

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101–44 and 102–37

[FPMR Amendment H–]

RIN 3090–AH20

Donation of Surplus Personal Property

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Proposed rule.

SUMMARY: The General Services Administration is revising the Federal Property Management Regulations (FPMR) by moving coverage on donation of surplus personal property into the Federal Management Regulation (FMR). A cross-reference is added to the FPMR to direct readers to the coverage in the FMR. The FMR is written in plain language to provide agencies with updated regulatory material that is easy to read and understand.

DATES: Send your written comments by June 12, 2000 to be considered in the formulation of a final rule.

ADDRESSES: Send written comments to: Ms. Sharon A. Kiser, Regulatory Secretariat (MVRS), Federal Acquisition Policy Division, General Services Administration, 1800 F Street, NW., Washington, DC 20405.

Send comments by e-mail to: RIN.3090–AH20@gsa.gov.

FOR FURTHER INFORMATION CONTACT: Martha Caswell, Director, Personal Property Management Policy Division (MTP), 202–501–3846.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule updates, streamlines, and clarifies FPMR part 101–44 and moves the part into the Federal Management Regulation (FMR). The proposed rule is written in a plain language question and answer format. In this format, a question and its answer combine to establish a rule. This means the employee and the agency must follow the language contained in both the question and its answer.

Proposed updates include:

1. The use of the same dollar thresholds for reporting overages and shortages of property, in addition to a shortened report period.
2. The removal of the 2-year limit for reimbursing State surplus property agencies from the sale of undistributed property.
3. The change of definition of “museum.”
4. The reinstatement of a requirement that donee eligibility files be updated at 3-year intervals.

5. The approval of all Red Cross donations by GSA.

6. The shift in responsibility from GSA to the Federal Aviation Administration to issue screening credentials for public airports.

B. Executive Order 12866

GSA has determined that this proposed rule is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

A regulatory flexibility analysis is not required under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because there is no requirement that this proposed rule be published in the **Federal Register** for notice and comment.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget (OMB).

E. Small Business Regulatory Enforcement Fairness Act

This proposed rule is exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 101–44 and 102–37

Government property management, Homeless, Reporting and recordkeeping requirements, Surplus Government property.

For the reasons set forth in the preamble, GSA proposes to amend 41 CFR chapters 101 and 102 as follows:

CHAPTER 101—[AMENDED]

1. Part 101–44 is revised to read as follows:

PART 101–44—DONATION OF SURPLUS PERSONAL PROPERTY

Authority: 40 U.S.C. 486(c); Sec. 205(c), 63 Stat. 390.

§ 101–44.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102–1 through 102–220).

For information on donation of surplus personal property previously contained in this part, see FMR part 37 (41 CFR part 102–37).

CHAPTER 102—[AMENDED]

2. Part 102–37 is added to subchapter B to read as follows:

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Authority: 40 U.S.C. 486(c); Sec. 205(c), 63 Stat. 390.

Subpart A—General Provisions

§ 102–37.5 What does this part cover?

This part covers the donation of surplus personal property located within a State, including foreign excess personal property returned for handling as surplus personal property.

§ 102–37.10 What is the primary governing authority for this part?

Subsection 203(j)(1) of the Federal Property and Administrative Services Act of 1949, as amended (the Property Act), gives the General Services Administration (GSA) discretionary authority to prescribe the necessary regulations for, and to execute the surplus personal property donation program.

§ 102–37.15 Who must comply with the provisions of this part?

All executive agencies, State agencies for surplus property (SASPs), and donees must comply with this part.

§ 102–37.20 How do we request a deviation from these requirements and who can approve it?

See §§ 102–2.60 through 102–2.110 of this chapter to request a deviation from the requirements of this part.

Definitions

§ 102–37.25 What definitions apply to this part?

The following definitions apply to this part:

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.

Cannibalization means to remove serviceable parts from one item of equipment in order to install them on another item of equipment.

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.

Donation screening period means a period of time following the surplus release date during which surplus personal property may be determined to be usable and necessary for donation purposes.

Donee means:

- (1) A service educational activity.
- (2) A State, political subdivision thereof, or tax-supported organization therein acting on behalf of a public airport.
- (3) A public agency using surplus personal property in carrying out or promoting one or more public purposes.
- (4) An eligible nonprofit tax-exempt educational or public health institution or organization.
- (5) A public or nonprofit program for older individuals.

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, organization conducting educational programs or research for educational purposes, such as a child care center, school, college, university, school for the mentally disabled, school for the physically disabled, or an educational radio or television station.

Educational radio station means a radio station licensed by the Federal Communications Commission and operated exclusively for noncommercial educational purposes and which is public or nonprofit and tax exempt under section 501 of the Internal Revenue Code (26 U.S.C. 501).

Educational television station means a television station licensed by the Federal Communications Commission which operates exclusively for noncommercial educational purposes and which is public or nonprofit and tax exempt under section 501 of the Internal Revenue Code.

Foreign excess personal property means any excess personal property located outside a State.

GSA means the General Services Administration, acting by and through the Administrator of General Services or an official to whom functions under this part have been delegated by the Administrator of General Services.

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.

Holding agency means the executive agency having accountability for, and generally possession of, property.

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 private 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.

Nonappropriated fund property means property acquired by religious or morale, welfare or recreational activities, post exchanges, ship stores, military officer or enlisted clubs, veterans' canteens, and similar activities with funds generated by Government employees and their dependents for operation of these activities. Such property is not Federal property.

Nonprofit means an entity not operated for profit that has been held by the Internal Revenue Service to be exempt from taxation under section 501 of the Internal Revenue Code.

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 any State or local government agency or any nonprofit tax-exempt activity that receives funds appropriated for 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.*).

Property Act means the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended (codified as amended in scattered sections of 40 U.S.C. and 41 U.S.C.), the law that centralized Federal property management and disposal functions under the GSA.

Provider of assistance to homeless individuals means a public agency or a nonprofit, tax-exempt 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 private, nonprofit tax-exempt 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, and public safety.

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.

Service educational activity (SEA) means any educational activity designated by the Secretary of Defense as being of special interest to the armed forces; e.g., maritime academies or military, naval, Air Force, or Coast Guard preparatory schools.

State means one of the 50 States, the District of Columbia, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands.

State Agency for Surplus Property (SASP) means the agency designated

under State law to receive Federal surplus personal property for distribution to eligible donees within the State as provided for in subsection 203(j) of the Property Act.

Surplus personal property (property) means any excess personal property not required for the needs and the discharge of the responsibilities of all Federal agencies, as determined by the Administrator of General Services.

Surplus release date means the date on which Federal utilization screening of excess personal property has been completed, and the property is available for donation.

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.

The Donation Process

§ 102-37.30 When does property become surplus?

Excess personal property becomes surplus at the close of business on the surplus release date. This is the point at which the excess screening period has been completed without transfer to a Federal agency or other eligible recipient.

§ 102-37.35 Who handles the donation of property?

(a) The General Services Administration has overall responsibility for executing the Government's property donation program and transfers most property to State agencies for surplus property (SASP), who in turn, distribute it to eligible donees in their States. The General Services Administration also returns to the American National Red Cross, by donation, such property as was originally derived from or through it.

(b) The Federal Aviation Administration (FAA), acting under delegation from the Department of Transportation, administers the program under which specified property is donated to States and tax-supported organizations for public airport use under 49 U.S.C. 47151. At FAA's request, GSA transfers specified property directly to specific public airport applicants.

(c) Donations to public bodies are made by holding agencies in accordance with subpart H of this part.

§ 102-37.40 What type of property is available for donation?

All property (including property in working capital funds established under 10 U.S.C. 2208 or in similar funds) is

available for donation to eligible recipients, except for the following categories:

(a) Surplus agricultural commodities, food, and cotton or woolen goods determined from time to time by the Secretary of Agriculture to be commodities requiring special handling to assist him in carrying out his responsibilities with respect to price support or stabilization.

(b) Property in trust funds.

(c) Nonappropriated fund property.

(d) Naval vessels of the following categories: Battleships, cruisers, aircraft carriers, destroyers, and submarines.

(e) Surplus vessels of 1500 gross tons or more which the Maritime Administration determines to be merchant vessels or capable of conversion to merchant use.

(f) Records of the Federal Government.

(g) Property that requires reimbursement upon transfer (such as abandoned or other unclaimed property that is found on premises owned or leased by the Government).

(h) Controlled substances.

(i) Items as may be specified from time to time by the Administrator of General Services.

§ 102-37.45 Are exchange/sale items eligible for donation?

No, exchange/sale items are not eligible for donation (see part 101-46 of this title).

§ 102-37.50 How long is property available for donation purposes?

Unless otherwise agreed to by the holding agency and GSA, authorized screeners have:

(a) Twenty-one calendar days following the surplus release date to screen property for donation purposes; and

(b) Ten calendar days to screen foreign excess personal property that is not required for further Federal use.

§ 102-37.55 Is there a special form to request or transfer property?

Yes, requests from SASPs and public airports must be submitted on a Standard Form (SF) 123, Transfer Order Surplus Personal Property. Alternatively, submission of such information in electronic format must be as specified and approved by GSA. GSA may require additional information to support and justify a donation request.

§ 102-37.60 Who pays for transportation and the costs incurred in packing, loading, or preparing the property for shipment?

Direct costs that the holding agency incurs in packing, loading, or preparing the property for shipment must be borne

by the transferee (SASP or public airport receiving the property). Where such costs are incurred, they must be reimbursed promptly by the transferee upon appropriate billing, unless the holding agency waives the amount involved as being uneconomical or impractical to collect. Payment of all transportation costs must also be borne by the transferee.

§ 102–37.65 What is the timeframe for removing property that has been approved for donation?

The transferee or its agent must remove property within 15 calendar days from the date of notification of availability, unless otherwise coordinated with the holding agency. If the transferee decides prior to pickup or shipment that it cannot use the property, it must notify the GSA regional office that approved the donation request.

§ 102–37.70 How should overages and shortages in shipments be handled?

(a) If you are a SASP or public airport and you receive more or less property than approved on the SF 123, and the total acquisition cost of the line items involved is less than \$500, annotate your receiving and inventory records to document the discrepancy. If the total acquisition cost is \$500 or more, you must submit a shortage report, or a SF 123 in the case of an overage, to the GSA approving office and include the following information:

- (1) Name and address of the holding agency.
- (2) All pertinent GSA and holding agency control numbers, in addition to the SASP or public airport transfer order number.
- (3) A description of each line item of property, the condition code, the quantity and unit of issue, and the unit and total acquisition cost.

(b) Submit the SF 123 or shortage report to GSA, with a copy to the holding agency, within 30 calendar days of the date of transfer.

Subpart B—GSA

§ 102–37.75 What are GSA's responsibilities in the donation of property?

GSA is responsible for supervising and directing the disposal of surplus personal property. In addition to issuing regulatory guidance for the donation of property, GSA:

- (a) Determines when property is surplus to the needs of the Government.
- (b) Allocates and transfers property on a fair and equitable basis to SASPs for further distribution to eligible donees.

(c) Supervises the care and handling of property while it is in the custody of a SASP.

(d) Approves all transfers of property to public airports.

(e) Returns, by donation, property derived from or through the American National Red Cross.

(f) Approves, after consultation with the holding agency, foreign excess personal property to be returned to the United States for donation purposes.

(g) Coordinates and controls the level of donee screening activity at Federal installations.

(h) Imposes appropriate conditions on the donation of property having characteristics that require special handling or use limitations.

(i) Keeps track of and reports to Congress on Federal donation programs.

§ 102–37.80 What happens when GSA receives multiple requests for the same property?

When requests for specific items of property are received from both a public airport and a SASP, GSA will exercise its discretion in determining where the property will provide the greatest public benefit. In case of two or more requests from SASPs, GSA will use the allocating criteria in § 102–37.85.

§ 102–37.85 What factors will GSA consider in allocating property among the States?

GSA allocates property among the SASPs on a fair and equitable basis using the following factors (listed in order of importance):

- (a) Extraordinary needs caused by disasters or emergency situations.
- (b) Requests from the Department of Defense (DOD) for DOD-generated property to be allocated through a SASP for donation to a specific SEA.
- (c) Need and usability of property, as reflected by requests from SASPs.

Note to § 102–37.85(c): Requests for property to be used as functional items will be given preference over cannibalization requests. GSA will give special consideration to requests transmitted through the SASPs by eligible donees for specific items of property.

(d) States in greatest need of the type of property to be allocated where the need is evidenced by a letter of justification.

(e) The quantity of property of the type under consideration which was previously allocated to or is potentially available to a SASP from a more advantageous source.

(f) Performance of a SASP in effecting prompt distribution of property to eligible donees.

(g) Equitable distribution based on the existing condition and the original acquisition cost of the property.

(h) Performance of a SASP in effecting timely pickup or removal of property approved for transfer.

(i) Equitable distribution based on the ratio of population and per capita income of each State.

§ 102–37.90 What report is GSA required to compile concerning the donation program?

Biennially, GSA must transmit to Congress and the Comptroller General of the United States a report containing:

(a) A full and independent evaluation of the operation of programs for the donation of Federal property;

(b) Statistical information on the amount of property approved for transfer to the SASPs and donated to eligible non-Federal organizations during each succeeding biennial period (and the amount of excess personal property transferred to Federal agencies and provided to grantees and non-Federal organizations); and

(c) Any necessary or desirable recommendations of GSA.

Subpart C—Holding Agency

§ 102–37.95 To whom do “we”, “you”, and their variants refer?

Use of pronouns “we”, “you”, and their variants throughout this subpart refers to the executive agency that has accountability and custody of the surplus personal property.

§ 102–37.100 What are our responsibilities in the donation of property?

Your responsibilities in the donation of property are:

(a) Cooperating with all entities authorized to participate in the donation program and their authorized representatives in locating, screening, and inspecting property for donation. Upon reasonable request, you must make available to these agencies and their representatives information regarding the quantity, description, condition, and location of donable property in your inventory.

(b) Setting aside property upon notification that there is a potential donation requirement, and holding it from further disposal pending processing of the transfer document approved by GSA.

(c) Notifying and subsequently releasing property to the transferee (or the transferee's designated agent) upon receipt of a GSA-approved SF 123.

(d) Notifying the approving GSA regional office if the property is not removed within 15 calendar days after the transferee is notified of its availability. GSA will advise you of further disposal instructions.

(e) Performing and bearing the cost of care and handling of property pending its disposal, except as provided in § 102–37.105.

§ 102–37.105 May we get reimbursement for our costs?

You may recover from the transferee (SASP or public airport) direct costs you incurred incident to a donation, such as packing, handling, crating, and transportation expenses. No overhead or administrative costs are to be included in the billing.

§ 102–37.110 May we donate property directly to eligible non-Federal recipients without going through GSA?

No, you may not donate property directly to eligible non-Federal recipients unless you have statutory authority to do so. All such donations must be included on your annual report to GSA under § 101–43.4701(c) of this title.

§ 102–37.115 What are some of the donations that don't require GSA's approval?

The following donations do not require GSA's approval:

(a) Donations of condemned, obsolete, or other specified material under 10 U.S.C. 2572, 10 U.S.C. 7308, 10 U.S.C. 7541, 10 U.S.C. 7545, and 14 U.S.C. 641a. However, such property must first undergo excess Federal and surplus donation screening as required in this part and part 101–43 of this title.

(b) Donations to public bodies under subpart H of this part.

(c) Donations to small disadvantaged businesses under 13 CFR Part 124.

(d) Donation of law enforcement canines under 40 U.S.C. 484(r).

§ 102–37.120 May we withdraw property for Federal use once it enters the donation cycle?

Yes, with the prior approval of GSA, you may withdraw property that has been set aside or approved for donation, but not yet removed. You may withdraw property to meet emergency or critical requirements without prior approval of GSA, but you must notify GSA immediately of such actions. GSA will notify the SASP of any withdrawals of property that has been approved for donation.

§ 102–37.125 May we recover property that has been picked up by a SASP?

Yes, you may request, through GSA, property that is in the possession of a SASP. However, you will be responsible for reimbursing the SASP the costs of care and handling, including transportation costs, the SASP incurred in initially acquiring the property.

Subpart D—State Agency for Surplus Property

§ 102–37.130 To whom do “we”, “you”, and their variants refer?

Use of pronouns “we”, “you”, and their variants throughout this subpart refers to the SASP.

§ 102–37.135 What are our responsibilities in the donation of property?

Your responsibilities in the donation of property are to:

(a) Determine the eligibility of entities seeking to obtain Federal property as a:

(1) Public agency.

(2) Nonprofit educational or public health institution or organization.

(3) Program for older individuals.

(b) Distribute property fairly, equitably, and promptly to eligible donees in your State based on their relative needs and resources, and ability to use the property, and as provided in your State plan of operation.

(c) Enforce compliance with the terms and conditions imposed on donated property.

§ 102–37.140 How do we become eligible to distribute property to donees?

In order to receive transfers of donable property, you must:

(a) Have a GSA-approved State plan of operation; and

(b) Provide the certifications and agreements as set forth in §§ 102–37.145 and 102–37.150.

Certifications and Agreements

§ 102–37.145 What certifications must we make before acquiring property for distribution?

Before acquiring property for distribution, you must certify that:

(a) You are the agency of the State designated under State law that has legal authority under subsection 203(j) of the Property Act and GSA regulations, to receive property for distribution within the State to eligible donees as defined in this part.

(b) No person with supervisory or managerial duties in your State's donation program is debarred, suspended, ineligible, or voluntarily excluded from participating in the donation program.

(c) The property is usable and needed by:

(1) A public agency for one or more public purposes.

(2) An eligible nonprofit organization or institution which is exempt from taxation under section 501 of the Internal Revenue Code, for the purpose of education or public health (including research for any such purpose) within the State.

(3) An eligible nonprofit, tax-exempt activity for programs for older individuals.

(d) When property is picked up by or shipped to your SASP, you have adequate and available funds, facilities, and personnel to provide accountability, warehousing, proper maintenance, and distribution of the property.

(e) When property is distributed by your SASP to a donee, or when delivery is made directly from a holding agency to a donee pursuant to a State distribution document, you have determined that the donee acquiring the property is eligible within the meaning of the Property Act and GSA regulations, and that the property is usable and needed by the donee.

§ 102–37.150 What other requirements must we fulfill before acquiring property for distribution?

With respect to property picked up by or shipped to your SASP, you must agree to the following:

(a) You are granted the right to possession only. You will make prompt statewide distribution of such property, on a fair and equitable basis, to donees eligible to acquire property under section 203(j) of the Property Act and GSA regulations. You will distribute property only after such eligible donees have properly executed the appropriate certifications and agreements established by your SASP and/or GSA.

(b) Title to the property remains in the United States Government although you have taken possession of it. Conditional title to the property will pass to the eligible donee when the donee executes the required certifications and agreements and takes possession of the property.

(c) You will:

(1) Promptly pay the cost of care, handling, and shipping incident to taking possession of the property.

(2) During the time that title remains in the United States Government, be responsible as a bailee for the property from the time it is released to you or to the transportation agent you have designated.

(3) In the event of any loss of or damage to any or all of the property during transportation or storage at a place other than a place under your control, take the necessary action to obtain restitution (fair market value) for the Government. In the event of loss or damage due to negligence or willful misconduct on your part, repair, replace, or pay to the GSA the fair market value of any such property, or take such other action as the GSA may direct.

(d) You may retain property for use in performing your donation program functions only when authorized by GSA in accordance with the provisions of a cooperative agreement entered into with GSA.

(e) When acting under an interstate cooperative distribution agreement (see § 102-37.320) as an agent and authorized representative of an adjacent State with which you share a common boundary, you will:

(1) Make the certifications and agreements required in § 102-37.145 and this section on behalf of the adjacent SASP.

(2) Require the donee to execute the distribution documents of the State in which the donee is located.

(3) Forward copies of the distribution documents to the corresponding SASP.

(f) You will not discriminate on the basis of race, color, national origin, sex, age, or handicap in the distribution of the property, and will comply with GSA regulations on nondiscrimination as set forth in part 101-6, subpart 101-6.2, and part 101-8 of this title.

§ 102-37.155 Must we make a drug-free workplace certification?

If you have a cooperative agreement with GSA that allows you to retain Federal property for SASP use, you must certify that you will provide a drug-free workplace as a condition for receiving such property. Drug-free workplace certification requirements are found at part 105-68, subpart 105-68.6, of this title.

§ 102-37.160 Must we make a certification regarding lobbying?

You are subject to the anti-lobbying certification and disclosure

requirements in part 105-69 of this title when all of the following conditions apply:

(a) You have entered into a cooperative agreement with GSA that provides for your SASP to retain donable Federal property for use in performing donation functions or any other cooperative agreement.

(b) The cooperative agreement was executed after December 23, 1989.

(c) The fair market value of the property requested under the cooperative agreement is more than \$100,000.

State Plan of Operation

§ 102-37.165 What is a State plan of operation?

A State plan of operation is a document developed under State law and approved by GSA in which the State sets forth a plan for the management and administration of the SASP in the donation of property.

§ 102-37.170 Who is responsible for developing and submitting the plan?

The State legislature must develop the plan. The chief executive officer of the State must certify and submit the plan to GSA for acceptance and certify that you are authorized to acquire and distribute property to eligible donees in the State, to enter into cooperative agreements, and to undertake other actions and provide other assurances as are required by subsection 203(j)(4) of the Property Act and set forth in the plan. Send the plan to:

General Services Administration
Office of Transportation and Property
Management (FB)
Washington, DC 20406

§ 102-37.175 When does a State plan take effect?

The plan takes effect on the date GSA notifies the chief executive officer of the State that the plan conforms to the provisions of subsection 203(j)(4) of the Property Act and the requirements of this part and that allocation and transfer of donable surplus property to the State will begin.

§ 102-37.180 Must GSA approve amendments or modifications to the plan?

Yes, GSA must approve amendments or modifications to the plan.

§ 102-37.185 Do plans or amendments require public notice?

No plan of operation, and no major amendment to the plan, may be filed with GSA until 60 calendar days after general notice of the proposed plan or amendment has been published and interested persons have been given at least 30 calendar days to submit comments.

§ 102-37.190 What happens if we don't operate in accordance with our plan?

If you don't operate in accordance with your plan, GSA may withhold allocation and transfer of surplus property until the nonconformance is corrected.

§ 102-37.195 What must a State include in the plan of operation?

You must ensure the plan conforms to the provisions of subsection 203(j)(4) of the Property Act and includes the following information and assurances. (You may include in the plan other provisions not inconsistent with the purposes of the Property Act and the requirements of this part.):

STATE PLAN REQUIREMENTS

Regarding—	The plan must—
(a) Designation of a SASP.	(1) Name the State agency that will be responsible for administering the plan. (2) Describe the responsibilities vested in the agency which must include the authorities to acquire, warehouse and distribute property to eligible donees, carry out other requirements of the State plan, and provide details concerning the organization of the agency, including supervision, staffing, structure, and physical facilities. (3) Indicate the organizational status of the agency within the State governmental structure and the title of the State official who directly supervises the State agent.
(b) Operational authority.	(1) Include copies of existing State statutes and/or executive orders relative to the operational authority of the SASP. Where express statutory authority does not exist or is ambiguous, or where authority exists by virtue of executive order, the plan must include also the opinion of the State's Attorney General regarding the existence of such authority.

STATE PLAN REQUIREMENTS—Continued

Regarding—	The plan must—
(c) Inventory control and accounting systems.	(1) Require the SASP to use a management control and accounting system that effectively governs the utilization, inventory control, accountability, and disposal of property. (2) Provide a detailed explanation of the inventory control and accounting system that the SASP will use. (3) Provide that property retained by the SASP to perform its functions be maintained on separate records from those of donable property.
(d) Return of donated property.	(1) Require the SASP to provide for the return of donated property from the donee, at the donee's expense, if the property is still usable as determined by the SASP, and: (i) The donee has not placed the property into use for the purpose for which it was donated within 1 year of donation; or (ii) The donee ceases to use the property within 1 year after placing it in use. (2) Specify that return of property can be accomplished by: (i) Physical return to the SASP facility, if required by the SASP. (ii) Retransfer directly to another donee, SASP, or Federal agency, as required by the SASP. (iii) Disposal (by sale or other means) as directed by the SASP. (3) Set forth procedures to accomplish property returns to the SASP, retransfers to other organizations, or disposition by sale, abandonment, or destruction.
(e) Financing and service charges.	(1) Set forth the means and methods for financing the SASP. When the State authorizes the SASP to assess and collect service charges from participating donees to cover direct and reasonable indirect costs of its activities, the method of establishing the charges must be set forth in the plan. (2) Affirm that service charges, if assessed, are fair and equitable and based on services performed (or paid for) by the SASP, such as screening, packing, crating, removal, and transportation. When the SASP provides minimal services in connection with the acquisition of property, except for document processing and other administrative actions, the State plan must provide for minimal charges to be assessed in such cases and include the bases of computation. (3) Provide that property made available to nonprofit providers of assistance to homeless individuals be distributed at a nominal cost for care and handling of the property. (4) Set forth how funds accumulated from service charges, or from other sources such as sales or compliance proceeds are to be used for the operation of the SASP and the benefit of participating donees. (5) Affirm, if service charge funds are to be deposited or invested, that such deposits or investments are permitted by State law and set forth the types of depositories and/or investments contemplated. (6) Cite State authority to use service charges to acquire or improve SASP facilities and set forth disposition to be made of any financial assets realized upon the sale or other disposal of the facilities. (7) Indicate if the SASP intends to maintain a working capital reserve. If one is to be maintained, the plan should provide the provisions and limitations for it. (8) State if refunds of service charges are to be made to donees when there is an excess in the SASP's working capital reserve and provide details of how such refunds are to be made, such as a reduction in service charges or a cash refund, prorated in an equitable manner.
(f) Terms and conditions on donable property.	(1) Require the SASP to impose terms, conditions, reservations, and restrictions on the donee for any item of donated property with a unit acquisition cost of \$5,000 or more and any passenger motor vehicle. The specific terms, conditions, reservations, and restrictions that the SASP requires must be set forth in the plan.

STATE PLAN REQUIREMENTS—Continued

Regarding—	The plan must—
	(2) Provide that the SASP may impose reasonable terms, conditions, reservations, and restrictions on the use of other donated property. If the SASP elects to impose additional terms, conditions, reservations, and restrictions, it should list them in the plan. If the SASP wishes to provide for amending, modifying, or releasing any terms, conditions, reservations, or restrictions it has elected to impose, it must state in the plan the standards it will use to grant such amendments, modifications or releases. (3) Provide that the SASP will impose on the donation of property, regardless of unit acquisition cost, such conditions involving special handling or use limitations as GSA may determine necessary because of the characteristics of the property.
(g) Nonutilized or undistributed property.	(1) The plan must provide that, subject to GSA approval, property in the possession of the SASP which donees in the State cannot use will be disposed of by: (i) Transfer to another SASP or Federal agency. (ii) Sale. (iii) Abandonment or destruction. (iv) Other arrangements.
(h) Fair and equitable distribution.	(1) Provide that the SASP will make fair and equitable distribution of property to eligible donees in the State based on their relative needs and resources and ability to use the property. (2) Set forth the policies and detailed procedures for effecting a prompt, fair, and equitable distribution. (3) Require that the SASP, insofar as practicable, select property requested by eligible donees and, if requested by the donee, arrange for shipment of the property directly to the donee.
(i) Eligibility.	(1) Set forth procedures for the SASP to determine the eligibility of applicants for the donation of surplus personal property. (2) Provide for donee eligibility records to include at a minimum: (i) Legal name and address of the donee. (ii) Status of the donee as a public agency or as an eligible nonprofit, tax-exempt activity. (iii) Details on the scope of the donee's program. (iv) Proof of tax exemption under section 501 of the Internal Revenue Code if the donee is nonprofit. (v) Proof that the donee is approved, accredited, or licensed if it is a requirement for operation of the donee's program(s); or certification of funding if the donee is a nonprofit activity that conducts programs for older individuals. (vi) Financial resources. (vii) Written designation of a representative(s) to act for the donee in acquiring property from the SASP signed by the chief administrative officer or by resolution of the donee's governing body. (viii) Nondiscrimination assurance. (ix) Types of property needed.
(j) Compliance and utilization.	(1) Provide that the SASP conduct utilization reviews for donee compliance with the terms, conditions, reservations, and restrictions imposed by GSA and the SASP on property having a unit acquisition cost of \$5,000 or more and any passenger motor vehicle. (2) Provide for the reviews to include a survey of donee compliance with any special handling conditions or use limitations imposed on items of property by GSA. (3) Set forth the proposed frequency of such reviews and provide adequate assurances that the SASP will take effective action to correct noncompliance or otherwise enforce such terms, conditions, reservations, and restrictions.

STATE PLAN REQUIREMENTS—Continued

Regarding—	The plan must—
	(4) Require the SASP to prepare reports on utilization reviews and compliance actions and provide assurance that the SASP will initiate appropriate investigations of alleged fraud in the acquisition of donated property or misuse of such property.
(k) Consultation with advisory bodies and public and private groups..	(1) Provide for consultation with advisory bodies and public and private groups which can assist the SASP in determining the relative needs and resources of donees, the proposed utilization of donable property by eligible donees, and how distribution of donable property can be effected to fill existing needs of donees. (2) Provide details of how the SASP will accomplish such consultation.
(l) Audit.	(1) Provide for periodic internal audits of the operations and financial affairs of the SASP. (2) Provide for compliance with the external audit requirements of Office of Management and Budget Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations"(available at www.whitehouse.gov/OMB), and make provisions for the SASP to furnish GSA with: (i) Two copies of any audit report made pursuant to the Circular, or with two copies of those sections that pertain to the Federal donation program. (ii) An outline of all corrective actions and scheduled completion dates for the actions. (3) Provide for cooperation in GSA or Comptroller General conducted audits.
(m) Cooperative agreements.	If the SASP wishes to enter into, renew, or revise cooperative agreements with GSA or other Federal agencies: (1) Affirm the SASP's intentions to enter into cooperative agreements. (2) Cite the authority for entering into such agreements.
(n) Liquidation.	Provide for the SASP to submit a liquidation plan prior to termination of the SASP activities if the State decides to dissolve the SASP.
(o) Forms.	Include copies of distribution documents used by the SASP.
(p) Records.	Affirm that all official records of the SASP will be retained for a minimum of 3 years, except that: (1) Records involving property subject to restrictions for more than 2 years must be kept 1 year beyond the specified period of restriction. (2) Records involving property with perpetual restriction must be retained in perpetuity. (3) Records involving property in noncompliance status must be retained for at least 1 year after the noncompliance case is closed.

§ 102-37.200 What steps must we take if the State decides to dissolve our SASP?

If the State decides to dissolve your SASP, submit a liquidation plan that includes:

- (a) Reasons for the liquidation;
- (b) A schedule for liquidating the agency and the estimated date of termination;
- (c) Method of disposing of property on hand under the requirements of this part;
- (d) Method of disposing of the agency's physical and financial assets;
- (e) Retention of all available records of the SASP for a 2-year period following liquidation; and

(f) Designation of another governmental entity to serve as the agency's successor in function until continuing obligations on property donated prior to the closing of the agency are fulfilled.

Screening and Requesting Property**§ 102-37.205 Do we need special authorization to screen property?**

Yes, you must have a valid screener-identification card (GSA Form 2946, Screener's Identification) prior to screening and freezing property at holding agencies. However, you and donee representatives do not need a screener-ID card to inspect, evaluate, or

remove specific property approved for donation.

§ 102-37.210 How do we obtain screener-ID cards for ourselves or donation?

To obtain screening authorization you must:

- (a) Submit a written request to the GSA regional office serving the area in which the intended screener is located. The request must state the name and address of your SASP or the donee the prospective screener represents, and certify that the applicant is qualified to screen as an authorized representative of the cited organization. A list of the Federal installations the screener will be authorized to visit must accompany

each request. The list of Federal installations should be limited to those within the applicable State, except where there are particular reasons why a screener should regularly visit installations outside the State.

(b) Accompany each request for authorization with a completed GSA Form 2946 that contains an affixed passport-style photograph of the prospective screener. Copies of the form are available from the GSA regional office servicing your State.

§ 102-37.215 May we request property that is in the sales cycle?

Yes, you may request property that is in the sales cycle if the property involved was not previously made available for donation or the property is needed to fill an emergency or critical requirement. You must submit such requests to GSA for consideration and coordination with the holding agency so that such action is not harmful to the overall outcome of the sale. Such requests may only be granted prior to sales award.

§ 102-37.220 May we request property specifically for cannibalization?

Yes; however, you must provide justification and include the following statement on the SF 123:

"Item(s) requested for cannibalization." Your request for cannibalization will be approved only when it is clear that disassembly of the item for use of its component parts will provide greater potential benefit than use of the item in its existing form.

Eligibility of Donees

§ 102-37.225 Who may acquire property through a SASP?

You may distribute property to the following classes of donees:

- (a) Public agencies.
- (b) Nonprofit educational or public health institutions or organizations, 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.

(c) Public or nonprofit programs for older individuals.

(d) Service educational activities.

§ 102-37.230 Who determines if an activity is eligible to receive donated property?

(a) *Public agencies and nonprofit tax-exempt activities.* You determine if an applicant is eligible to receive property as a public agency, a nonprofit educational or public health institution, or a program for older individuals under the requirements of this part. You may request GSA assistance or guidance in making such determinations.

(b) *Service educational activities (SEAs).* The Department of Defense (DOD) sets eligibility requirements for SEAs and makes eligibility determinations.

§ 102-37.235 Must we maintain eligibility records on SEAs?

Yes, you must maintain eligibility records on SEA's, but maintain them separately from your other eligibility files and make sure they 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 needed or authorized for use in the SEA's program.

§ 102-37.240 How often must we 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 programs whose eligibility depend on annual appropriations, annual licensing, or annual certification.

§ 102-37.245 What must we do if a donee fails to maintain its eligibility status?

If a donee fails to maintain its eligibility status, you must terminate distribution of property to the activity, recover any usable property still under Federal restriction, and take any other required compliance actions.

§ 102-37.250 May we grant eligibility to applicants who would otherwise qualify as eligible donees, but whose approval, accreditation, or licensing is pending?

You may grant conditional eligibility to those applicants whose programs are required to be approved, accredited, or licensed, but who are unable to obtain accreditation, approval, or licensing because they are newly organized or because the facilities in which their activities are to be housed are not yet constructed. If the construction of an applicant's facility or physical plant has not been completed, and after evaluating the progress and potential of the applicant, you may at your discretion make available property that can be immediately utilized at this point in the applicant's program. You may accept letters from public authorities, either local or State, that you deem competent (such as a board of health or a board of education) stating that the applicant otherwise meets the standards prescribed for approved, accredited or licensed institutions and organizations. Under no circumstances can the SASP grant conditional eligibility prior to receiving evidence of nonprofit status.

§ 102-37.255 Are we eligible to acquire property as a public agency donee?

No, you are not eligible to acquire property as a public agency donee, but you can retain surplus personal property for use in operating the donation program if you have a cooperative agreement with GSA that allows you to do so. You must obtain prior GSA approval before using any donable property in your operation of the SASP. Make your needs known by submitting a listing of needed property to the appropriate GSA regional office for approval. GSA will review the list to ensure that it is of the type and quantity of property that is reasonably needed and useful in performing your SASP operations. Unless GSA disapproves the retention of the property within 30 calendar days of receipt of the listing, title to the property will vest in your SASP. You must maintain separate records for the property.

§ 102-37.260 What should we do if an applicant seeks an appeal of a negative determination of eligibility?

You should forward complete documentation on all appeal requests, including your comments and recommendations, to the applicable GSA regional office for review and coordination with GSA headquarters.

Distributing Property

§ 102–37.265 Are there special requirements for distributing property to SEAs?

Yes, only DOD-generated property may be donated to SEAs. Property generated by Federal civil agencies are not eligible for donation to SEAs, unless the SEAs also qualify under § 102–37.225(b) to receive donations of property. When donating DOD property to eligible SEAs, you must observe any restrictions the sponsoring Military Services may have imposed on the types of property the SEAs may receive.

§ 102–37.270 May we distribute property to eligible donees of another State?

Yes, you may distribute property to eligible donees of another State, if you and the other SASP determine that such an arrangement will be of mutual benefit to you and the donees concerned. Where such determinations are made, an interstate distribution cooperative agreement as prescribed in § 102–37.320 must be prepared and submitted to the appropriate GSA regional office for approval. When acting under an interstate distribution cooperative agreement, you must:

(a) Require the donee recipient to execute the distribution documents of its home SASP.

(b) Forward copies of executed distribution documents to the donee's home SASP.

Terms and Conditions

§ 102–37.275 What terms and conditions must we impose on the donee?

You must impose the terms and conditions on the donee required in your State plan of operation.

§ 102–37.280 May we waive 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 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 one year of donation or ceases to be used by the donee for those purposes within one 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 utilization of the property and that the proposed action meets the standards prescribed in your plan of operation with respect to amendments, modifications, or releases of the terms and conditions imposed on donated property; or

(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; or

(ii) Authority to trade in one donated item for one like item having similar use potential.

(b) The terms, conditions, reservations, and restrictions the Property Act requires you to impose on the use of passenger motor vehicles and any item of property having a unit acquisition cost of \$5,000 or more.

(c) Any special handling condition or use limitation imposed by GSA, except with the prior written approval of GSA.

§ 102–37.285 Do restrictions remain 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 pending completion of the proposed cannibalization. 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.

§ 102–37.290 May a donee exchange donated property during the period of restriction?

Yes, a donee may exchange donated property during the period of restriction with the approval of GSA. 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 cannot be in a noncompliance status. The item acquired by the donee must be:

(a) Made subject to the period of restriction remaining on the item exchanged.

(b) Of equal or greater value than the item exchanged.

§ 102–37.295 On what categories of property has GSA imposed special handling conditions or use limitations?

GSA has imposed special handling or processing requirements on the property categorized 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 101–37, subpart 101–37.6, of this title.
(2) Documentation needed by GSA to process requests for aircraft or vessels.	§ 102–37.300.
(3) Special terms, conditions, and restrictions imposed on aircraft and vessels.	§ 102–37.305.
(4) Guidelines on preparing plans of utilization for aircraft or vessels.	§ 102–37.460.

(b) *Tax-free alcohol or specially denatured 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, and Firearms (BATF), Department of the Treasury, to acquire the property. You must include the BATF use-permit number on the SF 123.

(2) You may not store tax-free or specially denatured alcohol in your facilities. You must make arrangements for this property to be shipped or transported directly from the holding agency to the designated donee.

(c) *M-151 vehicles.* M-151 vehicles have been identified as a hazard to the safety of public highway users, and eligible donees may not acquire these vehicles without mutilation. Mutilation must result in the unitized body of the vehicle being cut, crushed, or mangled in such a manner as to completely preclude rebuilding into a usable unitized body. When acquiring M-151 components and parts, the donee recipient must certify on the distribution document that the components and parts will not be reassembled as a vehicle for highway use.

(d) *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.

(e) *Franked and penalty envelopes and official letterheads.* Franked and penalty envelopes and official letterheads may not be donated without the SASP or donee certifying that all Federal Government markings will be obliterated before use.

§ 102-37.300 What documentation must we provide to acquire an aircraft or vessel?

The following documentation must be submitted to GSA, along with the SF 123, when you request an aircraft or vessel covered by § 102-37.295:

(a) 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 § 102.37.460.)

(b) 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;

(c) Your distribution document, signed and dated by the authorized donee representative; and

(d) A conditional transfer document, signed by you and the intended donee, and containing the special terms, conditions, and restrictions prescribed by GSA. The conditional transfer document may include additional terms, conditions, and restrictions imposed by you on the use of the aircraft or vessel that are consistent with any Federal requirements or your plan of operation. However, none of the Federal terms, conditions, and restrictions outlined in the executed conditional transfer document, including the requirement for an additional 48-month period of approved use, may be modified, amended, waived, released, or abrogated by you without the prior written approval of GSA.

§ 102-37.305 What are the special terms, conditions, and restrictions regarding aircraft and vessels?

(a) The aircraft or vessel must be placed in use for the purpose for which acquired no later than 12 months after acquisition and used for the same purpose for a 12-month period thereafter. There shall be an additional 48-month period of restriction which will expire after the aircraft or vessel has been used for the purpose for which acquired, except that the period of restriction for combat-configured aircraft (aircraft having no commercial flight application based upon their military design characteristics) runs in perpetuity.

(b) The donee of an aircraft must apply to the Federal Aviation Administration (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 you 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) and all the required 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 you 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, conditions, and restrictions imposed by the conditional transfer document are breached, title and right to the possession of the aircraft or vessel will, at the option of GSA, revert to the United States Government. The donee, at the option of GSA, will be liable to the Government for the proceeds from any unauthorized disposal or for the fair market value or fair rental value of the aircraft or vessel at the time of any unauthorized transaction or use, as determined by GSA.

(e) If, during the period of restriction, the aircraft or vessel is no longer suitable, usable, or further needed by the donee for the purpose for which the donee acquires it, the donee must promptly notify you and request disposal instructions. You may not issue disposal instructions, except with the prior written concurrence of GSA.

(f) Combat-configured aircraft, as designated by DOD, 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, remove and turn over to you the manufacturer's data plate and the 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). You must send the records and data plate to GSA for forwarding to the FAA.

Service and Handling Charges

§ 102-37.310 May we accept personal checks in payment of service charges?

No, you may accept payments only in the form of warrants, checks, or other official instruments drawn or issued by, and in the name of, the respective donee institution. If eligible donees have their operational expenses paid by a parent institution or organization, you may accept checks issued by such parent institutions in payment of the charges.

§ 102-37.315 Are there restrictions on how we may use service charge funds or other monies derived from donated Federal property?

Except as provided in § 102-37.360, you must use funds collected from service charges, or from other sources such as proceeds from sale of undistributed property or funds collected from compliance cases, solely for the operation of the SASP and the benefit of participating donees. Funds

may be deposited, invested, or used in accordance with State law to:

- (a) Cover direct and indirect costs of your operation.
- (b) Purchase necessary equipment for the SASP.
- (c) Maintain a reasonable working capital reserve.
- (d) Rehabilitate donable surplus property, including the purchase of replacement parts.
- (e) Make refunds of service charges in excess of your working capital reserve to your participating donees.
- (f) Acquire or improve office or distribution center facilities.
- (g) Pay for the costs of internal and external audits.

Cooperative Agreements

§ 102–37.320 What is a cooperative agreement?

A cooperative agreement is an agreement you enter into with GSA or a Federal agency designated by GSA or another SASP for the use of property, facilities, personnel, or services to carry out the functions of the donation program. For example:

(a) You and GSA may cooperate under the terms of an agreement for the provision or use of property, facilities, personnel, or services to facilitate the allocation, transfer, and distribution of donable surplus property. After such an agreement is executed, GSA may assist you by:

(1) Helping you to enter into agreements with other designated Federal agencies for the use of property, facilities, personnel, or services as are necessary and useful in aiding you to carry out the functions of the donation program.

(2) Furnishing available office space and related support such as office furniture and information technology equipment to assist you in screening and processing property for donation.

(3) Permitting you to retain items of property transferred to you for distribution that are needed by you in performing your donation functions.

(b) With GSA's concurrence and where authorized by State law, you may enter into an interstate distribution cooperative agreement to act as an agent and authorized representative of an adjacent State with which you share a common boundary. Agreements may be considered when donees, because of their geographic proximity to the property distribution centers of the adjoining State, could be more efficiently and economically serviced by surplus property facilities in the adjacent State. You and the other SASP must agree to the payment or

reimbursement of service charges by the donee and you also must agree to the requirements of § 102–37.150(e).

(c) You may enter into a cooperative agreement with GSA to conduct sales of nondonated or undistributed property for and on behalf of GSA.

§ 102–37.325 Is there a fee for services and other support supplied under a cooperative agreement?

Payment or reimbursement under a cooperative agreement will be a matter for resolution between you and the Federal agency. GSA will provide assistance, to the extent possible, without reimbursement. However, any extraordinary costs incurred in providing assistance will be on a reimbursable basis.

§ 102–37.330 When may we terminate cooperative agreements?

You may terminate a cooperative agreement with GSA upon a 60-calendar day written notice. For other authorized agreements, you or the other party may terminate the agreement as mutually agreed. You must promptly notify GSA when such other agreements are terminated.

Reports

§ 102–37.335 What reports must we provide to GSA?

(a) *Quarterly report on donations.* Submit a GSA Form 3040, State Agency Monthly Donation Report of Surplus Personal Property, in duplicate, to the appropriate GSA regional office by the 25th day of the month following the quarter being reported. (Office of Management and Budget Control Number 3090–0112 has been assigned to this form.) Forms and instructions for completing the form are available from your servicing GSA office.

(b) *Additional reports.* Make such reports as GSA may require to carry out its discretionary authority to transfer surplus personal property for donation and to report to the Congress on the status and progress of the donation program.

Compliance and Audits

§ 102–37.340 What actions must we take to report damaged or missing property in our custody?

You must immediately notify GSA and appropriate law officials of any damage to or loss of property in your custody due to theft, vandalism, or other unusual circumstances. You must inform GSA of any other type of damage to or loss of property in your custody.

§ 102–37.345 What measures must we take to ensure that property is used for the purpose(s) for which donated?

You must make utilization surveys and reviews, as provided in your plan of operation, to ensure that donees are using donated property during the period of restriction for the purposes for which it was acquired, including any special handling conditions or use limitations imposed by GSA or you. You must fully document your efforts and report all instances of noncompliance to GSA.

§ 102–37.350 What actions must we take if a review or other information indicates noncompliance with donation terms and conditions?

(a) Promptly investigate any suspected failure to comply with the conditions of donated property.

(b) Notify GSA immediately where there is evidence or allegations of fraud, nonuse, misuse, or unauthorized disposal of donated property.

(c) Temporarily defer any further donations of property where noncompliance allegations have been made and the donee is to be investigated, until such time as the investigation has been completed and a determination made that the allegations are either unfounded, or the allegations are substantiated, and the donee is proposed for suspension or debarment.

(d) Take action to correct the noncompliance or otherwise enforce the conditions imposed on use of the property if a donee is found to be in noncompliance. Such action 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 the time property was used in an unauthorized manner.

(5) Disposing of by public sale property no longer suitable, usable, or necessary for donation.

§ 102–37.355 Must we coordinate with GSA on compliance actions?

In enforcing compliance with the terms and conditions imposed on donated property, you must coordinate with GSA before undertaking the sale of, or making demand for payment of the

fair market value or fair rental value of donated property that:

(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 it was donated, within one year of donation, or where the donee ceased using the property for authorized purposes during the one-year period after being placed in use.

§ 102-37.360 How must we handle funds derived from compliance actions?

You must handle funds derived from compliance actions as follows:

(a) *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) *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.

§ 102-37.365 Does coverage under the Single Audit Act exempt us from other reviews of our program?

No, although you are covered under the Single Audit Act (31 U.S.C. 7501-7507), from time to time the General Accounting Office (GAO), GSA, or other authorized Federal activities may audit or review the operations of a SASP. GSA will notify the chief executive officer of the State of the reasons for a GSA audit. You must make available financial records and all other records of the SASP for inspection by representatives of GSA, GAO, or other authorized Federal activities.

Disposing of Undistributed Property

§ 102-37.370 When must we offer property to other SASPs?

When you determine that property in your possession is usable, but not needed by eligible donees within your State, you must offer the property for transfer to other SASPs. You may arrange for representatives of other SASPs to visit your distribution facilities to inspect and select unneeded property. GSA encourages prompt transfer of property between the States, and will assist you, upon request, in making known to other SASPs undistributed property that is available for transfer.

§ 102-37.375 Must GSA approve a transfer between SASPs?

Yes, the requesting SASP must submit a SF 123, Transfer Order Surplus Personal Property, to the GSA regional office in which the releasing SASP is located. GSA then has 30 calendar days to approve or disapprove the request.

§ 102-37.380 May we recover our costs if property is transferred to another SASP?

You and the receiving SASP must mutually agree on the reimbursement of costs incurred by you in acquiring the property from the Federal government. If there is no agreement, GSA will determine appropriate reimbursement.

§ 102-37.385 When should we report undistributed property to GSA?

You should report at any time property in your possession that is not needed by you or another SASP to the GSA regional office for disposal instructions. You are encouraged, however, to promptly report any property that has been in your custody longer than a year, unless a predictable requirement exists for that property. When reporting property to GSA, provide:

(a) The best possible description of each line item of property, its current condition code, quantity, unit and total acquisition cost, State serial number, demilitarization code, and any special handling conditions;

(b) The date you received each line item of property listed; and

(c) Certification of reimbursement requested under § 102-37.400 and 102-37.405.

§ 102-37.390 May we sell undistributed property?

Yes, you may sell undistributed property, provided you have a cooperative agreement with GSA to sell undistributed Federal property, and GSA approves your request to conduct a sale. Your request to sell property should include the proposed sale date, a listing of the property, location of the sale, method of sale, and proposed advertising to be used. If a request is approved, the GSA regional sales office will provide the necessary forms and instructions for you to use in conducting the sale.

§ 102-37.395 Under what conditions may we abandon or destroy property?

(a) You may abandon or destroy undistributed property when you determine that the property has no commercial value or the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale. The determination must be based on a finding made in writing by

an authorized official of your agency and sent to the appropriate GSA regional office for approval. You must include in the written finding:

(1) The basis for the abandonment or destruction;

(2) A detailed description of the property, its condition, and total acquisition cost;

(3) The proposed method of destruction (burning, burying, etc.) or the abandonment location;

(4) A statement confirming 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;

(5) The signature of the SASP director requesting approval for the abandonment or destruction; and

(6) The title, telephone number, and signature of the SASP reviewing authority if a line item of the property to be disposed of at any one location at any one time has a known or estimated acquisition cost of more than \$1,000.

(b) GSA will notify you within 30 calendar days whether you may proceed with the abandonment or destruction. GSA will provide alternate disposition instructions if your request for abandonment or destruction is disapproved.

§ 102-37.400 May we get reimbursement if property is recovered for Federal use?

(a) You may be reimbursed for the costs you incurred in acquiring the property, including packing, handling, and transportation costs, at the time the property is transferred to the Federal activity, except as noted in paragraph (b) of this section. GSA will secure agreement of the Federal agency to pay these charges prior to the release of the property, and annotate the amount of reimbursement on the transfer document.

(b) When the Federal Emergency Management Agency requests property for a presidentially declared emergency or major disaster, you are entitled to reimbursement of documented expenses originally incurred in the screening, transporting, and receipt of the property. You should coordinate and make arrangements for reimbursement with the State official in charge of disaster relief.

§ 102-37.405 What costs may we recover if undistributed property is sold?

When undistributed property is disposed of by public sale, GSA may authorize reimbursement for care and handling expenses you incurred in acquiring the property from within or outside a State. You must certify the costs incurred and support them with

documentation if requested by GSA. You will not be reimbursed for costs subsequent to the receipt of property, including unloading, moving, repairing, preserving, or storage. You will not be reimbursed for costs of transporting property to a location outside a SASP distribution facility for the purpose of a sale, unless GSA specifically requires transportation. Reimbursement may not exceed 50 percent of total sales proceeds and is limited to:

(a) Direct costs you initially paid to the Federal holding agency, including but not limited to packing, preparation for shipment, and loading; and

(b) Transportation costs you incurred, but were not reimbursed by a donee, for initially moving the property from the Federal holding agency to your distribution facility or other point of receipt.

Subpart E—Donations to Public Agencies and Eligible Nonprofit Organizations

§ 102–37.410 To whom do “we”, “you”, and their variants refer?

Use of pronouns “we”, “you”, and their variants throughout this subpart refers to the donee.

Eligibility

§ 102–37.415 Who determines if we are eligible to receive property?

If you are a public agency or a nonprofit tax-exempt activity, the SASP within your State determines if you are eligible as a public agency, nonprofit educational or public health institution, or a program for older individuals. If you offer courses of instruction devoted to the military arts and sciences, the Department of Defense will determine your eligibility to acquire property through the SASP as a service educational activity (SEA).

§ 102–37.420 What basic criteria must we meet to qualify for eligibility?

To qualify for eligibility:

(a) Your organization must conform to the definition of one of the categories of eligible entities listed in § 102–37.225 (see § 102–37.25 for definitions).

(b) You must be approved, accredited, or licensed if it is a requirement for operation of your program.

(c) You must be a public agency or nonprofit and tax-exempt under section 501 of the Internal Revenue Code.

(d) You must not be debarred, suspended, or excluded from any Federal procurement or nonprocurement program.

(e) Your program must operate or be conducted in compliance with applicable Federal nondiscrimination statutes.

§ 102–37.425 What if there is no specific authority that can approve or accredit our program as required for qualification?

In considering your eligibility, a SASP may accept letters from public authorities, either local or State, which it deems competent (such as a board of health or a board of education) stating that your organization meets the standards prescribed for approved or accredited institutions and organizations. Other documentation the SASP may accept as evidence of your approval include the following:

(a) In the case of educational activities, a SASP may deem letters from three accredited or State-approved institutions that students from your institution have been and are being accepted as sufficient evidence of your eligibility for the donation program. Or the SASP may consider you approved if you furnish evidence showing you meet the academic or instructional standards prescribed for public schools in the State; i.e., your organizational entity or program is devoted primarily to approved academic, vocational (including technical or occupational), or professional study and instruction, 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.

(b) In the case of public health institutions or organizations, a SASP may accept licensing as evidence of approval, provided the licensing authority prescribes the medical requirements and standards for the professional and technical services of your institution.

(c) The awarding of research grants to your institution or organization by a recognized authority such as the National Institutes of Health, the National Institute of Education, or by similar national advisory council or organization may also constitute approval of your institution or program, provided all other criteria are met.

Terms and Conditions

§ 102–37.430 What certifications must we make before acquiring property?

Before you acquire property, you must certify that:

(a) You are a public agency or a nonprofit organization meeting the requirements of the Property Act and/or regulations of GSA.

(b) You are acquiring the property for your own use and will use the property for authorized purposes.

(c) You are not acquiring the property for any other use or purpose, for use outside the State, or for sale.

(d) Funds are available to pay all costs and charges incident to the donation.

(e) You will comply with the nondiscrimination regulations issued under title VI of the Civil Rights Act of 1964 (52 U.S.C. 2000d–2000d–4), section 606 of title VI of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 476), as amended, 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).

(f) You are not currently debarred, suspended, declared ineligible, or voluntarily excluded from receiving the property.

§ 102–37.435 What agreements must we make before acquiring property?

You must agree to the following conditions when acquiring property:

(a) The property is acquired on an “as is, where is” basis, without warranty of any kind, and you 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) You will return to the SASP, at your expense, any donated property that is not placed in use for the purposes for which it was donated within one year of donation, or which ceases to be used for such purposes within one year of being placed in use.

(c) You will comply with the terms, conditions, reservations, and restrictions, imposed by your SASP on the use of any item of property having a unit acquisition cost of \$5,000 or more and any passenger motor vehicle. (If you are an SEA, this requirement does not apply to you.)

(d) You agree that upon execution of the SASP distribution document you have conditional title only to the property during the applicable period of restriction. Full title to the property will vest in you only after you have met all of the requirements of this part.

(e) You will comply with the terms, conditions, reservations, or restrictions imposed on any other donated item by the SASP. (Not applicable to SEAs.)

(f) You will comply with conditions imposed by GSA, if any, requiring special handling or use limitations on donated property.

(g) You will use the property for an authorized purpose during the period of restriction (see § 101–37.440).

(h) You 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.

(i) You 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.

(j) 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.

§ 102–37.440 May we use donated property for any purpose?

You may use donated property only for the following purposes:

(a) *Public purposes.* A public agency that acquires property through a SASP must use such property to carry out or to promote for the residents of a given political area one or more public purposes.

(b) *Educational and public health purposes.* A nonprofit educational or public health institution or organization must use property for purposes of education or public health, including research for any such purpose. While this does not preclude the use of donated property for a related or subsidiary purpose incident to the institution's overall program, the property must be used essentially for the primary educational or public health function for which the activity receives donable property and not for a nonrelated or commercial purpose.

(c) *Programs for older individuals.* Public and nonprofit programs for older individuals must use donated 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.

§ 102–37.445 May we acquire property for exchange?

No, you may not acquire property for exchange.

Screening and Requesting Property

§ 102–37.450 Do we need special authorization to screen property for our program(s)?

Yes, you must have a valid screener-identification card (GSA Form 2946) before screening and freezing property at holding agencies. However, you do not need a screener-ID card to inspect,

evaluate, or remove specific property already set aside or approved for donation.

§ 102–37.455 How do we obtain a screener-ID card?

To obtain screening authorization, you must ask your SASP to submit a written request to the GSA regional office serving the area in which you are located.

§ 102–37.460 What type of information must we provide when requesting an aircraft or vessel?

Requests for donation of aircraft and vessels must be supported with a letter of intent, signed and dated by your authorized representative, that sets forth a detailed plan of utilization for the property. The letter of intent must provide the following information:

(a) A description of the aircraft or vessel requested. If an aircraft, the description must include the type, model or size, and the serial number, if known. If 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 your program and the number and types of aircraft or vessels you currently own;

(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, you must specify a source of pilot(s) and where the aircraft will be housed. If an aircraft is requested for cannibalization, you 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, etc.) If a vessel is requested for waterway purposes, you 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, you 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 your need for the aircraft or vessel.

Returns and Reimbursements

§ 102–37.465 May we receive reimbursement for our donation expenses when we return property?

When you return unneeded property that is still under a period of restriction, and you have not breached any of the conditions or limitations, you may be reimbursed for the initial cost you

incurred for repairs required to make the property usable if the property is transferred to a Federal agency or sold for the benefit and account of the U.S. Government. Your SASP must recommend for GSA approval the amount of reimbursement which you are requesting, taking into consideration the benefit you have received from the use of the property and making appropriate deductions for that use. In the case of sale, your reimbursement for any item of property may not exceed the proceeds of the sale of the item.

Subpart F—Donations to Public Airports

§ 102–37.470 To whom do “we”, “you”, and their variants refer?

Use of pronouns “we”, “you”, and their variants throughout this subpart refers to the Federal Aviation Administration (FAA).

§ 102–37.475 What is the authority for public airport donations?

The authority for public airport donations is 49 U.S.C. 47151.

§ 102–37.480 What are our responsibilities in the donation of property?

Your responsibilities in the donation of property are as follows:

(a) Determining the property requirements of any State, political subdivision of a State, or tax-supported organization for public airport use (as defined in 49 U.S.C. 47102).

(b) Setting eligibility requirements for public airports and making determinations of eligibility.

(c) Certifying on the transfer document that property requested for donation is desirable or reasonably necessary to fulfill the immediate or foreseeable future requirements for developing, improving, operating, or maintaining a public airport, or needed for developing sources of revenue from non-aviation businesses at a public airport.

(d) Determining and enforcing compliance with the terms and conditions under which surplus personal property is transferred for public airport use.

(e) 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 of screeners operating under your authority and making such records available to GSA upon request.

(3) Recovering any expired or invalid authorizations.

§ 102–37.485 What information must we provide to GSA?

So that GSA has information on which to base its discretionary authority to approve the donation of surplus personal property, you must:

(a) Provide copies of internal instructions that outline the scope of your oversight program for enforcing compliance with the terms and conditions of transfer.

(b) Report any compliance actions involving donations to public airports.

Subpart G—Donations to the American National Red Cross**§ 102–37.490 To whom do “we”, “you”, and their variants refer?**

Use of pronouns “we”, “you”, and their variants throughout this subpart refers to the Red Cross National Headquarters.

§ 102–37.495 What is the authority for donations to the American National Red Cross?

Subsection 203(l) of the Property Act authorizes donations, for charitable purposes, to the American National Red Cross.

§ 102–37.500 What type of property may we receive?

You may receive surplus gamma globulin, dried plasma, albumin, antihemophilic globulin, fibrin foam, surgical dressings, or other products or materials you processed, produced, or donated to a Federal agency.

§ 102–37.505 What steps must we take to acquire property?

Upon receipt of information from GSA regarding the availability of property for donation, you have 21 calendar days to inspect the property or request it without inspection. Include pickup, shipping or delivery instructions in your request.

§ 102–37.510 What happens to property we don’t request?

Property you decline to request will be offered to SASPs for distribution to eligible donees. If the 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**§ 102–37.515 To whom do “we”, “you”, and their variants refer?**

Use of pronouns “we”, “you”, and their variants throughout this subpart refers to the holding agency.

§ 102–37.520 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.

§ 102–37.525 What type of property is donable under this subpart?

Only property you have assigned for abandonment or destruction (see guidelines in part 101–45, subpart 101–45.9, of this title) may be donated under this subpart. You may not donate property that requires destruction for health, safety, or security reasons. You must comply with all applicable laws and regulations and any special disposal requirements in part 101–42 of this title when disposing of hazardous materials and other dangerous property.

§ 102–37.530 Is there a special form for processing donations?

No, in processing donations you may use any document that meets your agency’s needs for maintaining an audit trail of the transaction.

§ 102–37.535 Who pays 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 (the act of destroying the military offensive or defensive advantage inherent in certain types of property), loading, and transportation to its site.

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G. Martin Wagner,

Associate Administrator for Governmentwide Policy.

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