to:

- A. Represent organization as its authorized agent;
- B. Acquire State and Federal surplus property on behalf of the organization;
- C. Obligate necessary organization funds for this purpose
- D. Execute distribution documents binding the organization to the terms, conditions, reservations, and restrictions applying to property obtained through the agency.
- E. Further delegate this authority to any employee of the organization for the purpose of acquiring surplus property for use by the organization. (Further delegation must be in the form of a current original, signed letter.)

<u>NAME</u>	<u>TITLE</u>	<u>SIGNATURE</u>	<u>DRIVER LICENSE NUMBER</u>
DONALD V. HERBERT	PRESIDENT	<i>Donald V. Herbert</i>	TN 79026948
THOMAS R. HENRY	EXEC. DIRECTOR	<i>Thomas R. Henry</i>	TN 47436389

Are purchase orders used by your organization? Yes ___ No If yes, with what restrictions?

I hereby certify that I understand that all authority to acquire property by those listed above ceases at the expiration of my term listed below and must be renewed by the incoming official.

SIGNATURE OF ORGANIZATION OFFICIAL: *Thomas R. Henry* DATE: 5/17/01

TERM OF OFFICE EXPIRES: 6/2003



NONDISCRIMINATION ASSURANCE

Assurance to be executed by organization official prior to receiving surplus personal property from the Property Utilization Division.

Assurance of compliance with GSA Regulations under Title of the Civil Rights Act of 1964, Section 606 of Title VI of the Federal Property and Administrative Services Act of 1949 (as amended), Section 504 of the Rehabilitation Act of 1973 (as amended), Title IX of the Education Amendments of 1972 (as amended), and Section 303 of the Age Discrimination Act of 1975.

The FEED AMERICA FIRST (thedonee)
(Name of Organization)

agrees that the program for or in connection with which any property is transferred to the donee will be conducted in compliance with, and the donee will comply with and will require any other person (any legal entity) who through contractual or other arrangements with the donee, is authorized to provide services or benefits under said program to comply with all requirements imposed by or pursuant to the regulations of the General Services Administration (41 CFR 101-6.2 and 101-8) issued under provisions of Title VI of the Civil Rights Act of 1964, as amended; Section 606 of Title VI of the Federal Property and Administrative Services Act of 1949, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Section 303 of the Age Discrimination Act of 1975, as amended; Title IX of the Education Amendments of 1972, as amended; and Civil Rights Restoration Act of 1987, to the end that,

No person on the basis of race, color, national origin, sex, age, or handicap if otherwise qualified shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the donee receives assistance from the General Services Administration, and hereby gives assurance to that it will immediately take any measure necessary to effectuate this agreement.

Further, the donee agrees that this agreement obligates the donee for the period during which it retains ownership or possession of property; that the United States shall have the right to seek judicial enforcement of this agreement; and that this agreement is binding upon the donee and its successors, transferees, and assignees.

Thomas R. Henry
Signature of Organization Official

5/17/01
Date



CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION--LOWER TIER TRANSACTIONS

This certification is required by the General Services Administration regulations implementing Executive Order 12549-41 CFR 105-68 for all lower tier transactions meeting the requirements stated at 41 CFR 105-68.110.

1. By signing and submitting this proposal, the prospective lower tier participating is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF DONEE APPLICANT:

FEED AMERICA FIRST

NAME AND TITLE OF AUTHORIZED REPRESENTATIVE:

THOMAS R. HENRY, EXEC. DIRECTOR

SIGNATURE

Thomas R. Henry

DATE

5/17/01



FEED AMERICA FIRST OF TENNESSEE

PO Box 10269 Murfreesboro, TN 37129

Mission and Purpose

Mission

The purpose of "Feed America First" is to provide the distribution expertise necessary to help charities feed the poor, both domestically and internationally. "Feed America First" will operate a modern Distribution Center, employing the industry's "best practices", which will collect, sort, and distribute food and consumable supplies to those qualified charitable agencies regionally close to that Distribution Center. We envision operating a network of such Distribution Centers, spread geographically to support hunger-oriented charities nationwide. The Center will accomplish five major objectives. It will provide:

1. Sufficient storage capacity to accept very large contributions (tractor-trailer loads).
2. Sorting and grading of products, to minimize spoilage and damaged goods shipped.
3. The mixing of loads of food, supplies, and equipment, to provide variety.
4. Facilities to bench-test donated equipment before transshipment.
5. Space for a Disaster Response Bank, prepared for immediate shipment when a disaster occurs.

There is a demonstrated need for food for the hungry in the mid-South and Appalachia: in fact, there are over 200 charities dedicated to feeding people in this region, and they will all tell you that they need considerably more supply. "Feed America First" expects to supply some, or all, of those charities. The three primary components of our business are:

1. Warehouse space: approximately 100,000-150,000 square feet, interstate-accessible, with loading docks and office space.
2. Food supply: donated by major manufacturers and distributors, who need to dispose of large-volume products. Those products may be near the end of their shelflife, obsolete product lines, overruns,

Basic Information

This organization files an IRS Form 990 or 990-EZ.

Contact: Mr. Tom Henry, Executive Director
Phone: (615) 512-5915
Web Site: <http://www.feedamericafirst.com>
E-mail: tennhenrys@home.com
Year Founded: 2000
No. of Board Members: 5
No. of Full Time Employees: 1-5
No. of Part-Time Employees: 0
Volunteers: 0
Audited Statements Available to Public: No
Funding: This organization is seeking funds from contributions and grants. These funds will be used for unrestricted operating expenses and building improvements.

Board of Directors

Tom Henry, Executive Director
Don Herbert, Director
Don Schneller, Director
Linda Henry, Secretary/Treasurer
Liette Herbert, Director

or flawed in some cosmetic manner.

3. Capital to operate the Distribution Center, fund transportation, and pay administrative costs.

Excess warehousing is readily available in the Southeast, and "Feed America First" has the business experience and contacts to select and operate our own site. Food supply sources for development are readily available, within a day's drive. Our goal is to locate a corporate partner willing to make an in-kind, tax-deductible contribution of a Distribution Center, and capital for operating expenses; the Return on Investment would be that "Feed America First" could provide to that partner a naming opportunity, leading to a significant local community presence, by feeding as many as 250,000 people annually, in his name.

We also pursue funding through grants from private and corporate foundations, as well as from government sources. That funding is directed toward administrative costs. Of cash donations made directly to "Feed America First", 90% would be committed to purchasing staple food supplies for distribution, and 10% to administrative overhead.

In the words of Harry S. Truman, "It is amazing how much you can accomplish, if you don't care who gets the credit".

About "Feed America First:

"Feed America First" is a non-profit organization dedicated to assisting others in feeding our fellow man. The organization is led by two individuals, Don Herbert and Tom Henry, who are dedicated to succeeding in that mission. Don Herbert has over 30 years experience in the field of Distribution with the following organizations:

Pharmaceuticals/Drug Stores: Pfizer, Eckerd Drugs. Food: Southland, PYA/Monarch. Furniture: DeSoto, Pier 1 Imports, Fraenkel. Non-Profit: "Feed The Children".

Don was Vice President of Distribution for both PYA/Monarch and Pier 1 Imports, where he built over two million square feet of Distribution space. He and his wife Liette have been married 34 years, and live in Murfreesboro, Tennessee, where he is a Parish Council Member at St. Rose Catholic Church.

Tom Henry is a degreed Industrial Engineer, who has spent his 30-year career in restaurant operations. Tom has operated multiple restaurants for Steak and Ale, Houston's, and Rio Bravo Cantinas, and his business experience covers the range from site selection and construction to marketing, food purchasing, and finance.

Tom and Linda, his wife of 23 years, reside in Franklin, Tennessee, where Tom serves on the Administrative Board for Bethlehem United Methodist Church. Ethics:

Our mission is one of faith and service to our fellow man. We must conduct business in the most ethical and circumspect way, because it is the right thing to do: always in the light, never in shadow. We can never indulge in egoism, or envy, or allow our organization to be tarnished in any way, because it will limit our ability to serve our mission effectively. We must welcome public scrutiny of everything we do. We live in a climate of "investigative journalism", and public distrust of non-profit organizations, so we must set and uphold a higher standard, at every level.

Programs

The sole mission for Feed America First is the procurement and distribution of food to the agencies that feed the hungry, domestically and abroad.

Results

Accomplishments for Fiscal Year Ending 12/31/2000

1. Feed America First received its 501(c)(3) in late September 2000.
2. We received early contributions and gifts in kind totalling approximately \$40,000.

Objectives for Fiscal Year Beginning 01/01/2001

1. Procure a food distribution facility of 75,000-130,000 square feet by 3/1/2001.
2. Develop funding for operating expenses, property lease, and transportation by 3/31/2001.
3. Feed 200,000 people by 12/31/2001.

Self Assessment

Our program will be evaluated by: 1. The total number of people fed, pounds of food procured. 2. Overhead < 20% of total contributions. 3. >50% of transportation expenses made as in-kind contributions.

Chief Executive Profile

Don Herbert has over 30 years experience in the field of Distribution with the following organizations: Pfizer Pharmaceuticals, Eckerd Drugs, Southland, PYA/Monarch, DeSoto Furniture, Pier 1 Imports, Fraenkel, "Feed The Children".

Don was Vice President of Distribution for both PYA/Monarch and Pier 1 Imports, where he built over two million square feet of Distribution space. He and his wife Liette have been married 35 years, and live in Murfreesboro, Tennessee, where he is a Parish Council Member at St. Rose Catholic Church.

Any resale of this information or use for commercial gain is prohibited, except in accordance with a GuideStar® licensing agreement.

Feed America First

The purpose of "Feed America First" is to provide the distribution expertise necessary to help charities feed the poor, both domestically and internationally. "Feed America First" operates a Distribution Center in Hardin County which collects, sorts, and distributes food and consumable supplies to those qualified charitable agencies in West and Middle Tennessee. We currently supply donated food to a network of approximately 50 hunger-oriented charities in the region. We obtain our funding through private donations, grants from private and corporate foundations and government agencies.

about "Feed America First":

"Feed America First" is a non-profit organization dedicated to assisting others in feeding our fellow man. The organization is led by two individuals, Don Herbert and Tom Henry, who are dedicated to succeeding in that mission.

Don Herbert has over 30 years experience in the field of Distribution with the following organizations:

Pharmaceuticals/Drug Stores: Pfizer, Eckerd Drugs.

Food: Southland, PYA/Monarch.

Furniture: DeSoto, Pier 1 Imports, Fraenkel.

Non-Profit: "Feed The Children".

Don was Vice President of Distribution for both PYA/Monarch and Pier 1 Imports, where he built over two million square feet of Distribution space. He and his wife Betty have been married 34 years, and live in Murfreesboro, Tennessee, where he is a Parish Council Member at St. Rose Catholic Church.

Tom Henry is a degreed Industrial Engineer, who has spent his 30-year career in restaurant operations. Tom has operated multiple restaurants for Steak and Ale, Justin's, and Rio Bravo Cantinas, and his business experience covers the range from site selection and construction to marketing, food purchasing, and finance.

Tom and Linda, his wife of 23 years, reside in Franklin, Tennessee, where Tom serves on the Administrative Board for Bethlehem United Methodist Church.

ethics:

Our mission is one of faith and service to our fellow man. We must conduct business in the most ethical and circumspect way, because it is the right thing to do: always in the light, never in shadow. We can never indulge in egoism, or envy, or allow our organization to be tarnished in any way, because it will limit our ability to serve our mission effectively. We must welcome public scrutiny of everything we do. We live in a climate of "investigative journalism", and public distrust of non-profit organizations, so we must set and uphold a higher standard, at every level.

0/
✓

INTERNAL REVENUE SERVICE
P.O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: 8/22/2000

FEED AMERICA FIRST OF TENNESSEE INC
1603 ASHFORD COURT
MURFREESBORO, TN 37129

Employer Identification Number:
62-1821057
DLN:
17053194034020
Contact Person:
SANDRA TOWNLEY ID# 75816
Contact Telephone Number:
(877) 829-5500
Accounting Period Ending:
December 31
Foundation Status Classification:
509(a)(1)
Advance Ruling Period Begins:
June 9, 2000
Advance Ruling Period Ends:
December 31, 2004
Addendum Applies:
No

Dear Applicant:

Based on information you supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3).

Because you are a newly created organization, we are not now making a final determination of your foundation status under section 509(a) of the Code. However, we have determined that you can reasonably expect to be a publicly supported organization described in sections 509(a)(1) and 170(b)(1)(A)(vi).

Accordingly, during an advance ruling period you will be treated as a publicly supported organization, and not as a private foundation. This advance ruling period begins and ends on the dates shown above.

Within 90 days after the end of your advance ruling period, you must send us the information needed to determine whether you have met the requirements of the applicable support test during the advance ruling period. If you establish that you have been a publicly supported organization, we will classify you as a section 509(a)(1) or 509(a)(2) organization as long as you continue to meet the requirements of the applicable support test. If you do not meet the public support requirements during the advance ruling period, we will classify you as a private foundation for future periods. Also, if we classify you as a private foundation, we will treat you as a private foundation from your beginning date for purposes of section 507(d) and 4940.

Grantors and contributors may rely on our determination that you are not a private foundation until 90 days after the end of your advance ruling period. If you send us the required information within the 90 days, grantors and contributors may continue to rely on the advance determination until we make

Letter 1045 (DO/CG)



State of Tennessee
Department of State

Division of Charitable Solicitations
312 Eighth Avenue North
Eighth Floor, William R. Snodgrass Tower
Nashville, Tennessee 37243

**Telecommunication
Device for the Deaf:**
(800) 848-0299
(For Hearing/Speech Impaired)

Telephone:
(615) 741-2555
FAX:
(615) 253-5173
Web Site Address:
www.state.tn.us/sos/charity.htm

October 18, 2000

Thomas Henry
Feed America First
1105 Blue Springs Rd
Franklin, TN 37069-

RE: Registration to Solicit Charitable Funds
Registration No: 1406
Expiration Date: 06/30/2001

Dear Thomas Henry:

This office is in receipt of your organization's application for its charitable solicitations registration pursuant to T.C.A. § 48-101-501, et seq. A facial review of the application suggests that your organization may be properly registered with this office.

If a later determination is made by this office that your organization's application or other information provided to this office is incomplete, contains false, misleading, or deceptive statements or that the organization has violated provisions of the laws governing charitable solicitations, this office will take appropriate action in accordance with the law, which may include a determination that your organization's registration is improper or unlawful.

The Secretary of State may investigate any charitable organization to determine if any provision of the Act has been violated. Your organization may be requested or required by this office to provide certain additional information in connection with its registration at any time.

Sincerely,

Barbara D. Toms, Director
Charitable Solicitations

BDT:GS:CW:1406
Enclosure: Receipt No.: 058609



Joseph M. Hvorecky

06/28/2001 09:47 AM

To: James M. Taylor/AK/CO/GSA/GOV@GSA, Evelyn Britton/AK/CO/GSA/GOV@GSA

cc:
Subject: Eligibility Question

Jim/Evelyn, I reviewed the eligibility packet you faxed to me on the "National Conference of Black Mayors, Inc." Georgia SASP had found this particular organization to be ineligible and you asked for my comments. After reading over the material faxed to me, unfortunately I must concur with the Georgia SASP's decision. Here is the crux of my analysis:

1) From a nonprofit standpoint, the NCBM has provided the required IRS tax-exemption letter. However, the application submitted does not have any designation of NCBM's "type of organization" - nothing is checked in any of the 18 classifications listed on the front of the application. As a general rule, nonprofit organizations must fall within the realm of education or health, or be either a homeless provider program or a provider of assistance to the impoverished (i.e. low income).

2) Based on the nonprofit guideline above and my review of NCBM's mission as stated in their narrative, I can only assume NCBM is attempting to fall within the realm of "education." However, Federal Regulations are clear as to eligible educational programs - they must either be accredited or "approved," the latter translating into the following: "An educational institution or program may be considered approved if its instruction and credits therefore are accepted by three accredited or State-approved institutions, or if it meets the academic or instructional standards prescribed for public schools in the State..." According to the written narrative submitted, NCBM conducts a training seminar for newly elected black mayors to strengthen leadership skills and does hold an annual conference where some educational training may occur. However, in general, NCBM functions mainly in a generalized support role for black mayors nationwide. To qualify as an educational program by the regulatory definition, NCBM would have to be established primarily for educational purposes and have been accredited or approved by a legitimate accrediting association. There is no evidence of the latter, nor does it appear by the narrative that NCBM is established primarily for academic purposes.

If you have any further questions on this, feel free to contact me on 215-656-3922.

-Joe H.

Joseph M. Hvorecky (215) 656-3922

Deputy Director

Property Management Division (3FPD)

100 Penn Square East - Rm: 874

Philadelphia, PA 19107

Fax: 215-656-3946

Hi Joe,

Jim Taylor requested that I FAX

*the application that was submitted
to the State of Georgia SA SP by the
National Conference of Black Mayors.*

*Any insights, suggestions will be
appreciated.*

(9 pages incl. Header)

*Thanks
Evelyn
202-501-4347*

11151 Cleveland Avenue
Suite D
East Point, GA 30344
(404) 765-6444; 765-6430 fax

**NATIONAL
CONFERENCE OF
BLACK MAYORS,
INC.**

Fax

To: Evelyn Britton	From: Arthur Cole
Fax: (202) 219-3369	Pages: 7
Phone:	Date: 03/30/01
Re: Surplus Property Eligibility	CC:

Urgent For Review Please Comment Please Reply Please Recycle

• **Comments:** Here is NCBM's application for eligibility and the response from the Georgia surplus property agency. In retrospect we probably should have emphasized the economic distress and limited resources that so many of the membership are contending with, that we'd be making whatever was donated available to the membership.

Anyway, please call me if you have questions or concerns at 404 765-6444, or send an email (mrcole123@aol.com).



Trust • Excellence • Service

Department of Administrative Services

Roy E. Barnes
Governor

Dana R. Russell
Commissioner

Support Services Division
Debra A. White, Director

October 26, 2000

RECEIVED
BY:

National Conference of Black Mayors Inc.
1422 W. Peachtree Street NW STE 800
Atlanta, Georgia 30309

RE: RESPONSE TO APPLICATION FOR ELIGIBILITY

Considering the information supplied by your organization for eligibility, we find that your organization is not eligible for receipt of surplus governmental property.

Based on the services that your organization provides as outlined in your eligibility package, your organization does not meet the criteria as a non-profit health, education, or provider for the homeless.

Thank you for your interest in this program.

Sincerely,

Beef
William A. Albrecht
Assistant Director

Surplus Property
1050 Murphy Ave #12
Atlanta, Ga 30310
404/750-4801 • FAX 404/756-4845

JUL -20' 00 (THU) 01:28

TEL: 404/304801

FAX: 404/304845

DEPARTMENT OF ADMINISTRATIVE SERVICES
 SUPPORT SERVICES DIVISION
 1050 MURPHY AVENUE SW BLDG. 12
 ATLANTA, GEORGIA 30310-3344
 (404) 756-1801 FAX: (404) 756-4845

APPLICATION FOR ELIGIBILITY
 (PLEASE TYPE OR PRINT CLEARLY)

I. ORGANIZATION LEGAL NAME & ADDRESS.

National Conference of Black Mayors, Inc. (404) 892-0127 / (404) 876-4597

NAME OF ORGANIZATION TELEPHONE # FAX #
 1422 W. Peachtree St, NW Ste. 800

MAILING ADDRESS STREET ADDRESS (IF DIFFERENT)
 Atlanta, Fulton GA 30309
 CITY COUNTY STATE ZIP

II. APPLICANT STATUS (CHECK ONE):

<input type="checkbox"/>	Public Agency including Public Schools (evidence must be provided)
<input checked="" type="checkbox"/>	Nonprofit, tax-exempt Organization
<input type="checkbox"/>	Service Educational Activities
<input type="checkbox"/>	Small Business 8(a) Participant

III. TYPE OR PURPOSE OF ORGANIZATION (check one only):

<input type="checkbox"/>	College	<input type="checkbox"/>	Child Care Center	<input type="checkbox"/>	Program for the Homeless
<input type="checkbox"/>	Health Center	<input type="checkbox"/>	School for Handicapped	<input type="checkbox"/>	Secondary School
<input type="checkbox"/>	Radio/TV Station	<input type="checkbox"/>	Museum	<input type="checkbox"/>	Nursing Home(Skilled)
<input type="checkbox"/>	Health Clinic	<input type="checkbox"/>	Sheltered Workshop	<input type="checkbox"/>	Research Center(Medical)
<input type="checkbox"/>	Elementary School	<input type="checkbox"/>	Hospital	<input type="checkbox"/>	Program for Impoverished
<input type="checkbox"/>	Library	<input type="checkbox"/>	Programs for Older Indiv	<input type="checkbox"/>	Volunteer Fire Dept

IV. RETURN WITH APPLICATION:

- A. Brief Narrative Description of Program or Services Offered.
- B. Describe Funding Source(s) (example: grants, donations, contract).
- C. Evidence of being Non-Profit and Tax-Exempt under Section 501 of the U.S. Internal Revenue Code.
- D. Evidence of being Approved, Accredited, or Licensed.
 (NOTE: If applicant lacks evidence of formal approval, contact the State Agency Director for qualifying procedure.)
- E. Evidence of Compliance with Civil Rights, Sex, and Handicapped Non-discrimination Act. (Form attached).

8/30/2000
 DATE

Richard D. Krumm
 AUTHORIZED OFFICIAL

FOR STATE AGENCY USE

Date _____ Approved _____ Disapproved _____
 Signature _____
 Administration _____

Washington, DC 20224

Person to Contact: Mr. Monahan

National Conference of Blacke
 Mayors, Inc.
 1422 W. Peachtree Street, N.W.
 Suite 202
 Atlanta, Georgia 30309

Telephone Number: 202-566-3586

Refer Reply to: E:EO:T:R:1-2

Date: AUG 3 1977

Key District: Atlanta
 Accounting Period Ending: December 31
 Form 990 Required: Yes No
 Foundation Status Classification: 509(a)(1)

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

Section 508(a)(2) of the Internal Revenue Code states that an organization organized after October 9, 1969, shall not be treated as an organization described in section 501(c)(3) for any period before the giving of notice that it is applying for recognition of exempt status, if such notice is given after the time prescribed by regulation.

Section 1.508-1(a)(2)(i) of the Income Tax Regulations states that an organization seeking exemption under section 501(c)(3) must file the notice described in section 508(a) within 15 months from the end of the month in which the organization was organized, or before March 22, 1973, whichever comes later. Such notice is filed by submitting a properly completed and executed Form 1023, exemption application, with the District Director.

Our records indicate we received notice on June 14, 1976, which is more than 15 months from the date on which you were incorporated. Therefore, the provisions of section 508(a)(2) are applicable to you.

Based on the information supplied and assuming your operations will be as stated in your application for recognition of exemption, we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code beginning June 14, 1976.

JUL -20' 00 (THU) 01:28

TEL: 904/304901

1.000

RESOLUTION/DESIGNATION OF CERTIFYING OFFICIALS AND PROPERTY SELECTORS

Name of Organization National Conference of Black Mayors, Inc.

The following named individuals are hereby appointed certifying officials with authority to conduct all matters of business pertaining to the acquisition and utilization of Surplus Property acquired through the Georgia State Agency for Support Services. They are designated to obligate necessary Donee Organization funds for this purpose and execute Distribution Documents binding the Donee Organization to the terms, conditions reservations and restrictions applying to property obtained through the agency. The list will be updated on a regular basis depending on type of organization. Between update periods, the certifying official is responsible for notifying the State Agency in the event of additions or cancellations to the list. Individuals not listed below will be required to have written authorization from a certifying officer before being admitted to the agency distribution centers.

NAME	TITLE	TELEPHONE
<u>Michelle D. Kourouma</u>	<u>Executive Dir.</u>	<u>(404) 892-0127</u>
_____	_____	_____
_____	_____	_____

The above listed individuals will assume responsibility for appointing property selectors, insure lawful utilization of property, maintain property records on property received, and assure prompt payment on service charge accounts.

The below listed individuals are designated property selectors and have authority to visit and acquire items of property from the Georgia State Agency for Support Services. (Use additional pages if needed.)

NAME	POSITION	UNIT
<u>Arthur Cole</u>	<u>Project Director</u>	_____
<u>Carol Crawford</u>	<u>Deputy Director</u>	_____
<u>Marian Duffly-Parks</u>	<u>Admin./Financial Coord.</u>	_____
<u>Shavonne Davis</u>	<u>Project Support Spec.</u>	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Date Aug. 18, 2000

BY: Michelle D. Kourouma
AUTHORIZED OFFICIAL

Application of Eligibility (GSA)

- A. Brief Narrative of Programs of Services offered**
- B. Funding Sources: NCBM's funding comes from membership dues, annual fundraising, federal grants, and events**
- C. Evidence of Nonprofit and Tax Exempt Status: 501(c) (3) (Letter Attached)**
- D. Evidence of Being Approved, Accredited or Licensed: Articles of Incorporation**
- E. Evidence of Compliance with Civil Rights, Sex, and Handicapped Non-discrimination Act (Form Attached)**

A. Brief narrative of programs and services offered**The National Conference of Black Mayors, Inc**

The National Conference of Black Mayors, Inc. is a nonprofit, nonpartisan, 501(c)(3) service organization, incorporated in 1974. Today, NCBM has a membership of 462 mayors, an administrative staff headquartered in Atlanta, GA., that provides management and technical assistance to black mayors regarding national policy issues. NCBM has assisted members in the past until today with federal grants and generating funds in public works projects for its member cities and towns.

Each year the organization coordinates a leadership institute for 50 mayors that have been recently elected. This training seminar is geared to strengthening leadership skills, providing workshops that will disseminate information related to finance, human resources and other political matters. NCBM also coordinates an annual convention that is held in a member's city. Participants of the convention include, members, federal and state elected officials, educators, corporate and small business representatives, foreign dignitaries and the public. The convention consists of four days of informative workshops, meetings, governmental speakers, networking, exhibits areas, and numerous events.

NCBM has established a healthy relationship with various mayors of foreign countries, such as China, South and Central America, Africa and the Caribbean. They have also established a voluntary Board of Directors that consist of mayors that govern small towns and large cities. Members of NCBM have developed 19 state chapters that are located in various states. The chapters meet quarterly or bi-annually to discuss issues that are of importance to the state in which they represent. NCBM has also established a number of active committees; the following are The Economic Development Task Force, Energy Committee, The Mayors Task Force on Black and Minority Health, and Environment Committee.

JUL -20' 00 (THU) 01:28

TEL: 404/308801

F. 000

DEPARTMENT OF ADMINISTRATIVE SERVICES
 SUPPORT SERVICES DIVISION
 1050 MURPHY AVENUE SW BLDG. 13
 ATLANTA, GEORGIA 30310-3344
 (404) 756-4801 FAX: (404) 756-4845

APPLICATION FOR ELIGIBILITY
 (PLEASE TYPE OR PRINT CLEARLY)

I. ORGANIZATION LEGAL NAME & ADDRESS

National Conference of Black Mayors, Inc. (404) 892-0127 / (404) 876-4597
 NAME OF ORGANIZATION TELEPHONE # FAX #

1422 W. Peachtree St, NW Ste. 800

MAILING ADDRESS STREET ADDRESS (IF DIFFERENT)
 Atlanta, Fulton GA 30309
 CITY COUNTY STATE ZIP

II. APPLICANT STATUS (CHECK ONE):

Public Agency including Public Schools

COMPLIANCE TABLE OF CONTENTS

- 15) Personal Property Management Centers of Expertise
- 16) Guidelines on Noncompliance
- 17) Federal Management Regulations
- 18) Aircraft/Vessels/Firearms/HMMWVs
- 19) Conditional Transfer Documents and Letters of Intent
- 20) GSA Form 3396 (Report of Compliance Activity)
- 21) Guidelines on Time Extensions and Trade-in Procedures
- 22) Various Request Forms for Transferred/Donated Surplus Property
- 23) Stevenson/Wydler Act Disposal Policy
- 24) Judiciary Surplus Property
- 25) Chronological Summary of a past compliance case (R4-95-AL-1)
- 26) Updated National Distribution Targets

EL/COM/SAR CENTERS OF EXPERTISE



DEC 28 2000

GSA Federal Supply Service

William G. Wilson
President, NASASP
C/O Wisconsin Division of Federal Property
One Foundation Circle
Waunakee, WI 53597-8914

Dear Mr. Wilson:

As you have learned at our last Leadership Board Meeting, we decided to make several changes in operations that will impact the State Agencies for Surplus Property (SASP). The purpose for this change is to maximize our office efficiencies, streamline the process and maintain consistency. We believe these changes will improve the consistency of our program applications and ultimately will be of benefit to both GSA and the SASP's.

Effective February 1, 2001, we will allocate property for donation from three locations, GSA Regional Offices in Atlanta, Fort Worth and San Francisco. This will not include specific commodities for which we already have established centralized allocation, i.e. vessels, firearms and aircraft. For all other commodities, Atlanta (Region 4) will allocate property located within Regions 1, 2, 3 and 4, including National Capital Region; Fort Worth will allocate property within Regions 5, 6, and 7; and San Francisco will allocate property located in Regions 8, 9 and 10. We are certain that this will help us resolve many longstanding complaints concerning the subjectivity and variances in allocation decisions that many SASPs have raised.

Additionally, on that date, we will centralize SASP oversight, eligibility and compliance, and state reviews at Philadelphia and Kansas City. Philadelphia will handle eligibility determinations, manage noncompliance cases and schedule and coordinate state reviews for Regions 1, 2, 3, 4 and 5. Kansas City will fulfill this mission for Regions 6, 7, 8, 9 and 10. Again, the exceptions will be for issues related to aircraft, firearms and vessels.

One other change that we agreed upon is the cessation of accompanied screening at Defense Reutilization and Marketing Offices (DRMOs). The centralization of allocation will require greater use of our Federal Disposal System (FEDS) and this increased use of electronic systems, along with the diminishing number of DRMOs, reduces the benefit of continued scheduling of, and participation in Area Property Officer accompanied screenings. This change will be effective October 1, 2001. We continue to encourage SASPs to screen on

their own and we will work with the Defense Reutilization and Marketing Service to ensure that a computer with access to FEDS is available at each DRMO for SASPs to input freezes while at the DRMO.

Finally, I want to emphasize a long term goal: to maximize the use of automation, electronic screening and distribution. We will continue to work towards achievement of a comprehensive integrated electronic system in partnership with our Federal and donation customers. Your continued assistance in promoting FEDS and electronic screening within the donation community is greatly appreciated.

We firmly believe that these changes will benefit all of us and are open to any comments or questions you may have. We will of course be willing to discuss these changes and the initial operations, at your March 2001 conference. If you have question preceding this, please contact Dave Robbins or myself.

Best wishes for a healthy and prosperous New Year.

Sincerely,



Deidre Huber
Director
Property Management Division





General Services Administration
Federal Supply Service
Washington, DC 20406

JUL 19 1995

MEMORANDUM FOR DIRECTORS, FEDERAL SUPPLY SERVICE BUREAUS
2FB, 3FB, 3FB-W, 4FB, 5FB, 6FB, 7FB, 9FB, 10FB

FROM: DEIDRE HUBER *Deidre Huber*
DIRECTOR
PROPERTY MANAGEMENT DIVISION (FBP)e

SUBJECT: Transfer, Donation and Sale of Aircraft

As a result of the recommendations made during the Mini Property Management Conference, held February 1995, and the Post Buy Out Operations Task Group Report for the Property Management Program, it has been determined that the Pacific Rim Region will be responsible for all utilization and donation transfers and sale of Federal Supply Group 15 (aircraft, fixed wing, rotary wing, gliders, drones and structural components). This is one step toward the specialization by regions in certain commodities and discussed during the two referenced forums.

Effective immediately all SF120 (Report of Excess Personal Property), SF126 (Report of Personal Property for Sale), SF122 (Transfer Order for Excess Personal Property) and SF123 (Transfer Order for Surplus Personal Property) for vessels (FSG 15) are to be forwarded to the Pacific Rim Region (9FBP).

Action will be taken, in the near future, to process a change to the Federal Property Management Regulations indicating the responsibility change. Additionally, we will advise you of when necessary systems changes will be made to support this action.

It should be noted that the regional office will retain proceeds from the sale of aircraft in an amount to cover the regional expenses for sales operations. The remainder of the proceeds will be deposited in a national account to support the GSA national sales operations.

cc: 2FBP-1
7FBP-8





DONATION HANDBOOK GUIDELINES

CHAPTER 11. NONCOMPLIANCE

1.e Scope. This chapter provides information, guidelines, and procedures for correcting noncompliance of surplus personal property transferred to State agencies for donation to public agencies and other eligible nonprofit, tax-exempt activities within each State.

2.e Definition of noncompliance. For the purpose of this chapter, the term "noncompliance" shall have the meaning set forth in this paragraph. Noncompliance refers to cases involving the misuse or mishandling of donated surplus personal property conveyed under applicable provisions of section 203(j) of the Federal Property and Administrative Services Act of 1949, as amended, and the implementing regulations and procedures of the General Services Administration, when there is evidence or allegations of:

a.e Property not placed in use by the donee for the purposes for which donated within 1 year of donation;

b.e Property no longer needed by the donee during the period of restriction;

c.e Unauthorized use of property by the State agency or donee during the period of restriction;

d.e Unauthorized sale, disposal, cannibalization, or destruction of property by the State agency or donee during the period of Federal restriction;

e.e Failure by a State agency or donee to comply with the terms, conditions, reservations, or restrictions imposed on the use of property or special handling conditions or restrictions placed on property;

f.e Unauthorized acquisition or use of the property by an ineligible recipient;

g.e Damage to or loss or theft of property while property is in the possession of either the State agency or donee during the period of restriction imposed by the Act, GSA, or the State agency;

h.e Donation to an eligible donee who later became ineligible or a donee erroneously determined eligible at time of application;

i.e A State agency operating in nonconformity with its approved State plan of operation, State laws, or Federal regulations;

j.e Donees receiving property in excess of needs;

k.e Improper administration of funds; or

1.n Fraud, which is defined as "an intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right; a false representation of a matter of fact, whether by words or conduct, by false or misleading allegations or by concealment of that which should have been disclosed which deceives and is intended to deceive another so that he shall act upon it to his legal injury."

3.n Temporary deferment.n

a.n "Temporary deferment" means the action taken by the State agency to temporarily defer making Federal surplus property available to a donee.

b. A temporary deferment of donations may be initiated by the State agency when there are indications of noncompliance, fraud, or other situations, such as changes in the donee's eligibility status. In addition to initiation by the State agency, temporary deferment may be requested, in writing, by GSA or the donee.

c.n The State agency shall notify, in writing, the donee and the GSA regional office of any temporary deferment. Upon resolution of the situation that evoked the temporary deferment, the State agency shall notify, in writing, the donee and the GSA regional office of the cancellation of the temporary deferment.

4.n State agency and regional office responsibilities.n

a.n State agency responsibilities.n

(1)n The State agency has compliance responsibilities for personal property donated to public agencies and nonprofit, tax-exempt activities pursuant to the Federal Property and Administrative Services Act of 1949, as amended. Under this Act, and consistent with the provisions of FPMR 101-44.208 and the State plan of operation, the State agency is also authorized to convey conditional title to property donated, require donee certifications and agreements, and to impose, modify, or remove restrictions on the use of donated property, other than those imposed by the Act or GSA.n When donating special types of property, the State agency shall require the authorized representative of the donee institution or organization to certify that the property will be properly safeguarded, used in accordance with the letter of intent and any special handling or use limitations imposed by GSA, and dispensed and administered under competent supervision.n Whenever the State agency is in doubt or has any question relating to the interpretation and/or application of any special handling restrictions imposed by GSA, it shall request, in writing, an explanation thereof from the GSA regional office. State agencies shall conduct an affirmative compliance program in accordance with section 203(j)(4) of the Act and their State plan of operation, and report all noncompliance activity to GSA.n

May 8, 1981

FSS P 4025.5

(2) The State agency, as a bailee, is responsible for surplus personal property transferred to it by GSA from the time it is released to the State or to the transportation agent designated by the State, until the time the eligible donee executes the certifications and agreements required by the State agency and has taken possession of the property. Within 15 calendar days following the completion of the State agency inventory, a listing of overages and shortages shall be forwarded to the regional office along with a report of actions taken by the State agency to reconcile and correct inventory differences. The State agency may be liable to the Government for Federal surplus personal property transferred to the agency that cannot be accounted for when the inventory is taken, absent any lawful excuse for nondelivery or nonaccountability. Regional offices shall take whatever actions are necessary to correct reported inventory differences.

(3) In enforcing compliance with the terms and conditions imposed on donated property, the State agency shall coordinate with GSA before undertaking the sale of, or making demand for payment of the fair value or fair rental value of donated property which (a) is subject to any special handling condition or use limitation imposed by GSA or (b) has not been placed into use by the donee, for the purposes for which acquired, within 1 year of donation, or which has not been used for these purposes for 1 year after being placed in use. The regional Personal Property Division shall advise the State agency, in writing, of the compliance action that must be taken to satisfy the interest of the Federal Government.

b.o Regional office responsibilities.

(1) Each regional office shall ensure that State agencies within their areas are operating in compliance with the Act and their approved State plan of operation. Regional offices shall monitor the allocation of surplus personal property among the States to ensure that over-allocations are not made and that excessive quantities of property are not approved for transfer to a State agency or donee. Regional offices shall be alert for evidence of fraud, misappropriations, theft, or embezzlement. Overage and shortage reports covering property approved for donation shall be continually reviewed to ascertain the causes therefor and if a problem exists.

(2) Regional offices shall pay special attention to all requests for those types of property requiring special handling, certifications, or use limitations, as well as property with a high acquisition cost. Prior to any allocation and transfer approval, the regional office shall require the State agency or donee to provide essential background information and a detailed justification to warrant the transfer. The regional office shall also obtain from the State agency or donee a certification that adequate facilities and personnel are available to meet storage, security, usage, and safety requirements applicable to the property requested. In those cases where regional offices propose to require special handling or use limitations on property not covered by existing regulations or directives, the regional office shall contact the Central Office prior to the imposition of the

special handling or use limitations. The regional office shall prepare and execute a special conditional transfer document incorporating the special terms and conditions and special handling or use limitations. The regional office shall maintain a record, by State, of the allocations of property requiring special handling or use limitations for use when conducting State agency reviews. This record may also be made available to State agencies for use in conducting donee utilization reviews.

5.e Use restrictions. All property, regardless of acquisition cost, must, by law and Federal regulations, be placed in use within a period of 1 year from receipt and continue to be used for 1 year thereafter for the purpose for which acquired. Property categorized as having special handling conditions or use limitations may require a restriction relating to an inherent condition or characteristic of the property itself. Such a restriction would run in perpetuity with the property. The mere passage of a year of use would not change the inherent aspect of the property.

6.e Utilization review.

a.e State agencies, pursuant to their State plan of operation, shall make utilization visits or obtain written utilization reports from donees giving the date donated property was placed into proper use and the nature of its continuous use during the period of restriction.

b.e Where it is established, as a result of a visit to the donee institutions, that the property is being used in accordance with imposed terms and conditions, no report is necessary. However, the files should be documented showing the property is being properly used.

c.e Where information is received by the State agency which indicates or alleges that donated property may have been misused or mishandled, a report thereon shall be made immediately by the State agency to the regional Personal Property Division. Upon receipt of the report, the regional Personal Property Division shall prepare a GSA Form 3396, Report of Compliance Activity (fig. 11-6). Upon request by the regional Personal Property Division, the State agency shall make appropriate reviews of alleged noncompliance of donated surplus personal property and report its findings to the regional office. The regional Personal Property Division shall then take appropriate action.

7.e Disposition of recovered property.

a.e The State agency shall implement procedures, as required by the terms and conditions of the donation distribution document, for returning donable property to the State agency for further distribution when the property has not been placed into use for the purposes for which it was

May 8, 1981

FSS P 4025.5

donated within 1 year of donation or ceases to be needed or used by the donee for eligible purposes within 1 year after being placed into use, or while it is subject to any special handling condition or use limitation imposed by GSA.

b.e Personal property items returned to a State agency by a donee shall be redistributed by the State agency to other donees in the State or otherwise transferred or disposed of in accordance with the provisions of the State plan of operation.

8.e Actions of noncompliance.e

a.e In cases involving allegations or indications of fraud, the procedures set forth in par. 9 shall be followed.

b.e The following administrative actions shall be taken to close alle other noncompliance cases.

(1) Whenever possible and practicable, the property shall be placed into proper use by the present donee or transferred to another eligible donee.

(2)e When the property cannot be immediately placed into proper use or transferred to another eligible donee, it shall be returned to the State agency distribution center. If circumstances make this impracticable, or there is no other provision in the State plan of operation covering the situation, GSA regional office approval of further disposition action shall be obtained by the State agency.

(3) When property is found to be improperly used by the donee, demand will be made of the ineligible recipient or eligible donee to pay the General Services Administration, for deposit to the U.S. Treasury, the fair rental value for the time the property was not in compliance.

(4)e When a determination is made by a State agency that an institution or organization previously determined eligible for the donation of surplus personal property was, in fact, never eligible, it is the responsibility of the State agency to terminate the donation of surplus personal property to that organization and to take whatever action is necessary to recover all surplus personal property distributed to the institution or organization.

(5) When a determination is made by a State agency that an institution or organization previously determined eligible for the donation of surplus personal property later becomes ineligible, it is the responsibility of the State agency to terminate the donation of surplus personal property to that organization and to take whatever action is necessary to recover such surplus personal property already distributed to the institution or

May 8, 1981

organization, which was received while eligible and is still under restrictions. All Federal surplus property received by the institution or organization after it becomes ineligible must be returned.

(6)e When it is impossible or impracticable to have the property put into eligible use or returned to the State agency because it has been improperly disposed of or consumed, the regional Personal Property Division shall demand, for the benefit of the United States, the gross proceeds realized from the disposal or the fair market value of the property, whichever is greater, at the time of the disposal or at the time it was placed into ineligible use. The donee shall not be entitled to any reimbursement for costs incurred in acquiring or rehabilitating property which was disposed of without authority. It may be considered impossible or impracticable to have the property placed into eligible use or returned to the State agency when:

(i)e The property has been damaged or worn out to the extent that it does not have a useful operating life;

(ii)e The property has been sold or otherwise disposed of and its whereabouts is unknown;

(iii)e The property has been consumed;

(iv)e The property has been rehabilitated or installed in such a way that to remove and recapture it would cause serious damage to the property and would, therefore, be to the disadvantage of the Government and the donee; or

(v)e The cost of returning the property to the State agency or distributing it to another donee would exceed the value of the property involved.

9.e Investigations and documentation.

a.e Where there are allegations or indications of fraud, a report with all known information shall be made immediately by the State agency and/or regional Personal Property Division. Except in instances involving Federal employees, the State agency shall report such allegations to their appropriate regional Personal Property Division. When a Federal employee is involved, the State agency shall immediately report the facts directly to the regional Office of Investigations. The regional Personal Property Division shall report all allegations or indications of fraud, and all noncompliance cases enumerated in subpars. 2d, e, f, and h, to the Office of the Inspector General through the appropriate regional Office of Investigations. Any additional correspondence or documentation received by the regional office related to any noncompliance case previously reported shall

May 8, 1981

FSS P 4025.5

be forwarded to the regional Office of Investigations. Upon receipt of the report from the regional Personal Property Division in which fraud is alleged or indicated, the regional Office of Investigations will evaluate the circumstances for a determination whether the matter warrants investigation by the Office of the Inspector General. The regional Office of Investigations will provide the regional Personal Property Division with a written determination within 15 calendar days from date of receipt. A report shall be made by the regional Personal Property Division to the Central Office, using GSA Form 3396 (fig. 11-6), together with all documentation and correspondence.

b.o When a State agency learns of a theft of Federal property under its jurisdiction, it shall immediately report all available information to the local State law enforcement officials, the local FBI, and the regional Personal Property Division by telephone and promptly confirm the report in writing. The State agency shall keep the regional Personal Property Division informed as the case is developed. Upon receipt of the telephone information, the regional Personal Property Division shall immediately inform the regional Office of Investigations. The regional Personal Property Division shall forward a copy of the report on GSA Form 3396, together with all supporting documentation, to the regional Office of Investigations and the Central Office (DPD).

c.o While a case is under investigation by the FBI or regional Office of Investigations, no independent investigation shall be conducted by employees of GSA or the State agency. The regional Personal Property Division shall offer their cooperation and assistance to the regional Office of Investigations, local FBI office and/or the U.S. Attorney, as appropriate, in any investigation or legal actions involving donation program property. Contact with the U.S. Attorney's office shall be handled by the Inspector General's office.

d.o When a report on a noncompliance case is received in the Central Office from the Office of Inspector General, the FBI, or the Department of Justice, it will normally be sent immediately to the appropriate Regional Personal Property Division Director for his information and subsequent return to the Office of Inspector General through the Central Office. Neither the report nor its contents shall be divulged to anyone other than an employee of GSA who has a legitimate need for the information. The report itself must not be duplicated without permission from the Office of Inspector General or the FBI. Excerpts from the report may be made for the regional Personal Property Division files. Where any information, such as names of informants, is intended to be confidential, such confidentiality shall be respected.

e.o Where noncompliance allegations have been made against a donee, and the donee is to be investigated, any request for further donations of property to the donee under investigation may be temporarily deferred until such

December 31, 1984

FSS P 4025.5

will ensure regional and Central Office program officials that all compliance activity is being completed within a satisfactory time frame.

11.s Followup action. Once noncompliance cases are opened, they must be aggressively pursued until they are satisfactorily closed. Compliance actions are to be pursued by the regional office, and status reports are to be made to the Central Office on all open noncompliance cases at the end of each quarter. All reports must be mailed in time to reach the Central Office no later than the 15th of the month following the end of the quarter. The regional office shall contact the regional Office of Investigations before issuing the status report for the latest status of each case. They shall also contact the State agency for the latest status of cases that are being settled administratively. Under normal circumstances, noncompliance cases must be closed within 90 calendar days. A noncompliance case may not be considered closed by the regional offices until funds for the case, less all authorized reimbursements, have been transferred to the miscellaneous receipts account of the U.S. Treasury.

12.s Deposit of funds.

a.s Funds collected by the State agency from enforcement of noncompliances are to be remitted promptly by the State agency to the GSA regional office for deposit in the Treasury of the United States in accordance with FPMR 101-44.208(j). All payments must be in the form of certified checks, money orders, cashier's checks, or State warrants made payable to the GSA.

b.s The regional office shall maintain a register of all remittances received. The GSA Form 687, Register of Remittances Received (see fig. 11-12.1), should be used for this purpose with minor modifications. Remittances should be listed and numbered numerically in the order received, starting with "1" at the beginning of each fiscal year. A column "Noncompliance Case Number" should be added to the right margin to identify deposits or refunds involving a noncompliance case.

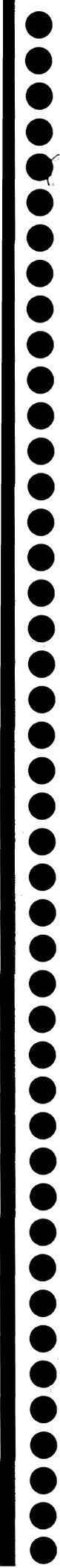
c.s DPD Format 1, Remittance Transmittal (see fig. 11-12.2), will be used to transmit each remittance to the regional Finance Division for appropriate deposit. If the case is in litigation, if it is a performance deposit, or if it is a sale or other disposal case where reimbursable investments or expenses must be paid later, the remittance must be deposited in Suspense Account No. 47X3875. All other deposits shall be designated for deposit into the Treasury of the United States, Miscellaneous Receipts Account No. 47-2649. The regional office must furnish a copy of all remittance transmittals to the Central Office Donation Division (FMD).

13.s Reimbursement to donees. (See FPMR 101-44.208(k).) DPD Format 2, Request for Refund or Payment (see fig. 11-13), shall be used when requesting the regional Finance Division to issue a check for refund of all or any part of a performance deposit, or for payment of authorized reimbursement or refunds from the suspense account after a noncompliance case is resolved. The regional office must furnish a copy of this report to the Central Office Donations Division (FMD).

December 31, 1984

4. Payments from the suspense account to the miscellaneous receipts account.
After all authorized refunds or payments of reimbursable expenses have been made from specific deposit of funds in the suspense account for a particular case, the regional Personal Property Services Branch will use DPD Format 2, Request for Refund or Payment, advise the regional Finance Division to transfer from Suspense Account No. 47X3875 to Miscellaneous Receipts Account No. 47-2649 the balance remaining in the suspense account of the deposit made in connection with the particular case, sale, etc., appropriately described or identified. The regional Personal Property Services Branch must furnish a copy of this report to the Central Office Donation Division (FMD).

15.e Funds retained by the State agency. Funds derived by the State agency from any noncompliance action involving any terms and conditions imposed on the donee by the State agency may be retained and used by the State agency as provided fore in its plan of operation.e



FEDERAL MANAGEMENT REGULATIONS

Terms and Conditions of Donation

§102-37.435—For what purposes may donees acquire and use surplus property?

A donee may acquire and use surplus property only for the following authorized purposes:

(a) *Public purposes.* A public agency that acquires surplus property through a SASP must use such property to carry out or to promote one or more public purposes for the people it serves.

(b) *Educational and public health purposes, including related research.* A nonprofit educational or public health institution must use surplus property for education or public health, including research for either purpose and assistance to the homeless or impoverished. While this does not preclude the use of donated surplus property for a related or subsidiary purpose incident to the institution's overall program, the property may not be used for a nonrelated or commercial purpose.

(c) *Programs for older individuals.* An entity that conducts a program for older individuals must use donated surplus property to provide services that are necessary for the general welfare of older individuals, such as social services, transportation services, nutrition services, legal services, and multipurpose senior centers.

§102-37.440—May donees acquire property for exchange?

No, a donee may not acquire property with the intent to sell or trade it for other assets.

§102-37.445—What certifications must a donee make before receiving property?

Prior to a SASP releasing property to a donee, the donee must certify that:

(a) it is a public agency or a nonprofit organization meeting the requirements of the Property Act and/or regulations of GSA;

(b) it is acquiring the property for its own use and will use the property for authorized purposes;

(c) funds are available to pay all costs and charges incident to the donation;

(d) it will comply with the nondiscrimination regulations issued under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), section 122 of title 40, United States Code, section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, title IX of the Education Amendments of 1972 (20 U.S.C. 1681-1688), as amended, and section 303 of the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107); and

(e) it isn't currently debarred, suspended, declared ineligible, or otherwise excluded from receiving the property.

§102-37.450—What agreements must a donee make?

Before a SASP may release property to a donee, the donee must agree to the following conditions:

(a) The property is acquired on an "as is, where is" basis, without warranty of any kind, and it will hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the donation of the property, its use, or final disposition.

(b) It will return to the SASP, at its own expense, any donated property:

(1) That is not placed in use for the purposes for which it was donated within 1 year of donation; or

(2) Which ceases to be used for such purposes within 1 year after being placed in use.

(c) It will comply with the terms and conditions imposed by the SASP on the use of any item of property having a unit acquisition cost of \$5,000 or more and any passenger motor vehicle or other donated item. (Not applicable to SEAs.)

(d) It agrees that, upon execution of the SASP distribution document, it has conditional title only to the property during the applicable period of restriction. Full title to the property will vest in the donee only after the donee has met all of the requirements of this part.

(e) It will comply with conditions imposed by GSA, if any, requiring special handling or use limitations on donated property.

(f) It will use the property for an authorized purpose during the period of restriction.

(g) It will obtain permission from the SASP before selling, trading, leasing, loaning, bailing, cannibalizing, encumbering or otherwise disposing of property during the period of restriction, or removing it permanently for use outside the State.

(h) It will report to the SASP on the use, condition, and location of donated property, and on other pertinent matters as the SASP may require from time to time.

(i) If an insured loss of the property occurs during the period of restriction, GSA or the SASP (depending on which agency has imposed the restriction) will be entitled to reimbursement out of the insurance proceeds of an amount equal to the unamortized portion of the fair market value of the damaged or destroyed item.

Release of Restrictions

§102-37.465—May a SASP modify or release any of the terms and conditions of donation?

You may alter or grant releases from State-imposed restrictions, provided your State plan of operation sets forth the standards by which such actions will be taken. You may not grant releases from, or amendments or corrections to:

(a) ~~The~~ terms and conditions you are required by the Property Act to impose on the use of passenger motor vehicles and any item of property having a unit acquisition cost of \$5,000 or more.

(b) ~~Any~~ special handling condition or use limitation imposed by GSA, except with the prior written approval of GSA.

(c) ~~The~~ statutory requirement that usable property be returned by the donee to the SASP if the property has not been placed in use for the purposes for which it was donated within 1 year of donation or ceases to be used by the donee for those purposes within 1 year of being placed in use, except that:

(1) ~~You~~ may grant authority to the donee to cannibalize property items subject to this requirement when you determine that such action will result in increased use of the property and that the proposed action meets the standards prescribed in your plan of operation.

(2) ~~You~~ may, with the written concurrence of GSA, grant donees:

(i) ~~A~~ time extension to place property into use if the delay in putting the property into use was beyond the control and without the fault or negligence of the donee.

(ii) ~~Authority~~ to trade in one donated item for one like item having similar use potential.

§102-37.470—At what point may restrictions be released on property that has been authorized for cannibalization?

Property authorized for cannibalization must remain under the period of restriction imposed by the transfer/distribution document until the proposed cannibalization is completed. Components resulting from the cannibalization, which have a unit acquisition cost of \$5,000 or more, must remain under the restrictions imposed by the transfer/distribution document. Components with a unit acquisition cost of less than \$5,000 may be released upon cannibalization from the additional restrictions imposed by the State. However, these components must continue to be used or be otherwise disposed of in accordance with this part.

§102-37.475—What are the requirements for releasing restrictions on property being considered for exchange?

GSA must consent to the exchange of donated property under Federal restrictions or special handling conditions. The donee must have used the donated item for its acquired purpose for a minimum of 6 months prior to being considered for exchange, and it must be demonstrated that the exchange will result in increased utilization value to the donee. As a condition of approval of the exchange, the item being exchanged must have remained in compliance with the terms and conditions of the donation. Otherwise, 102-37.485 applies. The item acquired by the donee must be:

(a) ~~Made~~ subject to the period of restriction remaining on the item exchanged; and

(b) Of equal or greater value than the item exchanged.

Compliance and Utilization

§102-37.480—What must a SASP do to ensure that property is used for the purpose(s) for which it was donated?

You must conduct utilization reviews, as provided in your plan of operation, to ensure that donees are using surplus property during the period of restriction for the purposes for which it was donated. You must fully document your efforts and report all instances of noncompliance (misuse or mishandling of property) to GSA.

§102-37.485—What actions must a SASP take if a review or other information indicates noncompliance with donation terms and conditions?

If a review or other information indicates noncompliance with donation terms and conditions, you must:

- (a) Promptly investigate any suspected failure to comply with the conditions of donated property;
- (b) Notify GSA immediately where there is evidence or allegation of fraud, wrongdoing by a screener, or nonuse, misuse, or unauthorized disposal or destruction of donated property;
- (c) Temporarily defer any further donations of property to any donee to be investigated for noncompliance allegations until such time as the investigation has been completed and:
 - (1) A determination made that the allegations are unfounded and the deferment is removed.
 - (2) The allegations are substantiated and the donee is proposed for suspension or debarment; and
 - (d) Take steps to correct the noncompliance or otherwise enforce the conditions imposed on use of the property if a donee is found to be in noncompliance. Enforcement of compliance may involve:
 - (1) Ensuring the property is used by the present donee for the purpose for which it was donated.
 - (2) Recovering the property from the donee for:
 - (i) Redistribution to another donee within the State;
 - (ii) Transfer through GSA to another SASP; or
 - (iii) Transfer through GSA to a Federal agency.
 - (3) Recovering fair market value or the proceeds of disposal in cases of unauthorized disposal or destruction.
 - (4) Recovering fair rental value for property in cases where the property has been loaned or leased to an ineligible user or used for an unauthorized purpose.
 - (5) Disposing of by public sale property no longer suitable, usable, or necessary for donation.

§102-37.490—When must a SASP coordinate with GSA on compliance actions?

You must coordinate with GSA before selling or demanding payment of the fair market or fair rental value of donated property that is:

(a) Subject to any special handling condition or use limitation imposed by GSA (see 102-37.455); or

(b) Not properly used within 1 year of donation or which ceases to be properly used within 1 year of being placed in use.

§102-37.495—How must a SASP handle funds derived from compliance actions?

You must handle funds derived from compliance actions as follows:

(a) *Enforcement of Federal restrictions.* You must promptly remit to GSA any funds derived from the enforcement of compliance involving a violation of any Federal restriction, for deposit in the Treasury of the United States. You must also submit any supporting documentation indicating the source of the funds and essential background information.

(b) *Enforcement of State restrictions.* You may retain any funds derived from a compliance action involving violation of any State-imposed restriction and use such funds as provided in your State plan of operation.

Returns and Reimbursement

§102-37.500—May a donee receive reimbursement for its donation expenses when unneeded property is returned to the SASP?

When a donee returns unneeded property to a SASP, the donee may be reimbursed for all or part of the initial cost of any repairs required to make the property usable if:

- (a) The property is transferred to a Federal agency or sold for the benefit of the U.S. Government;
- (b) No breach of the terms and conditions of donation has occurred; and
- (c) GSA authorizes the reimbursement.

§102-37.505—How does a donee apply for and receive reimbursement for unneeded property returned to a SASP?

If the donee has incurred repair expenses for property it is returning to a SASP and wishes to be reimbursed for them, it will inform the SASP of this. The SASP will recommend for GSA approval a reimbursement amount, taking into consideration the benefit the donee has received from the use of the property and making appropriate deductions for that use.

- (a) If this property is subsequently transferred to a Federal agency, the receiving agency will be required to reimburse the donee as a condition of the transfer.
- (b) If the property is sold, the donee will be reimbursed from the sales proceeds.

Special Provisions Pertaining to SEAs

§102-37.510—Are there special requirements for donating property to SEAs?

Yes, only DOD-generated property may be donated to SEAs. When donating DOD property to an eligible SEA, SASPs must observe any restrictions the sponsoring Military Service may have imposed on the types of property the SEA may receive.

§102-37.515—Do SEAs have a priority over other SASP donees for DOD property?

Yes, SEAs have a priority over other SASP donees for DOD property, but only if DOD requests GSA to allocate surplus DOD property through a SASP for donation to a specific SEA. In such cases, DOD would be expected to clearly identify the items in question and briefly justify the request.

Subpart F—Donations to Public Airports

§102-37.520—What is the authority for public airport donations?

The authority for public airport donations is 49 U.S.C. 47151. 49 U.S.C. 47151 authorizes executive agencies to give priority consideration to requests from a public airport (as defined in 49 U.S.C. 47102) for the donation of surplus property if the Department of Transportation (DOT) considers the property appropriate for airport purposes and GSA approves the donation.

§102-37.525—What should a holding agency do if it wants a public airport to receive priority consideration for excess personal property it has reported to GSA?

A holding agency interested in giving priority consideration to a public airport should annotate its reporting document to make GSA aware of this interest. In an addendum to the document, include the name of the requesting airport, specific property requested, and a brief description of how the airport intends to use the property.

§102-37.530—What are FAA's responsibilities in the donation of surplus property to public airports?

In the donation of surplus property to public airports, the Federal Aviation Administration (FAA), acting under delegation from the DOT, is responsible for:

- (a) Determining the property requirements of any State, political subdivision of a State, or tax-supported organization for public airport use;
- (b) Setting eligibility requirements for public airports and making determinations of eligibility;
- (c) Certifying that property listed on a transfer request is desirable or necessary for public airport use;
- (d) Advising GSA of FAA officials authorized to certify transfer requests and notifying GSA of any changes in signatory authority;
- (e) Determining and enforcing compliance with the terms and conditions under which surplus personal property is transferred for public airport use; and
- (f) Authorizing public airports to visit holding agencies for the purpose of screening and selecting property for transfer. This responsibility includes:
 - (1) Issuing a screening pass or letter of authorization to only those persons who are qualified to screen.
 - (2) Maintaining a current record (to include names, addresses, and telephone numbers, and additional identifying information such as driver's license or social security numbers) of screeners operating under FAA authority and making such records available to GSA on request.
 - (3) Recovering any expired or invalid screener authorizations.

§102-37.535—What information must FAA provide to GSA on its administration of the public airport donation program?

So that GSA has information on which to base its discretionary authority to approve the donation of surplus personal property, FAA must:

(a) Provide copies of internal instructions that outline the scope of FAA's oversight program for enforcing compliance with the terms and conditions of transfer; and

(b) Report any compliance actions involving donations to public airports.

Subpart G—Donations to the American National Red Cross

§102-37.540—What is the authority for donations to the American National Red Cross?

Section 551 of title 40, United States Code authorizes GSA to donate to the Red Cross, for charitable use, such property as was originally derived from or through the Red Cross.

§102-37.545—What type of property may the American National Red Cross receive?

The Red Cross may receive surplus gamma globulin, dried plasma, albumin, antihemophilic globulin, fibrin foam, surgical dressings, or other products or materials it processed, produced, or donated to a Federal agency.

§102-37.550—What steps must the American National Red Cross take to acquire surplus property?

Upon receipt of information from GSA regarding the availability of surplus property for donation, the Red Cross will:

- (a) Have 21 calendar days to inspect the property or request it without inspection; and
- (b) Be responsible for picking up property donated to it or arranging and paying for its shipment.

§102-37.555—What happens to property the American National Red Cross does not request?

Property the Red Cross declines to request will be offered to SASPs for distribution to eligible donees. If such property is transferred, GSA will require the SASP to ensure that all Red Cross labels or other Red Cross identifications are obliterated or removed from the property before it is used.

Subpart H—Donations to Public Bodies in Lieu of Abandonment/Destruction

§102-37.560—What is a public body?

A public body is any department, agency, special purpose district, or other instrumentality of a State or local government; any Indian tribe; or any agency of the Federal Government.

§102-37.565—What is the authority for donations to public bodies?

Section 527 of title 40, United States Code authorizes the abandonment, destruction, or donation to public bodies of property which has no commercial value or for which the estimated cost of continued care and handling would exceed the estimated proceeds from its sale.

§102-37.570—What type of property may a holding agency donate under this subpart?

Only that property a holding agency has made a written determination to abandon or destroy (see process in Part 102-36 of this chapter) may be donated under this subpart. A holding agency may not donate property that requires destruction for health, safety, or security reasons. When disposing of hazardous materials and other dangerous property, a holding agency must comply with all applicable laws and regulations and any special disposal requirements in part 101-42 of this title.

§102-37.575—Is there a special form for holding agencies to process donations?

There is no special form for holding agencies to process donations. A holding agency may use any document that meets its agency's needs for maintaining an audit trail of the transaction.

§102-37.580—Who is responsible for costs associated with the donation?

The recipient public body is responsible for paying the disposal costs incident to the donation, such as packing, preparation for shipment, demilitarization (as defined in 102-36.40 of this chapter), loading, and transportation to its site.

DO YOU KNOW

WHAT YOU AGREED TO WHEN YOU SIGNED YOUR DISTRIBUTION DOCUMENT?

YOU AGREED TO USE THE SURPLUS PROPERTY ONLY IN THE OFFICIAL PROGRAM WHICH YOU REPRESENT,

AND

YOU AGREED TO PUT THE SURPLUS PROPERTY INTO USE WITHIN ONE YEAR AND TO USE IT FOR AT LEAST ONE YEAR,

AND

YOU AGREED TO USE CERTAIN ITEMS FOR EIGHTEEN (18) MONTHS OR LONGER,

AND

YOU AGREED THAT YOU WOULD NOT SELL THE PROPERTY, LOAN IT, TRADE IT, OR TEAR IT DOWN FOR PARTS UNLESS WE GIVE YOU PERMISSION BEFORE YOU DO IT,

AND

YOU AGREED TO PAY THE U. S. GOVERNMENT IF YOU DID NOT USE THE PROPERTY ACCORDING TO YOUR AGREEMENT.

SUMMARY

1. SURPLUS PROPERTY MUST BE USED IN AN AUTHORIZED PROGRAM.
2. PERSONAL USE OR NON-USE OF SURPLUS PROPERTY IS NOT ALLOWED.
3. PERMISSION MUST BE OBTAINED BEFORE SELLING, TRADING, OR CANNIBALIZING SURPLUS PROPERTY
4. READ THE BACK OF YOUR DISTRIBUTION DOCUMENT - UNDERSTAND YOUR OBLIGATIONS.

Donated Aircraft/Vessels/Firearms/HMMWVs

Justifying Special Transfer Requests

§102-37.220—Are there special types of surplus property that require written justification when submitting a transfer request?

Yes, a SASP must obtain written justification from the intended donee, and submit it to GSA along with the transfer request, prior to allocation of:

- (a) Aircraft and vessels covered by 102-37.455;
- (b) Items requested specifically for cannibalization;
- (c) Foreign gifts and decorations (see Part 102-42 of this chapter);
- (d) Items containing 50 parts per million or greater of polychlorinated biphenyl (see part 101-42 of this title);
- (e) Firearms as described in part 101-42 of this title; and
- (f) Any item on which written justification will assist GSA in making allocation to States with the greatest need.

§102-37.225—What information or documentation must a SASP provide when requesting a surplus aircraft or vessel?

(a) For each SF 123 that you submit to GSA for transfer of a surplus aircraft or vessel covered by 102-37.455 include:

(1) A letter of intent, signed and dated by the authorized representative of the proposed donee setting forth a detailed plan of utilization for the property (see 102-37.230 for information a donee has to include in the letter of intent); and

(2) A letter, signed and dated by you, confirming and certifying the applicant's eligibility and containing an evaluation of the applicant's ability to use the aircraft or vessel for the purpose stated in its letter of intent and any other supplemental information concerning the needs of the donee which supports making the allocation.

(b) For each SF 123 that GSA approves, you must include:

(1) Your distribution document, signed and dated by the authorized donee representative; and

(2) A conditional transfer document, signed by you and the intended donee, and containing the special terms and conditions prescribed by GSA.

§102-37.230—What must a letter of intent for obtaining surplus aircraft or vessels include?

A letter of intent for obtaining surplus aircraft or vessels must provide:

(a) A description of the aircraft or vessel requested. If the item is an aircraft, the description must include the manufacturer, date of manufacture, model, and serial number. If the item is a vessel, it must include the type, name, class, size, displacement, length, beam, draft, lift capacity, and the hull or registry number, if known;

(b) A detailed description of the donee's program and the number and types of aircraft or vessels it currently owns;

(c) A detailed description of how the aircraft or vessel will be used, its purpose, how often and for how long. If an aircraft is requested for flight purposes, the donee must specify a source of pilot(s) and where the aircraft will be housed. If an aircraft is requested for cannibalization, the donee must provide details of the cannibalization process (time to complete the cannibalization process, how recovered parts are to be used, method of accounting for usable parts, disposition of unsalvageable parts, etc.) If a vessel is requested for waterway purposes, the donee must specify a source of pilot(s) and where the vessel will be docked. If a vessel is requested for permanent docking on water or land, the donee must provide details of the process, including the time to complete the process; and

(d) Any supplemental information (such as geographical area and population served, number of students enrolled in educational programs, etc.) supporting the donee's need for the aircraft or vessel.

Special Handling or Use Conditions

§102-37.455—On what categories of surplus property has GSA imposed special handling conditions or use limitations?

GSA has imposed special handling or processing requirements on the property discussed in this section. GSA may, on a case-by-case basis, prescribe additional restrictions for handling or using these items or prescribe special processing requirements on items in addition to those listed in this section.

(a) *Aircraft and vessels.* The requirements of this section apply to the donation of any fixed- or rotary-wing aircraft and donable vessels that are 50 feet or more in length, having a unit acquisition cost of \$5,000 or more, regardless of the purpose for which donated. Such aircraft or vessels may be donated to public agencies and eligible nonprofit activities provided the aircraft or vessel is not classified for reasons of national security and any lethal characteristics are removed. The following table provides locations of other policies and procedures governing aircraft and vessels:

For...	See...
1) Policies and procedures governing the donation of aircraft parts.	Part <u>102-33</u> , subpart D, of this chapter.
2) Documentation needed by GSA to process requests for aircraft or vessels.	<u>102-37.225</u> .
3) Special terms, conditions, and restrictions imposed on aircraft and vessels.	<u>102-37.460</u> .
4) Guidelines on preparing letters of intent for aircraft or vessels.	<u>102-37.230</u> .

(b) *Alcohol.*

(1) When tax-free or specially denatured alcohol is requested for donation, the donee must have a special permit issued by the Assistant Regional Commissioner of the appropriate regional office, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice, in order to acquire the property. Include the ATF use-permit number on the SF 123, Transfer Order Surplus Personal Property.

(2) You may not store tax-free or specially denatured alcohol in SASP facilities. You must make arrangements for this property to be shipped or transported directly from the holding agency to the designated donee.

(c) *Hazardous materials, firearms, and property with unsafe or dangerous characteristics.* For hazardous materials, firearms, and property with unsafe or dangerous characteristics, see part 101-42 of this title.

(d) *Franked and penalty mail envelopes and official letterhead.* Franked and penalty mail envelopes and official letterhead may not be donated without the SASP certifying that all Federal Government markings will be obliterated before use.

§102-37.460—What special terms and conditions apply to the donation of aircraft and vessels?

The following special terms and conditions apply to the donation of aircraft and vessels:

(a) There must be a period of restriction which will expire after the aircraft or vessel has been used for the purpose stated in the letter of intent (see 102-37.230) for a period of 5 years, except that the period of restriction for a combat-configured aircraft is in perpetuity.

(b) The donee of an aircraft must apply to the FAA for registration of an aircraft intended for flight use within 30 calendar days of receipt of the aircraft. The donee of a vessel must, within 30 calendar days of receipt of the vessel, apply for documentation of the vessel under applicable Federal, State, and local laws and must record each document with the U.S. Coast Guard at the port of documentation. The donee's application for registration or documentation must include a fully executed copy of the conditional transfer document and a copy of its letter of intent. The donee must provide the SASP and GSA with a copy of the FAA registration (and a copy of its FAA Standard Airworthiness Certificate if the aircraft is to be flown as a civil aircraft) or Coast Guard documentation.

(c) The aircraft or vessel must be used solely in accordance with the executed conditional transfer document and the plan of utilization set forth in the donee's letter of intent, unless the donee has amended the letter, and it has been approved in writing by the SASP and GSA and a copy of the amendment recorded with FAA or the U.S. Coast Guard, as applicable.

(d) In the event any of the terms and conditions imposed by the conditional transfer document are breached, title may revert to the Government. GSA may require the donee to return the aircraft or vessel or pay for any unauthorized disposal, transaction, or use.

(e) If, during the period of restriction, the aircraft or vessel is no longer needed by the donee, the donee must promptly notify the SASP and request disposal instructions. A SASP may not issue disposal instructions without the prior written concurrence of GSA.

(f) Military aircraft previously used for ground instruction and/or static display (Category B aircraft, as designated by DOD) or that are combat-configured (Category C aircraft) may not be donated for flight purposes.

(g) For all aircraft donated for nonflight use, the donee must, within 30 calendar days of receipt of the aircraft, turn over to the SASP the remaining aircraft historical records (except the records of the major components/life limited parts; e.g., engines, transmissions, rotor blades, etc., necessary to substantiate their reuse). The SASP in turn must transmit the records to GSA for forwarding to the FAA.



General Services Administration
Federal Supply Service
Washington, DC 20406



11-1-88 n/c

John P.

OCT 20 1988

MEMORANDUM FOR DIRECTORS, FEDERAL SUPPLY SERVICE BUREAUS
2FB 2FB-1 /3FB 3FB-W 4FB 5FB 6FB 7FB
7FB-8 9FB 9FB-10

DIRECTORS, STATE AGENCIES FOR SURPLUS PROPERTY
(SASP)

FROM:

STANLEY M. DUDA *Stanley M. Duda*
DIRECTOR
PROPERTY MANAGEMENT DIVISION (FBP)

SUBJECT:

Review requirements for donated aircraft and
vessels during the period of restriction

We are becoming increasingly concerned that the number of compliance cases for aircraft and vessels is disproportionate to the total volume donated. This may be related to the high dollar value of aircraft and larger vessels, and restriction periods of 5 years or longer.

In order to ensure proper use during the full period of restriction, the State Agencies for Surplus Property (SASP's) are requested to conduct utilization surveys on an annual basis for donated aircraft, including combat type aircraft restricted in perpetuity, and vessels 50 feet or more in length. Annual utilization surveys may be in the form of a mailed questionnaire to the donee or an onsite visit. We further request that during the applicable restriction period, SASP's conduct at least one onsite visit to inspect and verify proper use of each donated aircraft and larger vessel. During biennial reviews, regional offices are requested to examine and report on the results of the aircraft and vessel utilization surveys conducted by the SASP's.

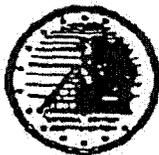
Attached for your convenience is a checklist of information that should be included in the utilization surveys and regional biennial reviews for each aircraft or vessel under restriction during the reporting period. Please continue to assure that requests to amend any of the terms and conditions of the Conditional Transfer Documents applicable to these items are submitted to the General Services Administration for approval prior to implementation.

Attachment

31 OCT 1988

Review requirements for donated aircraft and vessels during the period of restriction.

- 1.e Identify aircraft/vessel by type and serial number.e
- 2.e Location of aircraft/vessel.e
- 3.e Date donee accepted custody of aircraft/vessel.e
- 4.e Date aircraft/vessel placed in use, as specified in its letter of justification and/or Conditional Transfer Document.e
- 5.e Date donee applied to the FAA/U.S. Coast Guard for registration.e
- 6.e If aircraft is being flown, provide date of airworthiness certificate.e
- 7.e If aircraft donated is a combat type or intended for non-flight use, have the data plate and historical records been returned to GSA Region 9?e
- 8.e How is the aircraft/vessel being used?e
- 9.e Is aircraft/vessel being used exclusively by an eligible entity?e
- 10.e Have any deviations from the terms and conditions specified in the CTD been properly documented?e
- 11.e Have appropriate records been kept for those items approved for cannibalizing?e



General Services Administration
Federal Supply Service
Washington, DC 20406

6-30-94

*Joe H. [unclear]
For [unclear]
& Action
[unclear]*

JUN 29 1994

MEMORANDUM FOR DIRECTORS, FEDERAL SUPPLY SERVICE BUREAUS
2FB, 3FB, 3FB-W, 4FB, 5FB, 6FB, 7FB,
9FB, 9FB-10

DIRECTORS, STATE AGENCIES FOR SURPLUS
PROPERTY (SASPs)

FROM:

for LESTER D. GRAY, JR. *Grant & Beath*
DIRECTOR
PROPERTY MANAGEMENT DIVISION (FBP)

SUBJECT:

Review Requirements For Donated Aircraft And
Vessels During The Period Of Restriction

Our memorandum to all GSA regions and SASP directors on the above subject, dated October 20, 1988, expressed our concern over the increase in compliance cases involving donated aircraft and vessels. The proper use and accountability by donees of donated aircraft and vessels during the period of restriction continues to be a problem.

The 1988 memorandum requested that SASPs conduct annual utilization surveys on all donated aircraft, including combat-type aircraft restricted in perpetuity, and vessels 50 feet or more in length. The annual surveys are to be conducted through on-site visits or in the form of a mailed questionnaire to the donees. The SASPs are to conduct at least one on-site visit during the applicable 5-year use restriction period to inspect and verify the proper use of each donated noncombat-type aircraft and vessel; and at least one on-site visit shall be made every 5-years on donated combat-type aircraft which are under perpetual restrictions.

In a further effort to ensure proper use of the property during the restriction period, we will now require that a current photograph of each donated aircraft or vessel also accompany the annual utilization survey. The photograph shall be taken during the on-site visit if one is conducted, or alternatively, shall be supplied by the donee, along with the completed questionnaire, if this is the type of utilization survey utilized. Regional biennial reviews shall reflect the results of the surveys conducted by the SASPs.

We have once again attached revised checklists which specify information to be included in the utilization surveys and regional biennial reviews of SASPs for each aircraft and vessel under restriction during the reporting period.

A copy of the latest survey report, with documentation, must be included with: 1) any noncompliance case; 2) any request for approval/concurrence of any proposed/recommended (a) abrogation, (b) deviation, (c) modification, or (d) release of any of these donation conditions or restrictions; and 3) any other proposed/recommended disposal instructions when the case is forwarded to the GSA Central Office (FB, or FBP), for the required approval/concurrence.

We solicit your cooperation in promptly implementing these requirements and in ensuring that the utilization surveys and photographs are made annually and included in the regional reports of biennial reviews of SASPs.

Attachments

cc: 2FBP-1
7FBP-8

Attachment I

Utilization Survey Checklist/Review Requirements for Donated Vessels During the Period of Restriction

- 1.e Identify vessels by type, name (name on the Federal agency records), class, size, displacement, length, beam, draft, lift capacity, and hull registry numbers, builder, year and place built, number of engines, type, manufacturer, and serial number (see 101-44.108-9(a)).e
2. If the vessel has been renamed by the donee, provide the new name.
- 3.e Establish current location of the vessel (if location of the vessel is different than the donee's location, explain).e
- 4.e Check the date and location at which the donee accepted custody of the vessel; date the distribution document was signed; and date the SF 123 was approved by GSA.e
- 5.e Determine the date the vessel was placed in use for the purpose specified in its letter of intent (see FPMR 101-44.108-9) and vessel conditional transfer document (VCTD). If a vessel is acquired for use as an active vessel on the waterways and also as a museum, it will not be considered as having been put into use in accordance with the VCTD until it has been documented and certified by the U.S. Coast Guard for use on the waterways.
- 6.e Establish the date the donee applied to the U.S. Coast Guard for registration and documentation of the vessel.e
7. If vessel is being used on a waterway, provide source of pilots, date of documentation and copy of the certificate, and port where the vessel will be docked (see FPMR 101-44.108-9(b)(2)).
- 8.e Document how the vessel is being used. Document who operates the vessel and if there are any operating lease or other agreements by donee; obtain copies (include copy of documents with utilization survey report) and ascertain what State and/or Federal (GSA) officials authorized/approved them and when.e
- 9.e Check to see if the vessel is being used exclusively by an eligible entity. Describe its use.e
- 10 Ascertain that any deviations from the terms and conditions

Attachment I

specified in the VCTD have been properly documented and approved in writing by GSA with the concurrence of the Office of General Counsel (see 101-44.108-9(b)(1)(iii) and (b)(2)) and ADM P 5450.39C, ch. 13-5).

11. Ascertain that appropriate records and inventory have been and are being kept for those items removed for use under approval for cannibalization. The conditions and restrictions in the VCTD and the FPMR remain in effect until released by GSA with the written concurrence of the Office of General Counsel. (See ADM P 5450.39C, ch. 13-5).

12.e Obtain photographs of the donated vessel at the time of donation, at time it was put into use, at time of written utilization reports and on-site visits, and at time reported/or request for deviation, release or other disposal instructions.e

13.e The Utilization Survey report must be signed and dated with the name, title, and telephone number of the surveyor; the name and address of the employer of the surveyor should either be typed or printed legibly.e

Attachment II

Utilization Survey Checklist/Review Requirements for Donated Aircraft During the Period of Restriction

- 1.e Identify aircraft by both military and civilian type and model; manufacturer; year of manufacture; manufacturer's serial number and military service serial number or bureau number or other agency identification number; and FAA registration number, including copy of the FAA registration card in name of donee. Also specify number of engines, models, manufacturer and serial numbers of the engines.
- 2.e Ascertain current location of the aircraft (If location of aircraft is different than donee location, explain).
- 3.e Determine date and location at which donee accepted custody of aircraft, date the distribution document was signed, and date the SF 123 was approved by GSA.
- 4.e Check the type of Aircraft Conditional Transfer Document (ACTD) (combat/noncombat) and the date it was executed by the donee and the State agency.
- 5.e Ascertain the date the aircraft was placed in use for the purpose specified in its letter of justification and ACTD. Aircraft acquired for both flight and display or other ground use will not be considered as having been put into use until flight safety standards have been met and it has been put into regular flight use and, if required by FAA or GSA under FPMR 101-44.108-2(b)(2)(i), has obtained and maintained an FAA airworthiness certification.
- 6.e Verify the date the donee applied to the FAA for registration and recordation of the ACTD (include a copy of the FAA Registration Card (AC Form 8050-3)).
- 7.e In accordance with FPMR 101-44.108.2(b)(2)(i), if the donated aircraft is being flown, provide date and type of FAA airworthiness certification and a copy of both the original and the donee's current Standard Airworthiness Certificate (FAA Form 8100-2, formerly FAA Form 1362) and the source of pilots and where aircraft is maintained/hangared. Determine from the aircraft log the date and purpose of first flight use by the donee after donee's receipt of the FAA Airworthiness Certification.

Attachment II

8. If the donated aircraft is a combat-type, or a noncombat-type intended for non-flight use, ascertain that the data plates and historical records were returned to the GSA allocating region for forwarding to FAA (see FPMR 101-44.108-2(b)(2)(iii) and (vi)).

9. Document how the aircraft is being used, by whom and for what purpose. Who operates the aircraft, who provides pilots, and who pays them? Are there any operating agreements or leases by donee? If so, get copies for review by GSA (Region and Central Office).

10. Check to see if aircraft is being used exclusively by an eligible entity.

11. Ascertain that any deviations from the terms and conditions specified in the ACTD have been properly documented and approved in writing by GSA with the concurrence of the Office of General Counsel (see 101-44.108-2(b)(2)(ii), and the GSA Delegations of Authority Manual, ch. 13-5 (ADM P 5450.39C); regional office must send to Central Office).

12. Ascertain that appropriate records have been and are being kept for those items removed for use under approval for cannibalization. Requests for disposal instructions for cannibalized aircraft and residue must include an inventory list of items removed for use, and a description and picture of what remains for disposal after completion of the cannibalization. The conditions/restrictions in the ACTD and FPMR apply until released in writing by GSA with the concurrence of the Office of General Counsel (see ADM P 5450.39C, ch. 13-5; regional office must send to Central Office).

13. Take photographs of the donated aircraft at the time of donation, at time put into use, at time of utilization reports, at on-site visits and at the time of request for disposal instructions.

14. The Utilization Survey report must be signed and dated with the name, title, and telephone number of the surveyor, and the name and address of the employer of the surveyor must be either typed or printed legibly.



GSA Federal Acquisition Service

September 23, 2016

MEMORANDUM FOR DIRECTORS, STATE AGENCIES FOR SURPLUS PROPERTY

FROM: ALBERTA M. BROWN, DIRECTOR *Alberta M. Brown*
SOUTHWEST-CENTRAL ZONE, PERSONAL PROPERTY
MANAGEMENT

SUBJECT: FY17 Donated Firearms Inventory

The time for the FY 17 Donated Firearms Inventory is quickly approaching. As addressed in prior correspondence, beginning with the FY 17 Inventory, this is now a two part process.

- The first part, conduct and submit the inventory verification completed in GSAXcess. The ability to conduct and submit the inventory will be activated on October 1, 2016. This first step is intended to be completed by the law enforcement agency (LEA) with custody of the firearms and must be completed no later than November 30, 2016.
- The second part, certification by the senior official of the LEA, follows the completion of the inventory.
 - The certification (see enclosure 1) must be signed no later than ten days following submission of the inventory in GSAXcess. As SASPs, you will compile the signed certifications from your donees and then submit them to GSA, at surplusfirearms@gsa.gov, not later than December 30, 2016.
 - Request that you scan these into one document, alphabetized by LEA name and send with the subject line "Your State" State Certifications.

Webinars are scheduled during the remainder of this month and into October to familiarize your LEAs with the GSAXcess inventory functionality. Please suggest that all participate.

Enclosure 2 is a sample letter that you can send to your participating LEAs.

After the completion of the inventory, you, the SASP, have a new inventory verification requirement. This is a "visual" verification of the active inventory in the state. If there are 100 or fewer firearms, all must be verified; if greater than 100 in the active inventory within the

U.S. General Services Administration
819 Taylor Street
Fort Worth, TX 76102

State, 20% of the inventory or 100 firearms, whichever is greater must be verified. Physical is stated, initially, in quotes, as there are three options for completing this inventory verification:

- Actual visit by the SASP to a sufficient number of LEAs to complete this requirement;
- Submission of date stamped photos of the firearms with the serial number visible from the LEA(s) to the SASP to complete this requirement (if the camera cannot date stamp photos, then the firearms must be photographed in front of a daily newspaper with the date visible); or
- Conduct of a virtual visit to inspect firearms and verify serial numbers via Facetime, Skype, video conference or other virtual visual means.

If firearms are signed out to an officer, verification by a “custody card” is acceptable. Requirements for a custody card and documentation of this inventory verification are provided in enclosure 3.

The number of firearms you must verify is listed in enclosure 4. This verification must be completed by March 31 of each year, verifying the inventory submitted during the first quarter of the FY. You should advise your Zonal Property Division of your plan for making these verifications no later than November 1, 2016. GSA may participate with you on some of these as part of our responsibility for oversight of the SASP operations and continuing interest in oversight of the firearms inventories.

As a reminder of the existing restrictions on donated firearms, a copy of the master conditional transfer document is provided at enclosure 5. This should be included with your announcement of the inventory and provided to each of your participating LEAs.

Attached as separate documents are User Guides for the inventory process in GSAXcess, both a User Guide for you, the SASP, and a separate User Guide for LEAs. Please forward the User Guide for LEAs with your memo to your participating LEAs announcing the FY 17 inventory.

For additional information or guidance, please contact Debbie Rojas Cook, National Firearms Program Manager, at Debbie.rojascook@gsa.gov, phone: 303-236-7707.

Firearms Inventory Certification Statement
(to be printed on LEA letterhead)

I, _____, certify that the firearms inventory results for
name of chief or senior official

_____ submitted in GSAXcess on _____
name of law enforcement agency date

for FY 17, are, to the best of my knowledge and belief, true, accurate, and complete.

This certification is made in accordance with and subject to the penalties of Title 18, Section 1001, the United States Code, Crime and Criminal Procedures.

X _____
Signature of Chief or Senior Official

Date

Name

Title

Sample Memo to LEA Donees

To: Law Enforcement Agencies with Donated Firearms

It's time again for the annual inventory of firearms donated to your law enforcement agency (LEA) via the U. S. General Services Administration's (GSA's) Federal Surplus Personal Property Donation Program. There are significant changes in the inventory process this year. The inventory is now a two part process.

- The first part, conduct and submission of the inventory verification will be completed in GSAXcess. The ability to conduct and submit the inventory will be made active on October 1, 2016. This first step is to be completed by your LEA not later than November 30, 2016.
- The second part, certification by the senior official of your LEA, follows the conduct of the inventory.
 - The certification must be signed not later than ten days following submission of the inventory in GSAXcess and submitted to this office.

Webinars are scheduled to familiarize you with the GSAXcess function for the inventory. You should have received an email invitation to attend one of the five sessions being offered by GSA.

As a reminder of the existing restrictions on donated firearms, a copy of the master conditional transfer document is provided at enclosure .

Documentation Required for SASP Inventory Verification

For each "visit":

- SASP will go into GSAXcess and print out a copy of the active inventory for each LEA to be visited. The SASP will verify current possession of each firearm by serial number. Current possession will be verified by:
 - Visual inspection of the firearm by
 - Physical visit
 - Digital picture, or
 - Video "conferencing" verification.
 - Custody card for the firearm. An acceptable version of a custody card must contain the following elements:
 - (1) LEA name
 - (2) Name of individual responsible for physical custody of item
 - (3) Item nomenclature (Name)
 - (4) Serial number of item
 - (5) Printed name of individual responsible for physical custody of item
 - (6) Signature of individual responsible for physical custody of the item
 - (7) Date
- SASP will send a letter to the GSA Zonal Property Division listing completion of each LEA review with the following elements:
 - LEA name
 - Date of visit
 - Method of verification (visit, digital photos, video verification)
 - Number of firearms on GSAXcess listing
 - Number of firearms verified
 - Comments and resolution for any discrepancies

FY 17 SASP Firearms Inventory Verification Requirement

State	Active Firearms	Required Verification
AL	75	75
AR	280	100
CA	889	178
CO	3	3
FL	221	100
GA	614	123
IN	120	100
KS	831	166
LA	406	100
MA	46	46
MD	15	15
MI	7	7
MN	70	70
MO	539	108
MS	60	60
MT	213	100
ND	112	100
NH	12	12
NJ	10	10
NV	35	35
OK	655	131
PA	1022	204
PR	60	60
SC	176	100
TN	24	24
TX	410	100
UT	51	51
WA	74	74
WV	102	100
WY	21	21

Firearms Conditional Transfer Document

The United States of America (hereinafter called the General Services Administration (GSA) acting by and through the State of _____, State Agency for Surplus Property (hereinafter called the SASP), pursuant to the powers and authority contained in the Federal Property and Administrative Services Act of 1949, as amended, transfers to _____ whose address is _____ (hereinafter called the Donee) the firearm(s) hereinafter described. The Donee represents that the firearm(s) is/are required in the furtherance of the Donee's program and will be used solely for law enforcement activities and for no other purpose. The firearm(s) is/are delivered for Donee's exclusive use under the conditions and restrictions listed below. The firearm(s) or list of firearm(s) is/are described below or made as an attachment to this document.

MAKES(S) AND MODEL(S)

SERIAL NUMBER(S)

While the firearm(s) being donated are limited to those firearms assigned disposal condition code of 4 or better, this donation is being made on an "as is, where-is" basis without warranty of any kind, and delivery is made at the present location of the firearm(s) regardless of where the firearm(s) may be situated:

SUBJECT, HOWEVER, to the following conditions and restrictions:

1. The Donee agrees that the firearm(s) shall be used, as stated in the letter of intent, which is hereby incorporated by reference, solely for law enforcement activities by the Donee's compensated law enforcement officers whose primary functions include the powers to apprehend and to arrest while enforcing applicable federal, state and local laws.
2. The Donee shall begin using the firearm(s) within 12 months after all required signatures have been affixed to this document. The Donee's compensated officers must use the firearm(s) only for the purposes stated above in perpetuity. No other use is authorized at any time.
3. If the firearm(s) is/are not placed in use for the purpose stated above by the Donee within 12 months of donation, as evidenced by the date of the last signature of this document, and used thereafter in perpetuity, then within 30 days after: (1) the initial 12 months period has expired without authorized use of the firearm(s) or (2) the date the firearm(s) have ceased to be used for the purpose authorized above, the Donee shall provide notice thereof in writing to the SASP. The Donee shall, as directed by GSA through the SASP, either release the firearm(s) to another Donee or destroy the firearm(s) in a manner such that each complete firearm is rendered completely inoperable and incapable of being made operable for any purpose except for the recovery of its basic material content.

4. The Donee shall comply with all applicable federal, state and local firearms registration and use requirements.
5. The Donee shall immediately report lost, stolen or unaccounted for firearms received pursuant to this conditional transfer document.
6. The Donee shall conduct annual inventories of all donated firearm(s) and report the results to the SASP. The Donee and the SASP shall maintain the inventory results for three years for review by the SASP and/or GSA as appropriate.
7. The Donee shall report to the SASP on the use, condition and location of the firearm(s) and on other pertinent matters, as required from time-to-time, by the SASP and/or GSA.
8. The Donee shall not ever sell, trade, lease, lose, lend, bail, cannibalize, encumber, or otherwise dispose of the firearm(s), or remove the firearms(s) permanently for use outside the state.
9. In the event the firearm(s) is/are ever sold, traded, leased, loaned, lost, bailed, encumbered, or otherwise disposed of in violation of the terms of this agreement, the Donee, at the option of GSA, shall be liable to the United States Government for the proceeds of the disposal or the fair market value of the firearm(s) at the time of the unauthorized transaction, as determined by GSA.
10. For donated firearms that are destroyed, the Donee and a representative of the SASP shall state in writing that the firearm(s) were destroyed in accordance with (3) above. The original signed statement must be maintained by the Donee and the SASP for a period of five (5) years.
11. In the event of a breach by the Donee or its successor in function of any of the above conditions and restrictions, interest in and to the firearms(s) shall, at the option of GSA, revert to and become the property of the United States Government, and the Donee or its successor or assigns, shall forfeit all of its or their rights, titles and interests in and to the firearms(s) and may be subject to other penalties, both civil and criminal.
12. The Donee agrees that it has the ability to safely maintain, operate, finance, properly store, and guarantee the security of the firearm(s) being requested.
13. The SASP shall not grant waivers, amendments, releases, or terminate any of the terms and conditions enumerated in this document concerning the use or disposal of the firearm(s), or issue disposal instructions to the Donee for the firearms(s) without the prior written concurrence of GSA or its successor in function, except that GSA does not need to concur in writing for firearm(s) to be destroyed in accordance with (3) above.

14. The Donee agrees to hold harmless and indemnify the Government for any and all costs, judgements, actions, debts, liability costs and attorney's fees, any other request for monies or any other type of relief arising from or incident to the transfer, donation, use, disposition, or any subsequent operation performed upon, exposure to or contact with any component, part, constituent or ingredient of the firearm(s), whether intentional or accidental.

15. The Donee agrees that this Firearm(s) Conditional Transfer Document was read and that the conditions and restrictions contained herein are fully understood. The Donee also agrees that the Firearm(s) Donation Transfer Guidelines, a copy of which is attached, are made a part of this document, was read and that the restrictions and the eligibility, transfer, documentation, and disposal requirements are fully understood.

IN WITNESS WHEREOF, the donor and donee have duly executed this instrument this _____ day of _____, _____.

United States of America acting by and through the _____ State Agency for Surplus Property

By: _____

Title: _____

DONEE:

By: _____

Title: _____

Institution or Organization: _____

CITY of _____)

COUNTY of _____)

STATE of _____)

On this _____ day of _____, _____, before me appeared _____ to me personally known, who, being by me duly sworn, says that she/he is the person who executed the foregoing instrument and that such instrument was executed under duly delegated authority on behalf of the _____ State Agency for Surplus Property, and acknowledge the foregoing instrument to be the free act and deed of the State of _____. Given under my hand and official seal the day and year above written.

Notary Public in and for the

CITY of _____

COUNTY of _____

STATE of _____

(SEAL)

My commission expires: _____

CITY of _____)

COUNTY of _____)

STATE of _____)

On this _____ day of _____, _____, before me appeared _____ to me personally known, who, being by me duly sworn, says that she/he is the person who executed the foregoing instrument on behalf of said _____ and acknowledge to me that she/he was duly authorized to execute the foregoing instrument and that she/he executed the same as a free act and deed of said _____.

Given under my hand and official seal the day and year above written.

Notary Public in and for the

CITY of _____

COUNTY of _____

STATE of _____

(SEAL)

My commission expires: _____



March 10, 2017

MEMORANDUM FOR DIRECTORS, STATE AGENCIES FOR SURPLUS PROPERTY

FROM: SUSANNE COMBS SUSANNE COMBS
ACTING DIRECTOR
OFFICE OF PERSONAL PROPERTY MANAGEMENT

Digitally signed by SUSANNE COMBS
DN: c=US, o=U.S. Government, ou=General Services
Administration, cn=SUSANNE COMBS
092342.19200300.100.1.1=67001000016107
Date: 2017.03.10 13:43:31 -05'00'

SUBJECT: Process Modification for Transfers of High-Mobility, Multipurpose Wheeled Vehicles (HMMWVs) for Donation

The purpose of this memorandum is to advise you that the U.S. General Services Administration (GSA) has modified the transfer process of surplus High-Mobility, Multipurpose Wheeled Vehicles (HMMWVs) for donation. This memorandum supplements prior guidance issued per GSA memo, subject: Transfer of High-Mobility, Multipurpose Wheeled Vehicles (HMMWVs) for Donation, dated July 19, 2016; and GSA memo, subject: Requests for Donations of Controlled Equipment, dated July 20, 2016. The two aforementioned memos remain in effect.

Beginning on March 13, 2017, GSA will implement two new processes for the donation of HMMWVs depending on the following scenarios:

- Scenario One: Immediate Donation via Donee Pick-up and
- Scenario Two: Subsequent Donation via State Agency for Surplus Property (SASP) Pick-up.

HMMWVs are still considered controlled equipment and the documents listed below must be completed and received from an eligible donee prior to donation. The order in which they must be provided is defined in Scenarios One and Two:

- Application Letter;
- Civilian Governing Body Document (CGBD);
- Conditional Transfer Document (CTD); and
- Hold Harmless Statement.

Scenario One: Immediate Donation via Donee Pick-up

For SASPs who operate by direct donation only or who have a specific donee, GSA will continue to accept the Application Letter before the Surplus Release Date (SRD); however, now GSA will begin to accept the CGBD and the CTD within 21 days after the Allocation Date. After GSA has reviewed and accepted the required documentation, GSA will requisition the HMMWV and the donee may pick up the HMMWV from the Defense Logistics Agency (DLA) site. The donee must still remove the HMMWV from the DLA site within 21 days of the Allocation Date.

The new transfer process for HMMWVs with direct donee requests is as follows:

Days From Excess Release Date	Process Step
1 - 21	SASP has known done
1 - 21	SASP requests HMMWV in GSAXcess. See Attachment 1
1 - 21	Donee prepares Application Letter
1- 21	SASP sends Application Letter prior to SRD to GSA
22 - 27	GSA reviews Application Letter and if it is acceptable, GSA allocates HMMWV
22 - 42	Donee prepares Hold Harmless Statement, CGBD, and CTD
22 - 42	SASP provides GSA with the CGBD and CTD within 21 days after Allocation Date and electronically signs allocation. SASP includes/attaches Hold Harmless Statement to the SASP's Distribution Document
22 - 42	GSA reviews and accepts the required documentation. GSA requisitions HMMWV
22 - 42	Donee picks up HMMWV within 21 days after Allocation Date

Scenario Two: Subsequent Donation via SASP Pick-up

GSA will allocate HMMWVs to SASPs with onsite storage, but no direct donee requests, prior to GSA receiving the following required documentation: the Application Letter, the CGBD, and the CTD. **However, these documents must be received by GSA within six (6) months of transfer to the SASP, and before the SASP donates the HMMWV to an eligible donee.** The Hold Harmless Statement must be signed by the Donee and included or attached to the Distribution Document. As a reminder, HMMWVs are controlled equipment and cannot be donated to a donee before GSA receives the required documentation.

In order to accomplish this new transfer process, only SASPs who have the ability to store HMMWVs onsite will be able to receive transfers before turning in the required documentation to GSA. SASPs that operate by direct donation will need to provide the Application Letter prior to the SRD, and the CGBD and CTD prior to donee pick-up from the DLA site as in Scenario One. SASPs who operate by direction donation may seek arrangements with SASPs who maintain onsite storage facilities so they may pursue Scenario Two.

The new transfer process for HMMWVs with no direct donee requests is as follows:

Days From Excess Release Date	Process Step
1 - 21	SASP has potential done
1 - 21	SASP requests HMMWV in GSAXcess. See Attachment 2
22 - 27	GSA allocates HMMWV
22 - 27	SASP electronically signs allocation
22 - 29	GSA requisitions HMMWV

22 - 42	SASP picks up HMMWV
Within 6 months of Transfer Date	Donee views HMMWV
Within 6 months of Transfer Date	Donee prepares Hold Harmless Statement, Application Letter, CGBD, and CTD
Within 6 months of Transfer Date	SASP provides GSA with the Application Letter, CGBD, and CTD. SASP includes/attaches Hold Harmless Statement to the SASP's Distribution Document
After GSA has received, reviewed, and accepted all of the required documentation	Upon GSA's acceptance of the required documentation, GSA provides SASP permission to release HMMWV to donee and SASP will attach GSA's release statement to distribution document
6 Months Post Transfer Date	SASP must consult with GSA for any HMMWVs not donated

SASPs with no direct donee requests must send the required documentation to GSA's Centers of Expertise for Eligibility and Compliance as follows:

Location of SASP	Where to send completed documentation
Eastern States and Territories	Center of Expertise: Mid-Atlantic Zone (Philadelphia, PA) POC: joe.hvorecky@gsa.gov Tel #: 215-266-4505
Western States and Territories	Center of Expertise: Southwest Central Zone (Fort Worth, TX) POC: lori.marrs@gsa.gov Tel #: 817-850-8148

The Centers of Expertise will periodically follow-up with the SASPs to ensure the required documentation is fully completed on time. If the documentation has not been received by GSA within six (6) months after the transfer date, then the Center of Expertise may extend the six (6) month period on a case-by-case basis.

Additional Clarification for All HMMWV Donations:

GSA would also like to issue two additional clarifications with respect to the HMMWV transfer process. After conducting market research, GSA has determined the Fair Market Value (FMV) for the purpose of the CTD to be \$11,000. Please use this value for the CTD. Additionally, if there are multiple HMMWVs on one line item, the SASP must request each individual HMMWV on a separate SF 123 or one at a time in GSAXcess.

Please contact Cynthia Gardiner if you have any questions regarding this revised policy. She can be reached at cynthia.gardiner@gsa.gov or 703-605-2758.

3 Attachments

Attachment 1

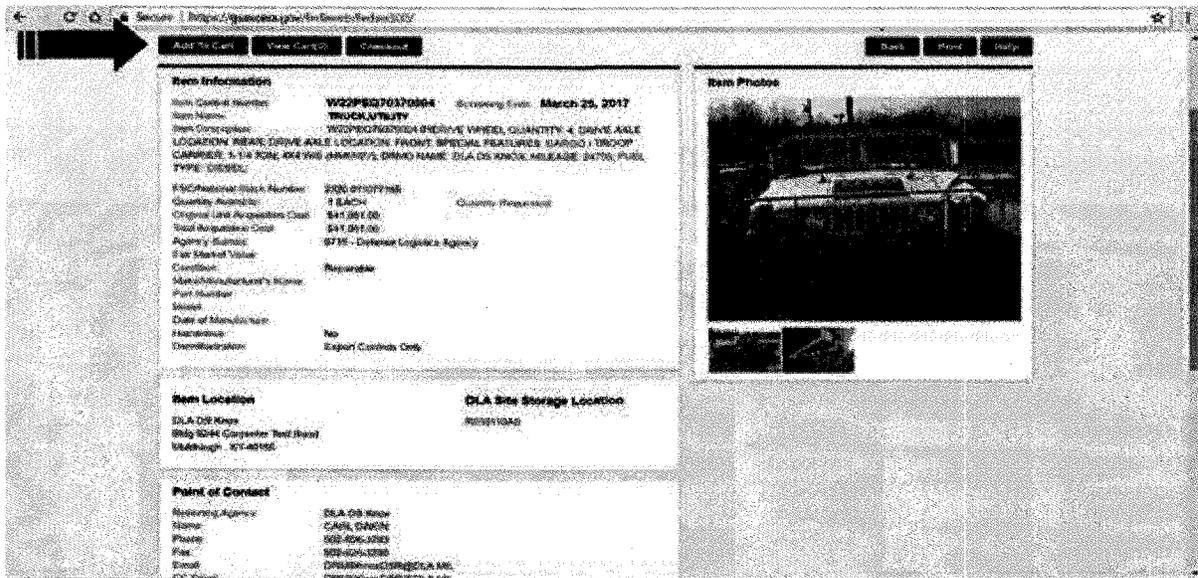
HMMWVs Scenario One: Immediate Donation via Donee Pick-up

This attachment outlines the process for requesting a HMMWV if the donee is picking it up from a DLA Site.

Please note if there are multiple HMMWVs on one line item, the SASP must request each individual HMMWV on a separate SF 123 or one at a time in GSAXcess.

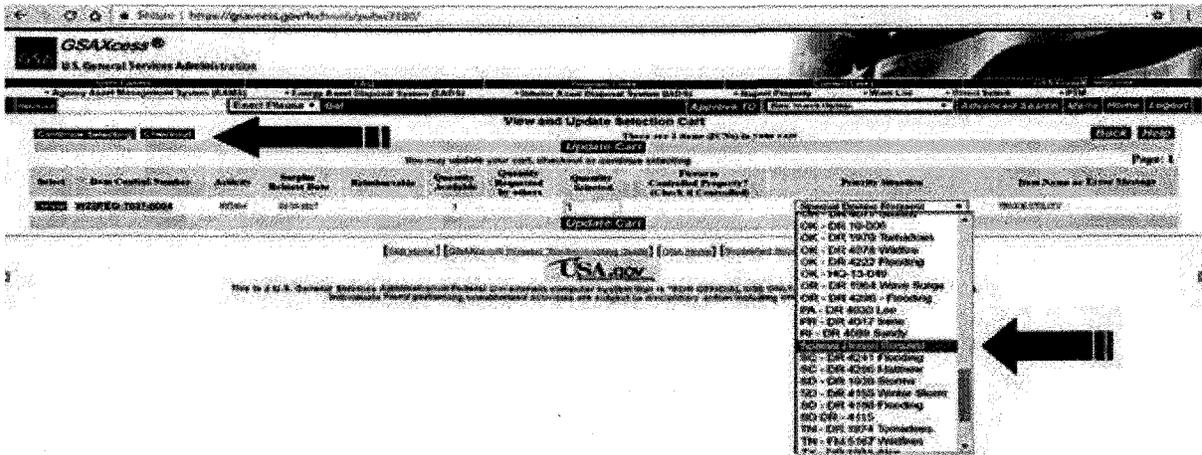
Step 1:

Once the SASP has a known donee and determines it wants a particular HMMWV, click the "Add To Cart" button.



Step 2:

View the Cart and from the Priority Situation drop down menu, select "Special Donee Request," then click "Checkout."



Step 3:

Send the following to GSA prior to SRD during screening days 1-21:

- Application Letter

Step 4:

Send the following to GSA prior to the deadline for removal (21 days after allocation):

- Conditional Transfer Document
- Civilian Governing Body Document

SASP includes/attaches the Hold Harmless Statement to the Distribution Document.

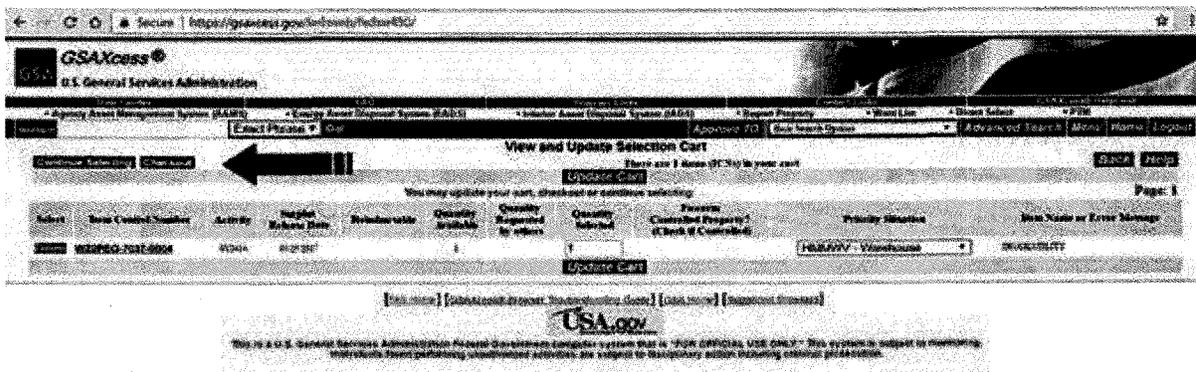
Step 5:

GSA approves the SF 123 once all documents are received.

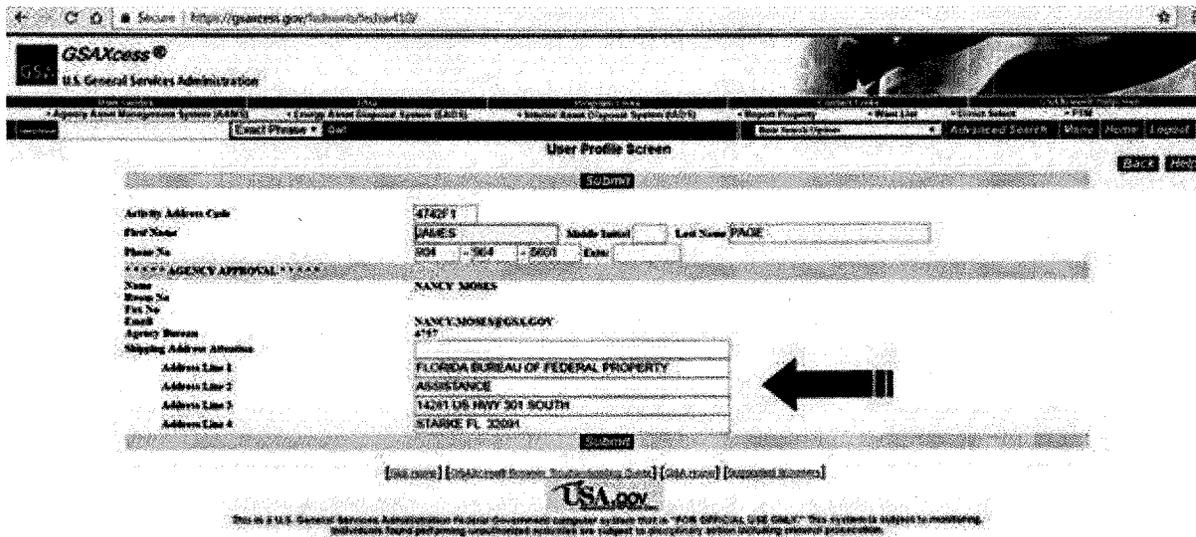
Step 6:

Donec must still remove the HMMWV from the DLA site within the 21 day period after allocation.

Step 3:
Click on the "Checkout" button.



Step 4:
Update the Shipping Address to the SASP location where the HMMWV will be stored.



Step 5:
HMMWV will be allocated and requisitioned by the SASP before a donee is determined.

Step 6:
SASP transports the HMMWV to the onsite storage facility.

Step 7:
Once the HMMWV is received at the onsite storage facility, the SASP populates the HMMWV Tracking Spreadsheet (Attachment 3 - Example of HMMWV Tracking Spreadsheet) columns:

- Transfer Date
- ICN
- TCN
- VIN/Serial Number
- SASP

Step 8:

Email the HMMWV Tracking Spreadsheet to the appropriate Center of Expertise:

- Joe.Hvorecky@gsa.gov (Eastern States and Territories)
- Lori.Marrs@gsa.gov (Western States and Territories)

Step 9:

SASP includes/attaches the Hold Harmless Statement to the Distribution Document.

Step 10:

The following documents must be received by the Center of Expertise prior to the HMMWV release to a donee:

- Application Letter
- Civilian Governing Body Document
- Conditional Transfer Document

Center of Expertise:

- Joe.Hvorecky@gsa.gov (Eastern States and Territories)
- Lori.Marrs@gsa.gov (Western States and Territories)

The Center of Expertise will notify the SASP that all the documents have been received, reviewed, and accepted. The Center of Expertise will authorize the release of the HMMWV.



July 19, 2016

MEMORANDUM FOR DIRECTORS, STATE AGENCIES FOR SURPLUS PROPERTY

FROM: DAVID ROBBINS
DIRECTOR
OFFICE OF PERSONAL PROPERTY MANAGEMENT

DAVID
ROBBINS

Digitally signed by DAVID ROBBINS
DN: c=US, o=U.S. Government, ou=General
Services Administration, cn=DAVID ROBBINS,
0.9.2342.19200300.100.1.1=47001000016957
Date: 2016.07.19 09:44:20 -0400

SUBJECT: Transfer of High-Mobility, Multipurpose Wheeled Vehicles (HMMWVs)
for Donation

The purpose of this memorandum is to advise you of our revised policy regarding transfers of surplus High-Mobility, Multipurpose Wheeled Vehicles (HMMWVs). This memo updates and supersedes a memo on the same subject dated July 7, 2016.

After slight revision of the recommendations made by the Law Enforcement Equipment Working Group and the acknowledgement that there are commercial entities that can retrofit HMMWVs to meet Federal Motor Vehicle Safety Standards, (FMVSS), the U. S. General Services Administration (GSA) is revising its policy regarding donations of HMMWVs. HMMWVs remain available for donation to all eligible donation recipients.

As the HMMWVs do not meet Federal Motor Vehicle Safety Standards (FMVSS) at the time of donation, the donation recipient will be required to sign documentation releasing the United States from any and all suits, actions, demands, or claims involving the operation of HMMWVs in their custody. The donee must sign the below hold harmless statement before the HMMWV can be physically released to them:

"The undersigned accepts the donation/transfer of High Mobility Multipurpose Wheeled Vehicle(s) (HMMWVs) **"As Is"** with no warranty of any kind including implied warranties, such as fitness for any purpose. The HMMWV is used at your agency's own risk. Extra operator competence and caution should be exercised in the operation and use of this vehicle outside the design specifications because the vehicle does not comply with the Federal Motor Vehicle Safety Standards (FMVSS) and is designed for use under conditions unique to the Department of Defense (DoD). In accepting the transfer/donation, the undersigned acknowledges that there may be hazards associated with the use of the vehicle and

U.S. General Services Administration
1800 F Street, NW
Washington, DC 20405

acknowledges full responsibility for its use. The undersigned warrants that it will provide appropriate operator training and shall indemnify and hold the United States harmless against all suits, actions, demands, or claims involving the operation of HMMWVs in its custody. The undersigned also agrees to maintain, at its expense, adequate liability and property damage insurance and workman's compensation insurance, as applicable, to cover such claims. If the HMMWVs retain their military configuration, at the end of life the HMMWV can only be released to the public with a requirement for "off road use only". Otherwise the HMMWVs must be mutilated or disassembled.

This requirement for "off road use"/mutilation or destruction does not apply if the donee has written documentation that the HMMWV has been retrofitted to meet FMVSS."

The hold harmless statement must be included in the SASP Distribution Document or attached thereto, referencing the line item of the HMMWV and the Distribution Document number. It is incumbent on the donee to determine the applicable operator training required, and also to document if retrofit to FMVSS has occurred and maintain such documentation.

In GSAXcess, HMMWVs will include this advisory statement:

"High Mobility Multi-Purpose Wheeled Vehicles (HMMWVs) are available for transfer and donation. Donations recipients will be required to sign a Conditional Transfer Document and the linked hold harmless statement."

HMMWVs are controlled equipment, under the recommendations of the Law Enforcement Equipment Working Group and the policy disseminated in the GSA memo, subject: REQUESTS FOR AND DONATIONS OF CONTROLLED EQUIPMENT, dated September 22, 2015. This memo does change policy stated therein, eliminating the requirement that GSA be notified and approve disposition of the HMMWV at end of life, and it also provides a newly revised Conditional Transfer Document (CTD) applicable to HMMWVs which is an enclosure to this memo.

HMMWVs donated on or after October 1, 2015 can be eligible for the changes addressed herein. If you and a donee want to revise the conditions applicable to a donation made on or after October 1, you must sign revised hold harmless statements and CTDs, as provided in this memo. Any and all revised CTDs must be provided to the GSA allocating office so that we can have updated transfer documentation. These provisions are not automatically retroactive.

HMMWVs can be requested for cannibalization in accordance with all applicable procedures any property for cannibalization in Title 41, Code of Federal Regulations, Part

Please contact Mrs. Cindy Gardiner if you have any questions regarding this revised policy. She can be reached at cynthia.gardiner@gsa.gov or 703-605-2758.

Tactical Vehicle Conditional Transfer Document

KNOW ALL MEN BY THESE PRESENTS: That the United States of America (hereinafter called the General Services Administration (GSA) acting by and through the State of _____, State Agency for Surplus Property (hereinafter called the SASP), pursuant to the powers and authority contained in Title 40, United States Code, as amended, transfers to _____ whose address is _____ (hereinafter called the Donee) the Tactical Vehicle hereinafter described is required in the furtherance of the Donee's program and that the Tactical Vehicle will be used solely in connection with such programs and more specifically for all the following purpose(s):

in accordance with the proposed program and plan as set forth in the Donee's "Application Letter" dated _____, as amended _____, which Expression of Interest is hereby incorporated herein and made a part thereof, and for no other purpose, does hereby deliver, sell, assign, and transfer all of its rights, title, and interest in and to the following described Tactical Vehicle attached thereto or installed therein, which has been determined by GSA to have a fair market value of \$ _____, unto the Donee to have and to hold the Tactical Vehicle, all singular forever, this donation being made on an "as is, where is" basis without warranty of any kind, and delivery made at present location of the Tactical Vehicle regardless of where the same may be situated or the condition thereof.

The Tactical Vehicle is delivered for Donee's exclusive use subject, however, to the following conditions and restrictions:

1. The Donee agrees that the Tactical Vehicle shall be used as stated in the Application Letter, which is hereby incorporated by reference.
2. The Donee shall begin using the Tactical Vehicle within 12 months after all required signatures have been affixed to this document.
3. If the Tactical Vehicle is not placed in use for the purpose stated above by the Donee within 12 months of donation, as evidenced by the date of the last signature of this document, and used for an 18 month period thereafter, then within 30 days after the Tactical Vehicle has ceased to be used, the Donee shall provide notice thereof in writing to the SASP, and at the Donee's expense, return the Tactical Vehicle to the SASP or otherwise make the Tactical Vehicle available for transfer, provided the Tactical Vehicle is still usable as determined by the SASP or otherwise dispose of the Tactical Vehicle, through the SASP, as may be directed by GSA.
4. The Donee shall immediately report lost, stolen or unaccounted for Tactical Vehicles received pursuant to this conditional transfer document.

5. During the periods of restriction prescribed in (2) and (3), above, the Donee shall make reports to the SASP on the use, condition, and location of the Tactical Vehicle and on other pertinent matters as may be required from time to time by the SASP or GSA.

6. In the event the Tactical Vehicle is ever sold, traded, leased, loaned, lost, bailed, encumbered, or otherwise disposed of in violation of the terms of this agreement, the Donee, at the option of GSA, shall be liable to the United States Government for the proceeds of the disposal or the fair market value of the Tactical Vehicle at the time of the unauthorized transaction, as determined by GSA.

7. In the event of a breach by the Donee or its successor in function of any of the above conditions and restrictions, interest in and to the Tactical Vehicle shall, at the option of GSA, revert to and become the property of the United States Government, and the Donee or its successor or assigns, shall forfeit all of its or their rights, titles and interests in and to the Tactical Vehicle and may be subject to other penalties, both civil and criminal.

8. The Donee agrees that it has the ability to safely maintain, operate, finance, properly store, and guarantee the security of the Tactical Vehicle being requested.

9. The SASP shall not grant waivers, amendments, releases, or terminate any of the terms and conditions enumerated in this document concerning the use or disposal of the Tactical Vehicle, or issue disposal instructions to the Donee for the Tactical Vehicle without the prior written concurrence of GSA or its successor in function.

10. The Donee agrees to hold harmless and indemnify the Government for any and all costs, judgments, actions, debts, liability costs and attorney's fees, any other request for monies or any other type of relief arising from or incident to the transfer, donation, use, disposition, or any subsequent operation performed upon, exposure to or contact with any component, part, constituent or ingredient of the Tactical Vehicle, whether intentional or accidental.

11. The Donee agrees that this Tactical Vehicle Conditional Transfer Document was read and that the conditions and restrictions contained herein are fully understood.

IN WITNESS WHEREOF, the donor and donee have duly executed this instrument this _____ day of _____, _____.

United States of America acting by and through the _____ State Agency for Surplus Property

By: _____
Title: _____

DONEE:

By: _____

Title: _____

Institution or Organization: _____

CITY of _____)

COUNTY of _____)

STATE of _____)

On this _____ day of _____, _____, before me appeared _____ to me personally known, who, being by me duly sworn, says that she/he is the person who executed the foregoing instrument and that such instrument was executed under duly delegated authority on behalf of the _____ State Agency for Surplus Property, and acknowledge the foregoing instrument to be the free act and deed of the State of _____. Given under my hand and official seal the day and year above written.

Notary Public in and for the
CITY of _____
COUNTY of _____
STATE of _____

(SEAL)

My commission expires: _____

CITY of _____)

COUNTY of _____)

STATE of _____)

On this _____ day of _____, _____, before me appeared _____ to me personally known, who, being by me duly sworn, says that she/he is the person who executed the foregoing instrument on behalf of said _____ and acknowledge to me that she/he was duly authorized to execute the foregoing instrument and that she/he executed the same as a free act and deed of said _____.

Given under my hand and official seal the day and year above written.

Notary Public in and for the
CITY of _____
COUNTY of _____
STATE of _____

(SEAL)

My commission expires: _____

Requests for Controlled Equipment from Law Enforcement Activities

Requests by any LEA for controlled equipment will require an Application Letter, also known as a Letter of Intent. The Application Letter must be on LEA letterhead and signed by the Chief of Police or similar senior official of the requesting LEA. The Application Letter will include:

- e The Transfer Order number and
 - oe For firearms, a listing of requested items by serial number,e
 - oe For aircraft, the tail number of the requested aircraft, or
 - oe For tactical vehicles, the VIN(s) of the requested vehicle(s);e
- e A general description of the LEA or other requesting activity (which, at a minimum,e will address the number of sworn officers);e
- e A detailed justification for acquiring the controlled equipment;e
- e The number of units of that type of controlled equipment already owned;e
- e Categories of other controlled equipment obtained through Federal programs,e
- e Certifications for policing protocols and training for the protocols and use of the equipment;
- e Approval or concurrence by civilian oversight authority or budget authoritye ([Sheriffs, as elected officials, have no other oversight authority beyond themselves]e as an attachment to the Application Letter);e
- e Whether or not a request for similar property has been made with another Federale program;
- e Whether or not a request for any controlled equipment has been denied in the paste 3 years and, if so, why, (for material reasons with the application, not simply if thee activity was denied based on competition for an asset from, say, GSA or DLA's LESOe program); ande
- e If the activity has been found to be in violation of a Federal civil rights statute or e program requirement in the past 3 years and disposition of such violation.e

The application (request) package will also include the appropriate Conditional Transfer Document for aircraft, firearms, or tactical vehicles.

The applicable certification statement:

I certify that this activity, _____, has applicable protocols for General Policing, Standards for Controlled Equipment, and Record Keeping.

At a minimum, the General Policing Standards include policies on

- (a) Community Policing;e
- (b) Constitutional Policing; ande

(c) Community Input and Impact Considerations.

At a minimum the Specific Controlled Equipment Standards includes policies specifically related to

- (a) Appropriate Use of Controlled Equipment;**
- (b) Supervision of Use;**
- (c) Effectiveness Evaluation;**
- (d) Auditing and Accountability; and**
- (e) Transparency and Notice Considerations.**

Upon request, the activity will provide a copy of the General Policing Standards and Specific Controlled Equipment Standards, and any related policies and protocols, to the Federal agency that supplied the equipment/funds.

These protocols are in place today or will be in place not later than April 1, 2016. (Circle which applies, in place or will be in place). If they are not in place today, this equipment cannot be used until they are in place, other than for training.

Additionally, this activity has established and provided training on these protocols, operational and technical training on the controlled equipment requested, scenario based training, and record keeping requirements.

This training meets the following requirements:

- (1) Required Annual Training on Protocols.** On an annual basis, all personnel who may use or authorize use of controlled equipment must be trained on the activity's General Policing Standards and Specific Controlled Equipment Standards.
- (2) Required Operational and Technical Training.** Personnel who use controlled equipment must be properly trained on, and have achieved technical proficiency in, the operation or utilization of the controlled equipment at issue.
- (3) Scenario-Based Training.** To the extent possible, trainings related to controlled equipment should include scenario-based training that combines constitutional and community policing principles with equipment-specific training.
- (4) Record-Keeping Requirement.** The activity must retain comprehensive training records; either in the personnel file of the officer who was trained or by the LEA's training division or equivalent entity, for a period of at least three (3) years, and must provide a copy of these records, upon request, to the Federal agency that supplied the equipment/funds.

Other than for training purposes, this equipment will not be used unless the training has been provided to all applicable personnel.

I certify that the above statements are true and correct. These certifications are made in accordance with and subject to the penalties of Title 18, Section 1001, the United States Code, Crime and Criminal Procedures.

Name of Recipient (print or type)

Signature of Recipient

Official Position/Title of Recipient

Date

NOTE: If the protocols are not in place at the time of signing, the LEA must submit a new certification NLT April 1, 2016 that the protocols are in place.

Requests for Flyable Aircraft from Other than LEAs

Requests by any donee for flyable aircraft will require an Application Letter, also known as a Letter of Intent. The Application Letter must be on donee organization letterhead and signed by a senior official of the requesting organization. The Application Letter will include:

- The Transfer Order number and tail number of the aircraft requested;
- A general description of the activity (which, at a minimum, will address the number of licensed pilots);
- A detailed justification for acquiring the aircraft;
- The number of aircraft already owned;
- Approval or concurrence by oversight authority or budget authority ([Board of Trustees, for example] as an attachment to the Application Letter);
- Whether or not a request for any aircraft has been denied in the past 3 years and, if so, why, (for material reasons with the application, not simply for having lost the competition for an aircraft); and
- If the activity has been found to be in violation of a Federal civil rights statute or program requirement in the past 3 years and disposition of such violation.

The application (request) package will also include the appropriate Conditional Transfer Document for aircraft.

Requests for Tactical Vehicles (HMMWVs and others) from Other than LEAs

Requests by any donee for tactical vehicles will require an Application Letter. The Application Letter must be on donee organization letterhead and signed by a senior official of the requesting organization. The Application Letter will include:

- a A general description of the LEA or other requesting activity (which, at a minimum, a will address the number of sworn officers);a
- a A detailed justification for acquiring the vehicle(s);a
- a The number of units of that type of vehicle already owned,a
- a Certifications for training on the use of the equipment;a
- a Approval or concurrence by civilian oversight authority or budget authority as an attachment to the Application Letter;
- a Whether or not a request for similar property has been made with another Federala program;
- a Whether or not a request for any tactical vehicles has been denied in the past 3a years and, if so, why, (for material reasons with the application, not simply losinga competition for an asset); anda
- a If the activity has been found to be in violation of a Federal civil rights statute ora program requirement in the past 3 years and disposition of such violation.a

The application (request) package will also include the appropriate Conditional Transfer Document for tactical vehicles.

The applicable certification statement:

I certify that this activity, _____, has provided appropriate training for use of these requested vehicles to all employees who may operate this equipment.

I certify that the above statements are true and correct. This certification is made in accordance with and subject to the penalties of Title 18, Section 1001, the United States Code, Crime and Criminal Procedures.

Name of Recipient (print or type)

Signature of Recipient

Official Position/Title of Recipient

Date



CTDs AND LETTERS OF INTENT

Conditional transfer documents.

Some property, because of its special or sensitive nature, requires special handling and may require additional terms and conditions in the documentation by which it is distributed. In addition to the State agency distribution document, the donation of such property shall be accomplished by the use of a conditional transfer document which contains the additional terms and conditions applicable to the property. For example, vessels (50 feet or more in length) and aircraft with a unit acquisition cost of \$5,000 or more, including all combat-type aircraft, are donated by the State agency, subject to special handling and use limitations imposed on the donee by GSA pursuant to the requirements of ch. 1-13, as well as such further terms, conditions, reservations, and restrictions as are imposed on the donee by the State agency in accordance with the:

- (1) Vessel conditional transfer document
- (2) Noncombat-type aircraft conditional transfer document
- (3) Combat-type aircraft conditional transfer document
- (4) Firearm(s) condition transfer document

VESSEL CONDITIONAL TRANSFER DOCUMENT

KNOW ALL MEN BY THESE PRESENTS: That the United States of America (hereinafter called the General Services Administration (GSA)) acting by and through the State of _____, State Agency for Surplus Property (hereinafter called the SASP), pursuant to the powers and authority contained in the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, for and in consideration of and in reliance upon the representations of _____, whose address is _____ (hereafter called the Donee) that the Property hereinafter described is required in the furtherance of the Donee's program and that such Property will be used solely in connection with such programs and more specifically for all the following purpose(s):

in accordance with the proposed program and plan as set forth in the Donee's "Letter of Intent" dated _____, as amended _____, which Expression of Interest is hereby incorporated herein and made a part thereof, and for no other purpose, does hereby deliver, sell, assign, and transfer all rights, title, and interest in and to the following described vessel:

together with all engines, appurtenances, and accessories attached thereto or installed therein (all of which are hereinafter referred to as the Property), which has been determined by GSA to have a fair market value of \$ _____, unto the Donee to have and to hold the said Property, all and singular forever, this donation being made on an "as is, where is" basis without warranty of any kind and delivery is made at the present location of the Property regardless of where the same may be situated or the condition thereof:

SUBJECT, HOWEVER, to the following conditions and restrictions:

- 1.e The Donee agrees to obtain documentation of the vessel under the applicable laws of the United States and regulations promulgated thereunder and the applicable laws of the several States governing the documentation of said Property and at all times to maintain such documentation. Upon written request and sufficient evidence to justify such action, GSA may waive the requirement for documentation in the case of donated vessels which are to be permanently moored on land and never to be used again on the waterways.e
- 2.e The Donee agrees to record this Vessel Conditional Transfer Document with the Coast Guard Documentation Officer at the port of documentation of the Property within 30 days after the receipt of the fully executed Vessel Conditional Transfer Document. If documentation is waived under (1), above, the requirement for registration may also be waived.e
- 3.e The Property shall be placed in use for the purpose stated above no later than 12 months after acquisition thereof and used for that same purpose for a 12-month period thereafter.e
- 4.e There shall be a further period of restriction beginning on the date the Property has been used for the period prescribed in (3), above. This period will expire after the Property has been used for the purpose stated above for an additional period of 48 months. During this additional period of restriction, the Property shall be used only for the purpose(s) stated above.e
- 5.e In the event the Donee does not record this Vessel Conditional Transfer Document with the Coast Guard Documentation Officer at the port of documentation of the Property within 30 days after the date of receipt of the fully executed Vessel Conditional Transfer Document, or in the event the Property is not placed in use within 12 months of receipt and used for a 12-month period thereafter, the Donee shall within 30 days after the date on which the instrument should have been recorded, or within 30 days after the Property has ceased to be used, provide notice thereof in writing to the SASP, and at the Donee's expense, return such Property to the SASP or otherwise make the Property available for transfer, provided the Property is still usable ase

determined by the SASP, or otherwise dispose of the Property, through the SASP, as may be directed by GSA.

6.t In the event the Property is not so used or handled as required by (1), (2), (3), (4), and (5),t above, title and right to the possession of the Property shall, at the option of GSA, revert to the United States Government. Upon demand the Donee shall, as directed by GSA through the SASP, release the Property to such person or agency as may be designated, sell the Property, or otherwise dispose of the Property. Any sale shall be for the benefit and account of the United States Government.t

7.t During the periods of restrictions prescribed in (3) and (4), above, the Donee shall make reports to the SASP on the use, condition, and location of the Property and on other pertinent matters as may be required from time to time by the SASP or GSA.t

8.t During the periods of restriction prescribed in (3) and (4), above, the Donee shall not sell,t trade, lease, lend, bail, cannibalize, encumber, or otherwise dispose of the Property, or remove it permanently for use outside the State, without the prior written approval of GSA. The proceeds from any sale, trade, lease, loan, bailment, encumbrance, or other disposal of the Property during the period of restriction set forth in (3) and (4), above, when such action is authorized in writing by GSA, shall be for the account of the United States Government.t

9.t In the event, during the periods of restriction prescribed in (3) and (4), above, the Property is sold, traded, leased, loaned, bailed, cannibalized, encumbered, or otherwise disposed of without prior written approval of GSA, or is used for a purpose other than the purpose(s) stated, the Donee, at the option of GSA, shall be liable for the proceeds of the disposal, the fair market value, or the fair rental value of the Property at the time of such unauthorized transaction or use,t as determined by GSA.t

10.t If at any time, from the date the Donee receives the Property through the periods of restriction prescribed in (3) and (4), above, the Property is no longer suitable, usable, or required by the Donee for the purpose for which required, the Donee shall promptly notify the SASP, and shall, as directed by GSA through the SASP, return the Property to the SASP, transfer the Property to another Donee or another State agency or to a department or agency of the United States, sell the Property for the account and benefit of the United States with the proceeds remitted promptly to GSA from the Donee, or otherwise dispose of the Property as directed by GSA.t

11.t At the option of GSA, the Donee may obtain abrogation of the terms and conditions set forth in (4) and (6) through (10), above, by payment of an amount determined by and with the written concurrence of GSA.t

12.t GSA may waive any or may terminate all of the terms and conditions set forth in (4) and (6)t through (10), above, and give unrestricted title to the Property in favor of the Donee whenever such action is determined in writing by GSA to be appropriate.t

13.t The Donee agrees to hold harmless and indemnify the Government for any and all costs,t judgment, action, debt, liability costs and attorney's fees or any other request for monies of any type of relief arising from or incident to the transfer, donation, use processing, disposition, or any subsequent operation performed upon, exposure to or contact with any component, part,t constituent or ingredient of the item, material or substance, whether intentional or accidental.t

IN WITNESS WHEREOF, the Donor and Donee have duly executed this instrument this _____ day of _____, 19____.

United States of America, Acting
by and through the _____

State Agency for Surplus Property

By _____
Title _____

DONEE:

By _____
Title _____
Institution or Organization _____

CITY of _____
COUNTY of _____
STATE of _____

On the _____ day of _____, 19____, before me appeared _____, to me personally known, who, being by me duly sworn, says that she/he is the person who executed the foregoing instrument and that such instrument was executed under duly delegated authority on behalf of the State Agency for Surplus Property, and acknowledged the foregoing instrument to be the free act and deed of the State of _____.

Given under my hand and official seal the day and year above written.

Notary Public in and for the
CITY of _____
COUNTY of _____
STATE of _____

(SEAL)

My Commission Expires: _____

CITY of _____)
STATE of _____)
COUNTY of _____)

On this _____ day of _____, 19____, before me appeared _____, to me personally known, who, being by me duly sworn, says that she/he is the person who executed the foregoing instrument on behalf of the _____ and acknowledged to me that she/he was duly authorized to execute the foregoing instrument and that she/he executed the same as a free act and deed of said _____.

Given under my hand and official seal the day and year above written.

Notary Public in and for the
CITY of _____
COUNTY of _____
STATE of _____

(SEAL)

My Commission Expires: _____

NON-COMBAT-TYPE AIRCRAFT CONDITIONAL TRANSFER DOCUMENT

KNOW ALL MEN BY THESE PRESENTS: That the United States of America (hereinafter called the General Services Administration (GSA)) acting by and through the State of _____, State Agency for Surplus Property (hereinafter called the SASP), pursuant to the powers and authority contained in the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, for and in consideration of and in reliance upon the representations of _____ whose address is _____ (hereinafter called the Donee) that the Property hereinafter described is required in the furtherance of the Donee's program and that such Property will be used solely in connection with such programs and more specifically for all the following purpose(s):

in accordance with the proposed program and plan as set forth in the Donee's "Letter of Intent" dated _____, as amended _____, which Expression of Interest is hereby incorporated herein and made a part thereof, and for no other purpose, does hereby deliver, sell, assign, and transfer all of its rights, title, and interest in and to the following described non-combat-type aircraft, aircraft engines, and propellers,

together with all engines, appurtenances, and accessories attached thereto or installed therein (all of which are hereinafter referred to as the Property), which has been determined by GSA to have a fair market value of \$ _____, unto the Donee to have and to hold the Property, all singular forever, this donation being made on an "as is, where is" basis without warranty of any kind, and delivery made at present location of the Property regardless of where the same may be situated or the condition thereof.

SUBJECT, HOWEVER, to the following conditions and restrictions:

- 1.t The Donee agrees to apply to the Federal Aviation Administration (FAA) for registration of the Property which is intended for flight purposes within 30 days of the receipt of a fully executed copy of this instrument. The Donee's application for registration shall include a fully executed copy of this instrument.t
- 2.t The Property shall be placed in use for the purpose stated above no later than 12 months after acquisition thereof, and used for that same purpose for a 12-month period thereafter.t
- 3.t There shall be a further period of restriction beginning on the date the Property has been used for the period prescribed in (2), above. This additional period will expire after the Property has been used for the purpose stated for an additional period of 48 months. During this additional period of restriction, the Property shall be used only for the purpose(s) stated above.t
- 4.t In the event the Donee does not apply to the FAA for registration of the Property which is intended for flight operations (or other uses unless registration is waived by GSA) or in the event the aircraft is not placed in use within 12 months of receipt, and used for a 12 month period thereafter, within 30 days after the Property has ceased to be used, the Donee shall provide notice thereof in writing to the SASP, and at the Donee's expense,t return such Property to the SASP or otherwise make the Property available for transfer, provided the Property is still usable as determined by the SASP or otherwise dispose of the Property,t through the SASP, as may be directed by GSA.t
- 5.t In the event the Property is not so used or handled as required by (1), (2), (3), and (4), above,t title and right to the possession of the Property shall at the option of GSA revert to the United States Government. Upon demand the Donee shall, as directed by GSA through the SASP,t release the Property to such person or agency as may be designated, sell the Property, or otherwise dispose of the Property. Any sale shall be for the benefit and account of the United States Government.t

6.e During the periods of restriction prescribed in (2) and (3), above, the Donee shall make reports to the SASP on the use, condition, and location of the Property and on other pertinent matters as may be required from time to time by the SASP or GSA.e

7.e At the expiration of the period of restriction prescribed in (3), above, a release document shall be executed by the State Agency for Surplus Property and forwarded to the Donee.e

8.e During the periods of restriction prescribed in (2) and (3), above, the Donee shall not sell, trade, lease, lend, bail, cannibalize, encumber, or otherwise dispose of the Property, or remove it permanently for use outside the State, without the prior written approval of GSA. The proceeds from any sale, trade, lease, loan, bailment, encumbrance, or other disposal of the Property during the period of restriction set forth in (2) and (3), above, when such action is authorized by GSA, shall be for the benefit and account of the United States Government.e

9.e In the event, during the periods of restriction prescribed in (2) and (3), above, the Property is sold, traded, leased, loaned, bailed, encumbered, or otherwise disposed of without prior written approval of GSA, the Donee, at the option of GSA, shall be liable for the proceeds of the disposal, the fair market value, or the fair rental value of the Property at the time of such unauthorized transaction or use, as determined by GSA.e

10.e If at any time, from the date the Donee receives the Property through the periods of restriction prescribed in (2) and (3), above, the Property is no longer suitable, usable, or further needed by the Donee for the purpose for which acquired, the Donee shall promptly notify the SASP and shall as directed by GSA through the SASP:e

(a)e Release the Property to another donee or State agency;e

(b)e Release the Property to a department or agency of the United States;e

(c)e Release the Property to such other institution or agency as may be determined to have need therefor;e

(d)e Sell the Property for the benefit and account of the United States of America with the proceeds remitted promptly from the Donee to GSA;e

(e)e Render the Property completely unfit and useless for any purpose except for the recovery of its basic material content, the same to be performed in a manner satisfactory to GSA and the material content to be disposed of in accordance with instructions of GSA; ore

(f)e Otherwise dispose of the Property as directed by GSA.e

11. At the option of GSA, the Donee may obtain abrogation of the terms and conditions set forth in (3) and (6) through (10), above, by payment of an amount determined by GSA.

12.e GSA may waive any or may terminate all of the terms and conditions set forth in (3) and (6) through (10), above, and give unrestricted title to the Property in favor of the Donee whenever such action is determined in writing by GSA to be appropriate.e

13.e The Donee agrees to hold harmless and indemnify the Government for any and all costs, judgment, action, debt, liability costs and attorney's fees or any other request for monies of any type of relief arising from or incident to the transfer, donation, use processing, disposition, or any subsequent operation performed upon, exposure to or contact with any component, part, constituent or ingredient of the item, material or substance, whether intentional or accidental.e

IN WITNESS WHEREOF, the Donor and the Donee have duly executed this instrument this

_____ day of _____, 19__.

United States of America Acting by
and through the _____
State Agency for Surplus Property

By _____
Title _____

DONEE:

By _____
Title _____
Institution or Organization

CITY of _____)
COUNTY of _____)
STATE of _____)

On this _____ day of _____, 19__, before me appeared _____,
to me personally known, who, being by me duly sworn, says that she/he is the person who
executed the foregoing instrument and that such instrument was executed under duly delegated
authority on behalf of the State Agency for Surplus Property, and acknowledged the foregoing
instrument to be the free act and deed of the State of _____.

Given under my hand and official seal the day and year above written.

Notary Public in and for the
CITY of _____
COUNTY of _____
STATE of _____

(SEAL)

My Commission Expires: _____

CITY of _____)
COUNTY of _____)
STATE of _____)

On this ___ day of _____, 19__, before me appeared _____,
to me personally known, who, being by me duly sworn,
says that she/he is the person who executed the foregoing instrument on behalf of said
_____, and acknowledges to me that she/he was duly authorized to execute the
foregoing instrument and that she/he executed the same as a free act and deed of said
_____.

Given under my hand and official seal of the day and year above written.

Notary Public in and for the
CITY of _____
COUNTY of _____

STATE of _____

(SEAL)

My Commission Expires: _____

COMBAT-TYPE AIRCRAFT CONDITIONAL TRANSFER DOCUMENT

KNOW ALL MEN BY THESE PRESENTS: That the United States of America (hereinafter called the General Services Administration (GSA)) acting by and through the State of _____, State

Agency for Surplus Property (hereinafter called the SASP), pursuant the powers and authority contained in the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, for and in consideration of and in reliance upon the representations of _____ whose address is

_____ (hereinafter called the Donee) that the Property hereafter described is required in the furtherance of the Donee's program and that such Property will be used solely in connection with such programs and more specifically for all the following purpose(s):

in accordance with the proposed program and plan as set forth in the Donee's "letter of Intent" dated _____, as amended _____, which Expression of Interest is hereby incorporated herein and made a part thereof, and for no other purpose, does hereby deliver, sell, assign, and transfer all of its rights, title, and interest in and to the following described combat-type aircraft, aircraft engines, and propellers,

together with all engines, appurtenances, and accessories attached thereto or installed therein (all of which are hereinafter referred to as the Property), which has been determined by GSA to have a fair market value of \$ _____, unto the Donee to have and to hold the Property, all singular forever, this donation being made on an "as is, where is" basis without warranty of any kind, and delivery made at present location of the Property regardless of where the same may be situated or the condition thereof:

SUBJECT, HOWEVER, to the following conditions and restrictions:

- 1.e The Donee agrees that the aircraft shall not be used for flight purposes.e
- 2.e The Property shall be placed in use by the Donee for the purpose stated above no later than 12 months after acquisition thereof and shall be used thereafter for such purpose in perpetuity.
- 3.e In the event the aircraft is not placed in use by the donee within 12 months of receipt and used thereafter in perpetuity, within 30 days after the Property has ceased to be used, the Donee shall provide notice thereof in writing to the SASP, and at the Donee's expense, return such Property to the SASP or otherwise make the Property available for transfer, provided the Property is still usable as determined by the SASP or otherwise dispose of the Property through the SASP, as may be directed by GSA.
- 4.e In the event the Property is not so used or handled as required by (1), (2), and (3),e above, title and right to the possession of the Property shall at the option of GSA revert to the United States Government. Upon demand the Donee shall, as directed by GSA through the SASP, release the Property to such person or agency as may be designated, sell the Property with the proceeds remitted promptly by the Donee to GSA, or otherwise

dispose of the Property. Any sale shall be for the benefit and account of the United States Government.

5.e During the period of restriction prescribed in (2) and (3), above, the Donee shall make reports to the SASP on the use, condition, and location of the Property and on other pertinent matters as may be required from time to time by the SASP or GSA.

6.e During the periods of restriction prescribed in (2) and (3) above, the Donee shall not sell, trade, lease, lend, bail, cannibalize, encumber, or otherwise dispose of the Property, or remove it permanently for use outside the State, without the prior written approval of GSA. The proceeds from any sale, trade, lease, loan, bailment, encumbrance, cannibalization, or other disposal of the Property during the periods of restriction set forth in (2) and (3), above, when such action is authorized by GSA, shall be for the benefit and account of the United States Government.

7.e If at any time, from the date the Donee receives the Property through the periods of restriction prescribed in (2) and (3), above, the Property is no longer suitable, usable, or further needed by the Donee for the purpose for which acquired, the Donee shall promptly notify the SASP and shall as directed by GSA through the SASP:

- (a)e Release the Property to another donee or State agency;
- (b)e Release the Property to a department or agency of the United States;
- (c)e Release the Property to such other institution or agency as may be determined to have need therefor;
- (d)e Sell the Property for the benefit and account of the United States of America with the proceeds remitted promptly from the Donee to GSA;
- (e)e Render the Property completely unfit and useless for any purpose except for the recovery of its basic material content, the same to be performed in a manner satisfactory to GSA and the material content to be disposed of in accordance with instructions of GSA; or
- (f)e Otherwise dispose of the Property as directed by GSA.

8.e In the event, during the periods of restriction prescribed in (2) and (3), above, the Property is sold, traded, leased, loaned, bailed, encumbered, or otherwise disposed of without prior written approval of GSA, the Donee, at the option of GSA, shall be liable for the proceeds of the disposal, the fair market value, or the fair rental value of the Property at the time of the unauthorized transaction or use, as determined by GSA.

9.e In the event of a breach by the Donee, or its successor in function, of any of the above conditions, whether caused by the legal inability of the Donee or its successor in function, interest in and to the Property shall, at the option of GSA, forthwith revert to and become

the property of the United States Government, and the Donee, or its successors or assigns, shall forfeit all of its or their rights, title, and interest in and to the Property.

10.e The SASP shall not grant waivers, amendments, releases, or terminate any of the terms and conditions enumerated in (1) through (9), above, concerning the use or disposal of the Property, or issue disposal instructions to the Donee for the Property without the prior written concurrence of GSA or its successor in function.

11.e The Donee agrees to hold harmless and indemnify the Government for any and all costs, judgment, action, debt, liability costs and attorney's fees or any other request for monies of any type of relief arising from or incident to the transfer, donation, use processing, disposition, or any subsequent operation performed upon, exposure to or contact with any component, part, constituent or ingredient of the item, material or substance, whether intentional or accidental.

IN WITNESS WHEREOF, the Donor and Donee have duly executed this instrument this _____ day of _____, 19____.

United States of America Acting by
and through the _____
State Agency for Surplus Property

By _____
Title _____

DONEE:

By _____
Title _____
Institution or Organization

CITY of _____)
COUNTY of _____)
STATE of _____)

On this day of _____, 19____, before me appeared _____,
to me personally known, who, being by me duly sworn, says that she/he is the person
who executed the foregoing instrument and that such instrument was executed under duly
delegated authority on behalf of the _____ State Agency for Surplus Property,
and acknowledged the foregoing instrument to be the free act and deed of the State of
_____.

Given under my hand and official seal the day and year above written.

Notary Public in and for the
CITY of _____
COUNTY of _____
STATE of _____

(SEAL)

My Commission Expires: _____

CITY of _____)
STATE of _____)
COUNTY of _____)

On this _____ day of _____, 19 ____, before me appeared
_____, to me personally known, who, being by me duly sworn, says that
she/he is the person who executed the foregoing instrument on behalf of said
_____, and acknowledged to me that she/he was duly authorized to
execute the foregoing instrument and that she/he executed the same as a free act and deed
of said _____.

Given under my hand and official seal the day and year above written.

Notary Public in and for the
CITY of _____
COUNTY of _____
STATE of _____

(SEAL)

My Commission Expires: _____

FIREARM(S) CONDITIONAL TRANSFER DOCUMENT

The United States of America (hereinafter called the General Services Administration (GSA) acting by and through the State of _____, State Agency for Surplus Property (hereinafter called the SASP), pursuant to the powers and authority contained in the Federal Property and Administrative Services Act of 1949, as amended, transfers to _____ whose address is _____ (hereinafter called the Donee) the firearm(s) hereinafter described. The Donee represents that the firearm(s) is/are required in the furtherance of the Donee's program and will be used solely for law enforcement activities and for no other purpose. The firearm(s) is/are delivered for Donee's exclusive use under the conditions and restrictions listed below. The firearm(s) or list of firearm(s) is/are described below or made as an attachment to this document.

MAKES(S) AND MODEL(S)

SERIAL NUMBER(S)

While the firearm(s) being donated are limited to those firearms assigned disposal condition code of 4 or better, this donation is being made on an "as is, where-is" basis without warranty of any kind, and delivery is made at the present location of the firearm(s) regardless of where the firearm(s) may be situated:

SUBJECT, HOWEVER, to the following conditions and restrictions:

- 1.e The Donee agrees that the firearm(s) shall be used, as stated in the letter of intent, which is hereby incorporated by reference, solely for law enforcement activities by the Donee's compensated law enforcement officers whose primary functions include the powers to apprehend and to arrest while enforcing applicable federal, state and local laws.
- 2.e The Donee shall begin using the firearm(s) within 12 months after all required signatures have been affixed to this document. The Donee's compensated officers must use the firearm(s) only for the purposes stated above in perpetuity. **No other use is authorized at any time.**
- 3.e If the firearm(s) is/are not placed in use for the purpose stated above by the Donee within 12 months of donation, as evidenced by the date of the last signature of this document, and used thereafter in perpetuity, then within 30 days after: (1) the initial 12 months period has expired without authorized use of the firearm(s) or (2) the date the firearm(s) have ceased to be used for the purpose authorized above, the Donee shall provide notice thereof in writing to the SASP. The Donee shall, as directed by GSA through the SASP, either release the firearm(s) to another Donee or destroy the

firearm(s) in a manner such that each complete firearm is rendered completely inoperable and incapable of being made operable for any purpose except for the recovery of its basic material content.

- 4.e The Donee shall comply with all applicable federal, state and local firearmse registration and use requirements.e
5. The Donee shall immediately report lost, stolen or unaccounted for firearms received pursuant to this conditional transfer document.
- 6.e The Donee shall conduct annual inventories of all donated firearm(s) ande report the results to the SASP. The Donee and the SASP shall maintain thee inventory results for three years for review by the SASP and/or GSA ase appropriatee
- 7.e The Donee shall report to the SASP on the use, condition and location ofe the firearm(s) and on other pertinent matters, as required from time-to-time,e by the SASP and/or GSA.e
- 8.e The Donee shall **not ever sell, trade, lease, lend, bail, cannibalize, encumber, or otherwise dispose of the firearm(s), or remove the firearms(s) permanently for use outside the state.**
- 9.e In the event the firearm(s) is/are ever sold, traded, leased, loaned, bailed,e encumbered, or otherwise disposed of in violation of the terms of thise agreement, the Donee, at the option of GSA, shall be liable to the Unitede States Government for the proceeds of the disposal or the fair market valuee of the firearm(s) at the time of the unauthorized transaction, as determinee by GSA.e
- 10.e For donated firearms that are destroyed, the Donee and a representative ofe the SASP shall state in writing that the firearm(s) were destroyed ine accordance with (3) above. The original signed statement must bee maintained by the Donee and the SASP for a period of five (5) years.e
- 11.e In the event of a breach by the Donee or its successor in function of any ofe the above conditions and restrictions, interest in and to the firearms(s) shall,e at the option of GSA, revert to and become the property of the United Statese Government, and the Donee or its successor or assigns, shall forfeit all ofe its or their rights, titles and interests in and to the firearms(s) and may bee subject to other penalties, both civil and criminal.e
- 12.e The Donee agrees that it has the ability to safely maintain, operate, finance,e properly store, and guarantee the security of the firearm(s) being requested.e

- 13.e The SASP shall not grant waivers, amendments, releases, or terminate any of the terms and conditions enumerated in this document concerning the use or disposal of the firearm(s), or issue disposal instructions to the Donee for the firearms(s) without the prior written concurrence of GSA or its successor in function, except that GSA does not need to concur in writing for firearm(s) to be destroyed in accordance with (3) above.
- 14.e The Donee agrees to hold harmless and indemnify the Government for any and all costs, judgments, actions, debts, liability costs and attorney's fees, any other request for monies or any other type of relief arising from or incident to the transfer, donation, use, disposition, or any subsequent operation performed upon, exposure to or contact with any component, part, constituent or ingredient of the firearm(s), whether intentional or accidental.
- 15.e The Donee agrees that this Firearm(s) Conditional Transfer Document was read and that the conditions and restrictions contained herein are fully understood. The Donee also agrees that the Firearm(s) Donation Transfer Guidelines, a copy of which is attached, are made a part of this document, was read and that the restrictions and the eligibility, transfer, documentation, and disposal requirements are fully understood.

IN WITNESS WHEREOF, the donor and donee have duly executed this instrument this _____ day of _____, _____.

United States of America acting by and through the _____ State Agency for Surplus Property

By: _____
Title: _____

DONEE:

By: _____
Title: _____
Institution or Organization: _____

CITY of _____)
COUNTY of _____)
STATE of _____)

On this _____ day of _____, _____, before me appeared _____ to me personally known, who, being by me duly sworn, says that she/he is the person who executed the foregoing instrument and that such instrument was executed under duly

delegated authority on behalf of the _____ State Agency for Surplus Property, and acknowledge the foregoing instrument to be the free act and deed of the State of _____. Given under my hand and official seal the day and year above written.

Notary Public in and for the
CITY of _____
COUNTY of _____
STATE of _____

(SEAL)

My commission expires: _____

CITY of _____)
COUNTY of _____)
STATE of _____)

On this _____ day of _____, _____, before me appeared _____ to me personally known, who, being by me duly sworn, says that she/he is the person who executed the foregoing instrument on behalf of said _____ and acknowledge to me that she/he was duly authorized to execute the foregoing instrument and that she/he executed the same as a free act and deed of said _____.

Given under my hand and official seal the day and year above written.

Notary Public in and for the
CITY of _____
COUNTY of _____
STATE of _____

(SEAL)

My commission expires: _____

§102-37.230—What must a letter of intent for obtaining surplus aircraft or vessels include?

A letter of intent for obtaining surplus aircraft or vessels must provide:

(a) A description of the aircraft or vessel requested. If the item is an aircraft, the description must include the manufacturer, date of manufacture, model, and serial number. If the item is a vessel, it must include the type, name, class, size, displacement, length, beam, draft, lift capacity, and the hull or registry number, if known;

(b) A detailed description of the donee's program and the number and types of aircraft or vessels it currently owns;

(c) A detailed description of how the aircraft or vessel will be used, its purpose, how often and for how long. If an aircraft is requested for flight purposes, the donee must specify a source of pilot(s) and where the aircraft will be housed. If an aircraft is requested for cannibalization, the donee must provide details of the cannibalization process (time to complete the cannibalization process, how recovered parts are to be used, method of accounting for usable parts, disposition of unsalvageable parts, etc.) If a vessel is requested for waterway purposes, the donee must specify a source of pilot(s) and where the vessel will be docked. If a vessel is requested for permanent docking on water or land, the donee must provide details of the process, including the time to complete the process; and

(d) Any supplemental information (such as geographical area and population served, number of students enrolled in educational programs, etc.) supporting the donee's need for the aircraft or vessel.

(Current date)

(Address for appropriate SASP)

Dear (appropriate SASP Director):

This correspondence serves as my Letter of Intent for the available Federal surplus vessel described in detail below.

1) Full Description of Vessel Requested:

Type:
Name:
Class:
Size:
Displacement:
Length:
Beam:
Draft:
Lift Capacity:
Hull Number:

2) Quantity and Description of Vessels Currently Owned:

3) Full Description of Current Program Operation (including mission and services provided):

4) Supplemental Program Information:

Geographical area/population served:
Number of Students Enrolled in Training Program:
Other:

5) Detailed Description of how Vessel will be Used:

Purpose:
Frequency of Use:

6) For Waterway Purposes:

Source of Pilot(s):
Primary Geographical Area for Vessel's Use:
Docking Location:

OR

For Permanent Docking on Water or Land:

Details of Process:
Estimated Completion Date:
Docking Location:

Please feel free to contact me at (donee phone number) if any additional information or clarification is required.

Sincerely,

(Chief Representative of Donee Organization)

(Current date)

(Address for appropriate SASP)

Dear (appropriate SASP Director):

This correspondence serves as my Letter of Intent for the available Federal surplus aircraft described in detail below.

1) Full Description of Aircraft Requested:

Manufacturer:

Date of Manufacture:

Model:

Serial Number:

2) Quantity and Description of Aircraft Currently Owned:

3) Detailed Description of Current Program Operation (including mission and services provided):

4) Supplemental Program Information:

Geographical area/population served:

Number of Students Enrolled in Training Program:

Other:

5) Detailed Description of how the aircraft will be used:

Purpose:

Frequency of Use:

6) For Flight Purposes:

Source of Pilot(s):

Location where aircraft will be housed:

Docking Location:

OR

For Cannibalization:

Details of Cannibalization Process:

Estimated Time for Completion:

How Recovered Parts are to be used:

Method of Accounting for Usable Parts:

Disposition of Unsalvageable Parts:

Please feel free to contact me at (donee phone number) if any additional information or clarification is required.

Sincerely,

(Chief Representative of Donee Organization)

REPORT OF COMPLIANCE ACTIVITY

REPORT OF COMPLIANCE ACTIVITY

REPORTS CONTROL SYMBOL
DR-23-1

TO:
DIRECTOR, DONATION DIVISION (ATTN: DPDM)
OFFICE OF PERSONAL PROPERTY, FPRS
GENERAL SERVICES ADMINISTRATION
WASHINGTON, DC 20406

1. DATE
2. CASE NUMBER
3. DATE CASE OPEN

4. NAMES, ADDRESSES, AND TELEPHONE NUMBERS OF ORGANIZATION(S) AND/OR INDIVIDUAL(S) INVOLVED:

5. TYPE OF CASE	6. CHECK CASE	NEW
		ACTIVE
		INACTIVE
		CLOSED BY THIS ACTION

7. SOURCE OF REFERENCE

8. DESCRIPTION OF PROPERTY INVOLVED

1. DATE PROPERTY ACQUIRED	1. DATE PROPERTY PLACED INTO USE	1. DATE PERIOD OF RESTRICTION EXPIRES
---------------------------	----------------------------------	---------------------------------------

12. ACQUISITION COST	13. ESTIMATED FAIR VALUE
----------------------	--------------------------

15. PROPOSED ACTION TO BE TAKEN BY THE REGION	16. EST. DATE FOR CLOSING THE CASE
---	------------------------------------

17. PREPARED BY	DATE	17. APPROVED BY	DATE
-----------------	------	-----------------	------

TIME EXTENSION AND TRADE-IN PROCEDURES

17.e Extension of the requirement to place property into use within 1 year of donation.e

a.e Justification. Section 203(j)(4)(C)(ii) of the act requires a donee to return to the State agency any donated property that is not placed in use for the purposes for which it was donated within 1 year of donation. Requests from donees for extension of this requirement can be considered using the test of reasonableness based on the reason for the extension and the type of property involved. Justification for an extension can be based on delays for reasons beyond the control and without the fault or negligence of the donee. These reasons may include, but are not necessarily limited to, acts of the Government in either its sovereign or contractual capacity, acts of God or the public enemy, fires, floods, severe weather, epidemics, or quarantine restrictions. The nature of the property itself and the construction, modification, or repair necessary for the property to be used for the purpose donated can be considered for justification in requests for extension.

b.e Actions required by donees, the State agency, and GSA regional offices.e

(1) Donees should submit their written requests for extension of the 1-year restriction, with a complete detailed justification, to the State agency prior to the termination of the requirement to place property into use within 1 year of its receipt. The requests should be in the form of a certification of the facts and should include:

(a) The name of the donee;

(b) A description of the property donated;

(c) The date the property was donated;

(d) The need that exists for which the property is to be used;

(e) The date originally planned for the property to be put into use;

(f) A detailed justification for an extension with supporting documentation or evidence; and

(g) The proposed revised date for putting the donated property into use, along with an implementation milestone schedule.

(2) The State agency should review the request to ensure that all the necessary facts applicable to the requested extension are included. Based on its review, the State agency makes a determination as to whether the property will be returned to the State agency for further distribution or if the request will be forwarded to the GSA regional office for approval or disapproval. Requests forwarded to the GSA regional office must include an evaluation and recommendation by the State agency.

December 31, 1984

(3) The GSA regional office shall apply the test of reasonableness in approving a donee's request for an extension. In evaluating the merits of a request, the GSA regional office will consider only the facts as presented in the donee's written justification, which should meet the following test of reasonableness in that:

(a) The delay in putting the property into use was beyond the donee's control and not due to the negligence or fault of the donee;

(b) The donee has acted in good faith and has made every reasonable effort to correct the situation;

(c) The need still exists for which the property was donated;

(d) The proposed extension period is realistic; and

(e) The expectation of a successful conclusion is reasonable.

c.o GSA approval/disapproval. Upon making a determination, the GSA regional office shall inform the State agency, in writing, of its approval or disapproval. The regional office shall maintain a complete record of its actions on each request for extension for audit and review purposes.

d.o State agency follow-up actions.

(1) Approvals by GSA. Upon notification of GSA's approval of a donee's request for extension, the State agency will be responsible for monitoring the donee's progress in complying with the conditions for putting the property into use as set forth in the donee's written justification for the extension and the GSA approval. If the donee cannot perform within the requirements of the approved extension, the State agency must immediately take the necessary action to recapture the property and notify the GSA regional office of the action taken.

(2) Disapprovals by GSA. Upon notification of GSA's disapproval of a request for extension and, if the donee cannot meet the 1-year period of time for putting the property into use, the State agency will be responsible for taking immediate action to recapture or retransfer the property. The GSA regional office must be notified of the action taken.

18.o State agency turn-in of undistributed property to Defense Property Disposal Offices (DPDO). The Department of Defense (DOD) and GSA, in a Memorandum of Understanding (see fig. 2-18.1) of July 22, 1982, have agreed to allow State agencies to turn in nondonated property to DPDO's for disposal.

a.o Advance notification. Upon determining that property cannot be donated and will be turned in to a DPDO, the State agency contacts the DPDO with advance information to coordinate the turn-in. The DPDO may require information on the number and type of line items to be turned in and other pertinent information.

December 22, 1981

donee within 12 months of its receipt. In the case of sale, reimbursement to a donee for any item of property shall not exceed the proceeds of the sale of the item. Reimbursement for property to be transferred to a Federal agency shall be made a condition of the transfer by GSA.

(3)r The prorated amount of reimbursement to be allowed a doneer shall be computed according to the applicable period of restriction on the property. On property under a 12-month period of restriction, compute 1/12 of the total costs under (1)(a), (b), and (c), above, for each month the property was utilized for eligible purposes; the amount arrived at through this computation should be subtracted from the total of (1)(a), (b), and (c); the remainder is the reimbursement to be allowed. On property under an 18-month period of restriction, use 1/18 of the total costs for each month; 1/24 on property under a 2-year period of restriction; 1/36 for property with 3 years of restriction; 1/48 for 4 years; and 1/60 on property under a 5-year period of restriction.

g.r Trade-in. Donated personal property may be traded in under the following conditions:

(1)r A donee desiring to trade in an item of donated property prior to the expiration of the period of Federal restrictions must request in writing authorization for the trade-in from the State agency director. The State agency must obtain the prior written approval of the GSA regional office for any trade-ins of property under Federal restrictions or special handling conditions or use limitations imposed by GSA. Items in a non-compliance status shall not be authorized for trade-in.

(2)r Donated property must have been put into use by the donee and used for the purpose for which it was acquired for a minimum of 6 months before a request for trade-in may be considered for approval. Also, it must be demonstrated that the trade-in will result in increased utilization value to the donee's program and be in the best interest of the public. Surplus property shall not be transferred to State agencies to be donated for use for trade-in purposes by donees.

(3)r Items authorized for trade-in will be only on a one-for-one basis; i.e., one donated item may be authorized for trade-in for one like item having similar potential use. Further, the item being acquired must have a market value equal to or greater than the market value of the item being traded in.

(4)r As a condition of approval of the trade-in, the item being acquired shall be made subject to the remaining period of restriction imposed on the item being traded in. The donee must submit a signed certification agreeing to the imposition, on the item being acquired, of the same terms, conditions and restrictions that were imposed on the item being traded, for the remaining time of the period of restrictions. This certification must be included with the donee's letter requesting approval to trade in an item, and the item being acquired through the trade must be

specifically identified by serial number, etc. If specific identification by serial number, etc., is not known at the time of the initial request, a copy of the document by which the new item is acquired will be obtained by the State agency and made a part of the donation case file.

h.s Utilization of donated property for student training. The following guidelines are provided to prescribe the circumstances under which eligible schools may allow students to use donated property in class-assigned projects and retain the finished item or product resulting from the project as their own personal property.

(1) Raw material, such as scrap lumber, metal, steel or other types of metal tubing, cloth (or parachutes, uniforms or other types of clothing for secondary use of the material), etc., may be donated to schools for educational purposes; i.e., for use in class-assigned student projects in vocational education, science, home economics, horticulture, carpentry, woodworking, etc. Any insignificant item or product resulting from the student's project, such as an apron, skirt, footstool, flower pot, plant stand, hog trough, end table, or even a small desk, or small items made in science class projects, may be taken home by the students if it is the policy of the school for the end item of a student's project to become the personal property of the student. Donated property should not be used for student projects in which items are produced for other than the school or student's own use. Surplus materials shall not be donated for use by the donee to make items or products for sale.

(2)s Damaged or inoperable nonconsumable donated surplus property, such as desks, automobiles, furniture, refrigerators, typewriters, machine tools, etc., shall not become the personal property of students who refinish or repair the items, nor shall the school dispose of the items during the period of restrictions. Property shall not be acquired to be repaired and then put into a storage room or hold area under the false assumption that the restrictions will run out while the property is not in actual use and the school can then dispose of the property by sale. The property must be needed and used during the entire period of restrictions for the educational purpose for which it was acquired by the school.

(3)s How frequently a student may make an item from donated raw materials depends on how frequently such class or student projects are assigned. Donated raw materials may be used as frequently and in as many different student or class projects as are assigned so long as the assignment is a part of the learning experience in a course of instruction within the school's prescribed curriculum. The students may be allowed to take home the finished products or items from a number of projects if it is the school's policy to do so as described in (1), above.

(4)s Large quantities of raw materials or consumable items should not, as a general rule, be given to students for projects for building large or valuable finished products to keep for their own use even though the project may be a part of the student's learning experience. The end items of such projects should be needed for utilization by the institution in its eligible educational program; i.e., the end products from the projects will become the restricted property of the eligible institution until the expiration of the period of



VARIOUS REQUEST FORMS

REQUEST FOR EXTENSION OF TIME
(Please attach copy of distribution document)

Name and address of organization: _____

Description of Property: _____

Acquisition Cost _____ Service Charge _____

Date property was acquired _____

Was property usable when received _____

Purpose for which property was acquired _____

Date originally planned for property to be put into use _____

Detailed justification for extension including supporting documentation and full explanation for delay _____

Proposed date for putting property into use _____

Date Signature of authorized official

Date requested by SASP _____

Date Signature of SASP Director

Extension granted until _____

Date Signature of GSA Official

REQUEST FOR PERMISSION TO TRADEIN
(Please attach copy of distribution document)

Name and address of organization: _____

Description of Property: _____

Acquisition Cost _____ Service Charge _____

Date property was acquired _____

Date property was put into use _____

Description of property to be received in tradein (including value) _____

Reason for tradein _____

If tradein is approved we agree to the following: The acquired item shall be subject to Federal restrictions for the remainder of the period imposed on the item traded in.

Date

Signature of authorized official

Date

Signature of SASP Director

Date

Signature of GSA Official

REQUEST FOR PERMISSION TO CANNIBALIZE
(Please attach copy of distribution document)

Name and address of organization: _____

Description of Property: _____

Acquisition Cost _____ Service Charge _____

Date property was acquired _____

Original proposed use of item: _____

Reason for cannibalization request: _____

If cannibalization is approved we agree to the following: All component parts remain under the original terms and conditions on Federal property. All residue will be reported to the state agency for disposition instructions.

Date

Signature of authorized official

Approved _____

Disapproved _____

Date

Signature of SASP Director

REQUEST FOR ABANDONMENT OR DESTRUCTION

TO: PROPERTY MANAGEMENT BRANCH
GENERAL SERVICES ADMINISTRATION,
REGION

DATE _____

The _____ State Agency for Surplus Property requests permission to destroy or abandon the following surplus personal property:

<u>GSA</u> <u>No.</u>	<u>State</u> <u>S/N</u>	<u>Nomen-</u> <u>clature</u>	<u>Qty.</u>	<u>Unit</u> <u>AC</u>	<u>Total</u> <u>AC</u>	<u>Justifi-</u> <u>cation</u>
--------------------------	----------------------------	---------------------------------	-------------	--------------------------	---------------------------	----------------------------------

Proposed method of abandonment or destruction:

I certify that the proposed abandonment or destruction will not be detrimental or dangerous to public health or safety and will not infringe on the rights of other persons; that the property described above has no commercial value and the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale; that public notice will be made for 7 days when required; and that certification will be prepared and signed by required agency personnel.

Signed _____ Title _____

Signed _____ Title _____

The above property is approved for abandonment or destruction.

Property Management Branch Date

STEVENSON/WYDLER ACT DISPOSAL POLICY

Date: 4/22/98
Sender: Thomas Nugent
To: Deidre Huber, Martha Caswell, Audrey Harris, Nancy Wong, Karen Buddendeck
cc: Robert Goulet, Patrick Lamb, Glynis Lloyd
Priority: Normal
Subject: amendment to Stevenson-Wydler Act authority
 Deidre/Martha,

In the course of a conversation today with Ruth Hill of the Air Force, we were told of a recent amendment to the law allowing the donation of computers to schools, etc. I don't know whether you were aware of this amendment or not.

As you know, Section 303 of Public Law 102-245 (effective Feb. 14, 1992) amended Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 to add a new Subsection 11(i) (15 U.S.C. 3710(i)) which allows the heads of Federal agencies or laboratories to donate research equipment to educational institutions and certain other organizations.

Section 9 of Public Law 104-113 (effective March 7, 1996) amends Subsection 11(i) of the Stevenson-Wydler Act to add language that allows agencies to loan or lease excess equipment in addition to donating it to the authorized recipients. (NOTE: since the Stevenson-Wydler Act authority pertains to property which is excess to the needs of the agency or laboratory, it is not clear why an agency would want to loan or lease it since title and accountability for the property would remain with the agency. From an administrative point of view, it would appear to be simpler for an agency to just donate the property so that they can clear their property records. Perhaps some agencies will interpret the word "lease" as allowing them to use such "leases" as a source of generating revenue for agency programs - which would seem to me to be an augmentation of appropriation.)

For your reference, here is how the language of Subsection 11(i) of the Stevenson-Wydler Act reads with that recently added language:

"(i) RESEARCH EQUIPMENT. - The Director of a laboratory, or the head of any Federal agency or department, may loan, lease, or give research equipment that is excess to the needs of the laboratory, agency, or department to an educational institution or nonprofit organization for the conduct of technical and scientific education and research activities. Title of ownership shall transfer with a gift under the section."

OPTIONAL FORM 95 (7-90)

TAX TRANSMITTAL

of pages 1

To: <i>Hvorecky</i> Office: <i>BSA</i>		From: <i>Audrey Harris</i>
Is: <i>215-1656-3946</i>		Phone #
IN 7540-01-317-7365		Fax #
5098-101		GENERAL SERVICES ADMINISTRATION

JUDICIARY SURPLUS PROPERTY



LEONIDAS RALPH MECHAM
Director

CLARENCE A. LEE, JR.
Associate Director

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

WASHINGTON, D.C. 20544

May 11, 2001

RECEIVED

MAY 17 2001

Federal Surplus Property

MEMORANDUM TO ALL: **CIRCUIT EXECUTIVES
FEDERAL PUBLIC DEFENDERS
DISTRICT COURT EXECUTIVES
CLERKS, UNITED STATES COURTS
CHIEF PROBATION OFFICERS
CHIEF PRETRIAL SERVICES OFFICERS
SENIOR STAFF ATTORNEYS
CHIEF PREARGUMENT/CONFERENCE ATTORNEYS
BANKRUPTCY ADMINISTRATORS
CIRCUIT LIBRARIANS**

**SUBJECT: Judiciary Surplus Property -- Donations to State Agencies for Surplus Property
(INFORMATION)**

The purpose of this memorandum is to announce a systemized, optional process for the disposal of surplus judiciary property. An agreement recently was negotiated with President of the National Association of State Agencies for Surplus Property and the General Services Administration's (GSA) Office of Property Utilization and Disposal, whereby the State Agencies for Surplus Property (SASPs), nationwide, may now accept donations of surplus property directly from judiciary organizations. This eliminates the requirement to secure GSA approval before donating to the SASPs.

Federal Property Management Regulations established the SASP program by requiring each State to create an entity to serve as a recipient of donated surplus federal property for equitable redistribution to eligible public bodies within the state. Heretofore, some SASPs were willing to work directly with the judiciary. However, many others required the judiciary to secure a waiver from GSA prior to acceptance of surplus property.

OPTIONAL FORM 99 (200)

FAX TRANSMITTAL

of pages 2

To Joettuorecky From Judy Schroyer
Dept./Agency Phone #

Fax # 215-656-3946

FAX #

A TRADITION

Judiciary Surplus Property -- Donations to State Agencies for Surplus Property

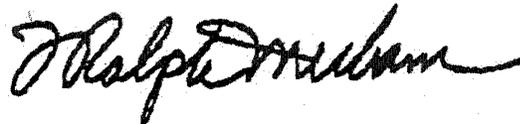
2

Effective immediately, all judiciary organizations may donate surplus property directly to the SASP in each of the 50 states. SASPs will accept donations provided there is a need within the state for such items. If the request to donate surplus property to the SASP in your state is declined because of lack of need within the state, you may screen property to SASPs in other states.

Prior to donating surplus property to SASPs, court disposal officers are reminded that government property may be declared surplus only after a determination is made and documented to the file that there is not a need for the property within the judiciary or within other Federal Agencies (See the *Guide to Judiciary Policies and Procedures, Volume I, Chapter VIII, Part D.8.*).

Attached to this memorandum is a listing of the directors of each of the 50 SASPs, along with their telephone numbers and, in most cases, their e-mail addresses. I encourage you to make use of these fine organizations.

If you have any questions about this new process, please contact Mike D'Onofrio of the Policy & Resource Management Staff on (202) 502-1322, or via e-mail at AOHUBPO D'Onofrio, Michael.



Leonidas Ralph Mecham

Attachment

cc: Directors of the State Agencies for Surplus Property

Chronological Summary of R4-95-AL-1

**Chronological Summary of Compliance Case No. R4-95-AL-1
"Florence Civil Defense Crisis Action Team"**

3-8-95 Newspaper article describes how Federal surplus items were obtained by the donee above from the Alabama SASP and were allegedly sold at Fort Drag Supply Depot. One of the donee's authorized representatives, Mr. Richard Hanse, made over 40 visits to the SASP warehouse between 12/12/91 and 1/27/94.

5-3-95 Region 4 opened a compliance case against the donee, assessing the acquisition cost of the Federal property in question at a total value of \$500,000. The Fair Market Value of the property was set at \$171,262.68.

6-19-95 Memo from JI-4 stated criminal trial was planned for week of 7-4-95. One of the three individuals indicted (George Magnum, Director of the donee organization) had plead guilty to theft of Government property. Magnum eventually was sentenced to three years probation and fined a total of \$19,193.84. The other two individuals, Mr. Hanse (picked up the property and sold thereafter) and Ms. Duster (issued the donee payments to the Alabama SASP), were going to trial.

10-6-95 Memo from JI-4 stated that both Mr. Hanson and Ms. Duster were found not guilty.

10-20-95 Letter from GSA R4 to Director of Alabama SASP advised the SASP that the criminal investigation was completed. Furthermore, since Mr. Magnum was only fined \$19,193.84 for the missing Federal property, GSA R4 instructed the Alabama SASP to recover the additional Fair Market Value from the donee organization.

11-30-95 GSA R4 provided written update that Alabama SASP had written letter to donee requiring remittance of \$171,262.68, and that donee had agreed to pay.

12-11-95 GSA R4 provided written update that follow up with Alabama SASP was still on-going.

1-9-96 GSA R4 provided written update that the Director of the Alabama SASP had communicated with Mr. Richard Adams, whose agency had oversight for the donee. Mr. Adams advised that Mr. Magnum, the old donee Director, had been convicted and passed away, and felt their organization should not be held accountable for his actions.

4-7-96 GSA R4 provided written update that follow up with SASP/donee was still on-going.

7-22-96 GSA R4 provided written update that follow up with SASP/donee was still on-going.

8-8-96 Letter issued by Alabama SASP to Mr. Adams, advised that remittance for the missing Federal property was still required, despite Mr. Magnum's past conviction and

recent death.

8-23-96 Letter issued by Mr. Adams to Alabama SASP described how the donee organization under noncompliance, Florence Civil Defense Action Team, was a subsidiary of the Florence Emergency Management Agency, and that the donee organization under noncompliance was operated solely by Mr. Magnum. Mr. Adams claimed that the by-laws for the donee organization run by Mr. Magnum were never accepted by his organization, the Florence Emergency Management Agency. Mr. Adams provides copies of the newspaper articles pertaining to the trial that occurred and reiterates the sentence that Mr. Magnum received. By his letter, Mr. Adams considers the matter resolved.

9-13-96 Letter issued by Alabama SASP to GSA R4 providing a copy of Mr. Adams' letter and asking for a review and determination.

2-10-97 GSA R4 provided written update that follow up with SASP/donee was still ongoing. (Apparently, decision was made to pursue payment despite Mr. Adams' letter.)

4-21-97 GSA R4 provided written update that follow up with SASP/donee was still ongoing.

7-28-97 GSA R4 provided written update that follow up with SASP/donee was still ongoing.

8-13-97 Letter issued by GSA R4 to Alabama SASP reiterating the need for the SASP to seek remittance in the amount of \$171,262.68.

11-14-97 GSA R4 provided written update that follow up with SASP/donee was still ongoing.

4-6-98 Letter issued by Alabama Department of Economic and Community Affairs, agency that oversees the Alabama SASP, to Mr. Adams, requesting the remittance payment.

7-28-99 Letter issued by the new Director of the Alabama SASP, Mr. Shane T. Bailey, to the State Attorney General's Office requesting that certain uncollectable accounts, Florence Civil Defense Action Team included, be written off.

2-15-01 E-mail message issued by GSA R4 to Alabama SASP asking if any of the missing property was recovered and requesting their final recommendation for resolving the case.

6-19-01 Letter issued by the current Director of the Alabama SASP, Mr. Shane T. Bailey, requesting that the case be closed as the donee is no longer in existence. In addition, the SASP has documented the small amount of Federal property recovered from the case and is desiring to redistribute this property to other eligible donees.

Updated National Distribution Targets



August 23, 2019

MEMORANDUM FOR DIRECTORS, STATE AGENCIES FOR SURPLUS PROPERTY

FROM: SUSANNE COMBS *Susanne Combs*
DIRECTOR, OFFICE OF PERSONAL PROPERTY MANAGEMENT

SUBJECT: Updated National Distribution Target Report Effective October 1, 2019

The purpose of this memorandum is to notify State Agencies for Surplus Property that the U.S. General Services Administration (GSA) has updated the National Distribution Target Report.

The attached distribution targets are effective on October 1, 2019. Each individual state agency percentage is incorporated into the state allocation grid, in accordance with 40 United States Code (U.S.C.) § 549(c). GSA uses the grid when weighing the allocating factors in FMR § 102-37.100 to distribute available surplus property fairly and equitably to state agencies.

If you have any questions, please contact your Zonal GSA Personal Property Management office found at www.gsa.gov/ppmo.

Attachment

NATIONAL DISTRIBUTION TARGET REPORT			
{Effective October 1, 2019}			
ZONES AND STATES	POPULATION	PER CAPITA PERSONAL INCOME	DISTRIBUTION TARGET PERCENTAGE
NATIONAL CAPITAL ZONE			
District of Columbia	694,907	79,643	0.0282%
MID ATLANTIC ZONE			
Connecticut	3,575,073	72,131	0.3056%
Maine	1,334,946	46,492	0.4846%
Massachusetts	6,863,806	67,611	0.8266%
New Hampshire	1,349,533	59,188	0.2719%
Rhode Island	1,056,955	52,765	0.2931%
Vermont	624,823	52,125	0.1784%
New Jersey	8,890,526	65,208	1.2575%
New York	19,591,506	65,193	2.7738%
Puerto Rico	3,308,883	27,557	2.2877%
Virgin Islands	107,252	29,580	0.0699%
Delaware	957,822	49,916	0.3015%
Maryland	6,024,100	60,990	1.0989%
Pennsylvania	12,793,682	53,373	3.4493%
Virginia	8,464,613	55,145	2.0977%
West Virginia	1,817,936	38,648	0.8840%
SOUTHEAST-GREAT LAKES ZONE			
Alabama	4,875,912	40,799	2.1975%
Florida	20,968,706	47,775	7.2238%
Georgia	10,412,431	44,205	4.1344%
Kentucky	4,453,502	40,604	2.0212%
Mississippi	2,988,164	36,780	1.5488%
North Carolina	10,270,366	44,258	4.0697%
South Carolina	5,021,194	41,573	2.2003%
Tennessee	6,707,938	45,569	2.5259%
Illinois	12,784,724	54,571	3.2572%
Indiana	6,661,768	45,145	2.5506%
Michigan	9,974,751	46,129	3.6735%
Minnesota	5,567,581	54,522	1.4218%
Ohio	11,662,858	46,693	4.1992%
Wisconsin	5,792,859	49,051	1.8922%

ZONES AND STATES	POPULATION	PER CAPITA PERSONAL INCOME	DISTRIBUTION TARGET PERCENTAGE
SOUTHWEST-CENTRAL ZONE			
Iowa	3,143,856	47,422	1.0989%
Kansas	2,911,152	48,731	0.9638%
Missouri	6,107,422	45,088	2.3435%
Nebraska	1,917,589	50,896	0.5784%
Arkansas	3,002,411	41,115	1.3378%
Louisiana	4,669,670	43,994	1.8692%
New Mexico	2,093,871	39,900	0.9745%
Oklahoma	3,934,163	44,177	1.5638%
Texas	28,320,685	47,528	9.8562%
Colorado	5,617,462	54,559	1.4320%
Montana	1,052,086	45,448	0.3980%
North Dakota	756,535	53,102	0.2066%
South Dakota	872,804	49,062	0.2850%
Utah	3,102,279	43,661	1.2577%
Wyoming	580,320	57,663	0.1267%
PACIFIC RIM ZONE			
American Samoa	51,498	10,714	0.0552%
Arizona	7,055,325	42,064	3.0365%
California	39,388,507	60,072	7.5639%
Guam	167,343	32,136	0.1008%
Hawaii	1,424,266	52,782	0.3946%
Nevada	2,975,523	46,522	1.0787%
Northern Marianas Islands	52,260	21,078	0.0433%
Alaska	739,576	57,594	0.1621%
Idaho	1,718,681	41,790	0.7472%
Oregon	4,142,903	48,118	1.4072%
Washington	7,418,568	57,980	1.5939%

