

## GSA ORDER

SUBJECT: GSA Federal Surplus Personal Property Donation Program Handbook

1. Purpose. U.S. General Services Administration (GSA) Order FAS 4025.5A is being issued to update and replace the guidance in FSS P 4025.5 Donation of Surplus Personal Property, dated March 24, 1999.
2. Background. 40 U.S.C. § 549 authorizes GSA to transfer surplus Federal personal property to state agencies for subsequent donation to eligible recipients. The GSA Federal Surplus Personal Property Donation Program Handbook, referred to as the “Handbook,” updates the Handbook on the Federal Surplus Personal Property Donation Program previously cited as GSA Order FSS 4025.5 Donation of Surplus Personal Property.
3. Scope and Applicability. The Handbook provides guidance to GSA’s Office of Personal Property Management (OPPM) offices nationwide in their interactions with State Agencies for Surplus Property (SASPs) and current and future recipients of Federal surplus personal property.
4. Cancellation. This Handbook cancels GSA Order FSS P 4025.5, Donation of Surplus Personal Property, dated March 24, 1999.
5. Policy. GSA is authorized to transfer Federal surplus personal property to a SASP for distribution to eligible recipients pursuant to 40 United States Code (U.S.C.) § 549, implemented under Federal Management Regulation (FMR) Part 102-37, Donation of Surplus Personal Property. This Handbook outlines the responsibilities of GSA and SASPs when transferring Federal surplus personal property for distribution to eligible donees, including eligibility determinations, property allocation factors, donation procedures, cooperative agreements, and compliance enforcement. This Handbook also describes the responsibilities of property recipients (“donees”) in accordance with 40 U.S.C. § 549 and the FMR.
6. Explanation of Changes. OPPM re-organized the prior version of this Handbook and edited it for plain language. OPPM added new sections on firearms and law enforcement equipment. OPPM revised the State Agency review section, allocation

section, and Appendix B of the Handbook. Finally, OPPM made minor changes to contacts, addresses, deadlines, and changed Region references to Zone references as the OPPM program was reorganized into Zones since the last publication. OPPM replaced all references to GSAXcess with the Personal Property Management System (PPMS), OPPM's new property disposal system.

7. Revisions. The document was re-organized and edited for plain language. New sections were added on firearms and law enforcement equipment. The state agency review, allocation sections, and Appendix B were revised. Minor changes were made to contacts, addresses, deadlines, and zone versus region references.

8. Signature.

/S/ \_\_\_\_\_  
SONNY HASHMI  
Commissioner  
Federal Acquisition Service

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## CHAPTER 1. GENERAL PROVISIONS AND OVERVIEW

1. What Is the Purpose of This Handbook? This Handbook describes instructions and procedures used by GSA for the fair and equitable allocation and transfer of Federal surplus personal property to State Agencies for Surplus Property (SASPs) for distribution to eligible donees. These activities are pursuant to the provisions of [Section 549 of Title 40, United States Code](#), as amended, other applicable laws, and the Federal Management Regulations (FMR), [Title 41 Code of Federal Regulations \(CFR\) Part 102-37](#), [Part 102-40](#), and [Part 102-42](#) and are referred to throughout this Handbook as the Federal Surplus Personal Property Donation Program.
2. To Whom Does This Handbook Apply? The instructions and procedures in this Handbook apply to the U.S. General Services Administration's (GSA) Office of Personal Property Management (OPPM) offices nationwide in their interactions with State Agencies for Surplus Property (SASPs) and current and future recipients of Federal surplus personal property.
3. What is the Scope of the Federal Surplus Personal Property Donation Program? The program for donation of Federal surplus personal property includes public agencies and nonprofit educational and public health activities; programs for older individuals; educational activities of special interest to the armed forces; veterans organizations; the development, improvement, operation, or maintenance of public airports; and any other authorized entity that is eligible to receive Federal surplus personal property.
4. How Does the Donation Process Work? Eligible program participants may request a SASP to transfer available Federal surplus personal property for donation to an authorized participant's programs. Generally speaking, the program follows these steps:
  - a. A prospective public agency, a nonprofit organization for the purposes of public health or education, or other eligible entity applies for eligibility to participate in the Federal Surplus Personal Property Donation Program in the State where they are located and operate in.
  - b. Depending upon the organization, SASPs, the Department of Defense (DoD), or other Federal agency determines eligibility to participate in the Federal Surplus Personal Property Donation Program.
    - (1) The SASP is responsible for determining the eligibility of public agencies and certain nonprofit organizations for the purpose of public health or education to receive donations of Federal surplus personal property within its respective State. The purposes for which donated property can be used are described in Chapter 5, SASP Responsibilities.

(2) The sponsoring military department determines the eligibility of Service Educational Activities (SEAs) to receive surplus personal property under the control of DoD. (Individual units of the SEA organization must certify their eligibility with the SASP). Additional information concerning SEAs is found in Chapter 2, Donee Categories.

(3) In addition to being eligible to receive Federal surplus personal property through a SASP in the Federal Surplus Personal Property Donation Program, public airports also may be eligible to acquire Federal surplus personal property through the Federal Aviation Administration (FAA) pursuant to [49 U.S.C. § 47151-53](#). Additional information concerning public airports is found in Chapter 7, Special Donation Categories.

c. SASPs identify and request property needed by eligible donees and/or identify available Federal surplus personal property that is of potential value to eligible donees. Available personal property is screened for donation in the Personal Property Management System (PPMS) concurrent with Federal agency screening. Additional information on screening can be found in Chapter 3, Donation Program Procedures and Processes.

d. GSA allocates requested property to the SASPs on a fair and equitable basis based on several factors, including extraordinary need caused by disaster or emergency situations, specific donee requests, history of SASPs' receipts, SASP performance, and factors pertaining to the State's population and per capita income. GSA will resolve competing transfer requests between SASPs by using the allocation criteria in the [FMR § 102-37.100](#). Additional information on allocation and transfer can be found in Chapter 4, GSA Responsibilities.

e. GSA transfers property to the selected SASP using a [Standard Form \(SF\) 123, Transfer Order Surplus Personal Property](#), as the record of transfer. The SF 123 can be completed electronically via PPMS (GSA's preferred method) or manually in the form of a paper copy.

f. The SASP donates the property to the eligible donee and maintains records of the disposition of the property.

g. The SASP enforces compliance with the terms and conditions imposed on donated property.

h. GSA conducts periodic reviews of SASP operations to ensure compliance with their State Plan of Operation and all applicable laws and regulations. Additional information on SASP reviews can be found in Chapter 4, GSA Responsibilities.

5. How Much Does Participating in the Program Cost? SASPs may charge donees service and handling fees for each item of property in accordance with their State Plan of Operation. Chapter 5, SASP Responsibilities, contains additional information about

costs incurred incident to transfers of Federal surplus personal property to SASPs for distribution to eligible donees.

6. What Does the Donee Agree to When They Receive the Property? Donees agree to place the property into use within one year of receipt and continue to use the property for at least one year (depending on the commodity type and State-imposed restrictions). There may be additional requirements imposed on each item of property as referenced in FMR § [102-37](#), [102-40](#), and [102-42](#).



## CHAPTER 2. DONEE CATEGORIES

1. What is the Purpose of this Chapter? This chapter provides information on the categories of donees that are eligible to receive Federal surplus personal property in the Federal Surplus Personal Property Donation Program. The main categories of donees are public agencies, nonprofit tax-exempt educational or public health organizations, programs for older individuals, SEAs, and veterans organizations.

2. Can Public Agencies Receive Federal Surplus Personal Property? Yes. [40 U.S.C. § 549\(c\)\(3\)](#) authorizes SASPs to donate Federal surplus personal property to public agencies. Per [FMR 102-37 Appendix C](#), a public agency includes any:

- a. State or department, agency, or instrumentality thereof;
- b. Political subdivision of the State, including any unit of local government or economic development district, or any department, agency, or instrumentality thereof;
- c. Instrumentality created by compact or other agreement between a State or political subdivision;
- d. Multi-jurisdictional substate district established by or pursuant to State law; or
- e. Indian tribe, band, group, pueblo, or community located on a State reservation;

The purposes for which public agencies may receive donated Federal surplus personal property are described in Chapter 5, SASP Responsibilities.

3. Can Nonprofit Tax-exempt Institutions Receive Surplus Property? Yes. [40 U.S.C. § 549\(c\)\(3\)](#) authorizes SASPs to donate Federal surplus personal property to nonprofit tax-exempt educational or public health organizations. Per [FMR §102-37.380](#), these nonprofits include:

- a. Medical institutions, hospitals, clinics, and health centers;
- b. Drug and alcohol abuse treatment centers;
- c. Providers of assistance to homeless individuals;
- d. Providers of assistance to impoverished families and individuals;
- e. Schools, Colleges, Universities;
- f. Schools for the people with physical or intellectual disabilities;

- g. Child care centers;
- h. Radio and television stations licensed by the Federal Communications Commission (FCC) as educational radio or educational television stations;
- i. Museums attended by the public; and
- j. Libraries, serving free to all residents of a community, district, State, or Region.
- k. Historic light stations as defined under [54 U.S.C. § 305101](#)

The purposes for which nonprofit tax-exempt organizations may receive donated Federal surplus personal property are described in Chapter 5, SASP Responsibilities.

4. Can Programs for Older Individuals Receive Surplus Property? Yes, State or local government agencies, nonprofit organizations, and institutions who receive funds appropriated for older individuals under [42 U.S.C. § 3020d](#) may receive Federal surplus personal property.

5. Can Service Educational Activities (SEAs) receive surplus property? Yes. [40 U.S.C. § 549 \(d\)](#) authorizes SASPs to donate DoD surplus personal property to educational activities that are of special interest to the armed services. We refer to the donees that are of special interest to DoD as SEAs. A complete list of eligible SEAs can be obtained from GSA zonal offices. The categories of schools or organizations which can be considered SEAs include:

- a. Military schools such as military colleges, military junior colleges and military institutes;
- b. High schools that have a Junior Reserve Officers Training Corps or National Defense Cadet Corps unit;
- c. Naval honor schools;
- d. State maritime academies; and
- e. National organizations such as, but not limited to: American National Red Cross, Boy Scouts of America, Girl Scouts of the U.S.A., and Little League Baseball, Inc.

6. Can Veterans Organizations Receive Surplus Property? Yes, veterans organizations may acquire surplus personal property for purposes of providing services to veterans. The Department of Veterans Affairs (VA) provides a list of eligible organizations that are recognized under [38 U.S.C. § 5902](#). The list can be obtained from GSA zonal offices. Please note that donations to these Veterans Organizations are not limited to purposes of education or public health.

## CHAPTER 3. DONATION PROGRAM PROCEDURES AND PROCESSES

1. What is the Purpose of This Chapter? This chapter explains, in detail, the procedures and processes summarized in ch. 1 par. 4.

2. How do Prospective Donees Apply to Participate in the Donation Program? The prospective donee must apply to the SASP in the State that the donee is located and operates in for a determination of eligibility to participate in the Federal Surplus Personal Property Donation Program. The SASP specifies the application process and the forms to be completed by the donee. The SASP determines a donee's eligibility to receive Federal surplus property, but may request GSA guidance in this process. The basic criteria an applicant must meet before the SASP can qualify it for eligibility are described in [FMR § 102-37.380](#) and [.390](#). Generally, the applicant will be required by the SASP to demonstrate that:

a. Its organization and program conforms to the definition of one of the categories of eligible entities listed in [FMR § 102-37.380](#);

b. It meets any approval, accreditation, or licensing requirements for operation of its program;

c. It is a public agency or a nonprofit and tax-exempt organization under [section 501\(c\)\(3\)](#) of the Internal Revenue Code (26 U.S.C. §501(c)(3));

d. It is not debarred, suspended, or excluded from any Federal program, including procurement programs; and

e. It operates in compliance with applicable Federal nondiscrimination statutes, including Title VI of the Civil Rights Act of 1964, as amended, (Title VI); Title IX of the Education Amendments of 1972 (Title IX); Section (Sec.) 504 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended; Sec 303 of the Age Discrimination Act of 1975 (Age Discrimination Act).

3. Who Determines Eligibility?

a. Public Agencies and Nonprofits. SASPs make the eligibility determinations for public agencies and nonprofits. Public agencies must use Federal surplus personal property acquired through the SASP to carry out or to promote for the residents of a given political area one or more public purposes. Nonprofit educational or public health institutions must use the acquired surplus personal property for purposes of education or public health. SASPs also make the eligibility determinations for public agencies and nonprofits that receive Federal funding to conduct programs for older individuals. For additional information on public agencies and nonprofits, please see Chapter 2, Donee Categories and Chapter 5, SASP Responsibilities.

b. SEAs. DoD determines the eligibility of SEAs to participate in the Federal Surplus Personal Property Donation Program and receive DoD surplus personal property. SASPs determine the level at which they will support an SEA (troop, unit, local, council, or combination, etc.). The individual units of the SEA organization must certify their eligibility with the SASP. For additional information on SEAs, please see Chapter 2, Donee Categories and Chapter 5, SASP Responsibilities.

c. Public Airports. Pursuant to [49 U.S.C. § 47151-53](#), public airports may receive Federal surplus personal property through the SASP as a public agency or through the Federal Aviation Administration (FAA). For additional information on how public airports can receive Federal surplus personal property through the SASPs, please see Chapter 5, SASP Responsibilities. For additional information on how public airports can receive Federal surplus personal property through the FAA, please see Chapter 7, Special Donation Categories.

d. Small Business Administration (SBA) 8(a) Business Development (BD) Program Participants. Pursuant to [15 U.S.C. § 636\(j\)\(13\)\(F\)](#), SBA 8(a) BD program participants may receive Federal surplus personal property through the SASPs. The servicing SBA District Office will verify to the SASP in writing that the prospective recipient is an eligible 8(a) participant and that the identified use of the property is consistent with the participant's business plan objectives. This is a special donation category through separate legislative authority granted to SBA. For additional information on SBA 8(a) BD program participants, please see Chapter 7, Special Donation Categories.

#### 4. How Do SASPs Screen (Identify) Property?

a. Personal Property Management System (PPMS) Screening. A SASP may screen personal property for donation purposes in PPMS concurrently with Federal agency screening. The duration for screening is normally 21 days (14 days for furniture), but GSA at its discretion may extend or shorten the screening period in coordination with the holding agency. SASPs may select and request property for donation at any time during the screening period. The donation allocation will occur generally 1 business day after the Surplus Release Date (SRD). The SRD constitutes the point in time at which the screening period has ended and no Federal agency has requested a transfer. At the SRD, GSA then declares the property to be surplus to the Federal Government. A SASP will have 7 days from the date that GSA allocates the surplus property to that SASP to either electronically sign or submit its paperwork to the appropriate GSA office which allocated the surplus property.

b. Expedited Onsite Donation Screening. When the need to expedite a donation of Federal surplus personal property arises, a GSA zonal office may make the property available on a case-by-case basis for expedited onsite screening by potential recipients. Expedited onsite screening may be considered, for example, when the holding agency has accumulated property of the kind which would benefit from a bulk and expeditious screening as the most efficient and economical means of completing donation screening. Other examples include when the closure of a Federal facility is involved or

holding agencies are faced with serious storage concerns (shortages, lease expirations, etc.)

(1) Participation. GSA zonal offices will notify all SASPs of the expedited onsite screening. Participation in these screening sessions is limited to authorized representatives of SASPs, representatives of eligible donees designated by SASPs to attend such sessions, and public airports that are eligible to request property through the FAA under the Federal Surplus Personal Property Donation Program.

(2) Screening Schedule. The following procedures will be followed in conducting expedited onsite donation screening sessions at selected locations:

(a) The GSA zonal office will contact the Federal holding agency or activity (including the headquarters office of the holding agency, if applicable) no later than 15 days prior to the date the expedited onsite donation screening is scheduled so that all necessary arrangements can be coordinated and agreed upon. Expedited onsite donation screening should be scheduled to begin at the SRD. On occasion, concurrent screening may be scheduled with Federal, State, and donee representatives in attendance. In this case, Federal requests will take precedence.

(b) The holding agency will identify the property selected for the expedited onsite donation screening period and set it aside in a separate area to facilitate screening by the participants.

(c) A GSA representative (either an Area Property Officer (APO) or a Property Disposal Specialist) should be present during all expedited onsite donation screening periods. A SASP representative should accompany all donees.

(d) The SASP representative will prepare an [SF 123, Transfer Order Surplus Personal Property](#), for the property selected for donation no later than the end of each day during expedited onsite screening. Upon the execution of the SF 123 by the GSA representative, the holding agency is authorized to release the property to the donee. The donee must remove the surplus property promptly to the maximum extent feasible. Property will not be released until after the GSA representative executes the SF 123.

(3) Coordination Between Non-allocating and Allocating Zonal Offices. For expedited onsite donation screening periods, the non-allocating zone should allocate the Federal surplus personal property unless the allocating zone indicates otherwise.

(a) The non-allocating zonal office will advise the allocating zonal office of the date(s) and the location of the holding agency or activity at which the onsite screening is to be held 15 calendar days prior to the start of such screening.

(b) The non-allocating zonal office will advise the allocating zonal office of those SASP and donee representatives who will attend the screening sessions.

(c) Generally, if the property is not in PPMS at the time of the onsite screening then the non-allocating zonal office will be given authority to perform the allocations and enter the manually prepared SF 123 as a non-reported donation in PPMS. However, if the property being screened is in PPMS, then the allocating zonal office will do the allocations.

(d) The non-allocating or allocating zonal office will use Report Control System (RCS) reports to check whether the States located within their allocating areas are over or under relative to their entitlements. The allocating office can provide guidance and information about individual SASP's past performance in pick up and removal of property in accordance with [FMR § 102-37.100](#). This information will serve as a guide when approving transfers for donation on a fair and equitable basis and when there are competing requests for property.

5. How Does GSA Allocate Surplus Property to SASPs? GSA allocates surplus personal property among SASPs on a fair and equitable basis in accordance with [FMR §102-37.100](#), discussed further in Chapter 3, Section 6 "What are the factors for allocation?".

a. What Is the Typical Timeline for Allocation? Generally, GSA processes donation allocations to SASPs and public airports via PPMS one business day after the SRD. The procedure by which a SASP requests property, and by which GSA approves the transfer, is as follows:

(1) The SASP requests the property in PPMS.

(2) Generally one business day after the SRD, if the property is still available, the GSA Allocating Official allocates the property to the SASP via PPMS.

(3) The SASP Approving Official confirms the request in PPMS.

(4) The GSA Allocating Official requisitions the transfer in PPMS and approves the transfer order.

b. Who Makes the Allocation Decisions Within GSA?

(1) Allocation Officials (AOs) process all donation requests in PPMS. There are two zonal offices responsible for the allocation control of all surplus personal property:

(a) The Southeast Great Lakes Zone allocates surplus property for SASPs within their region, the Mid-Atlantic Zone, and the National Capital Zone.

(b) The Pacific Rim Zone allocates surplus property for SASPs within their region and for the Southwest Central Zone.

(2) Centers of expertise allocate specialized commodities as follows:

- (a) Surplus Aircraft: The Pacific Rim Zone
- (b) Civilian vessels 50 ft. and over: The Southeast Great Lakes Zone
- (c) DoD vessels 50 ft. and over: The Mid-Atlantic Zone
- (d) Animals: The Mid-Atlantic Zone
- (e) Firearms: The Southwest Central Zone

(3) Area Property Officers (APO) or Property Disposal Specialists are authorized to approve donations that are processed within a short timeframe (e.g., immediate office moves, which are normally done outside PPMS).

(4) Non-allocating zonal offices will support the allocating zonal offices by providing maximum property visibility, liaising with SASPs and their authorized screeners, and other assistance as required. Allocating and non-allocating zonal offices will maintain close and continuing communication to effectuate the purposes of the Donation Program so that all Federal surplus personal property needed and usable for donation will be transferred.

c. How Are “Need” and “Usability” Used in Allocation? Allocation of surplus personal property will be based on the need and usability expressed by the SASP requesting transfer of the property. Need is based on the ability and willingness of the SASP requesting the property to effect prompt removal of the property from the holding agency following approval of the transfer order and to make prompt distribution to eligible donees. In certain cases, however, a large quantity of property with high donation potential may become available for donation and the SASP may be required to hold such property for a longer period of time in order to effect fair and equitable distribution among the donees in the State. When large quantities of property with high usability potential become available for donation, the AO will ensure that allocations are based on a careful evaluation of the quantity and condition of the property, as well as other allocation factors. Usability is based on the ability and willingness of the donee to place the property into use within one year after receipt and use it for a minimum period of one year thereafter. When competing requests are received from several States, the AO may, particularly for items of high usability potential, request from the SASP, or the requesting donee through the SASP, such information on need and proposed utilization as may be required to effect proper allocation. AOs will give preference to requests for property to be used immediately and to be used for functional purposes over requests for transfer when the property is to be cannibalized or otherwise used for secondary purposes.

d. How Are Special Categories of Property Allocated? All AOs will familiarize themselves with the requirements of Chapter 6, Special Categories of Property, regarding the conditions imposed on the donation of property having characteristics that

require special handling or use limitations. When transferring such property, the AO will ensure that the SASP is aware of and agrees to abide by any and all special handling or use limitation as set forth on the [SF 123](#). The AO will also ensure such special handling or use limitation is brought to the attention of the donee and is set forth in the SASP distribution document, which will be binding on the donee. Occasionally, property items may become available which, in the opinion of the allocating zonal office, may require special handling requirements or use limitations. Such cases will be reviewed with Central Office prior to imposing use limitations or special handling requirements so that a national policy can be established with respect to the types of property involved. All AOs are required to carefully evaluate Federal surplus personal property available for donation that may have characteristics that necessitate imposing special handling requirements or use limitations.

6. What Are the Factors for Allocation? AOs allocate property among the SASPs on a fair and equitable basis in accordance with [FMR § 102-37.100](#) using the following factors:

FMR 102-37.100 Reference	Definition	Measurement
(a) Extraordinary Needs	Any extraordinary need caused by a disaster or emergency situation.	Disaster or emergency declaration or knowledge that a disaster-like or emergency situation exists (Presidential, Federal Emergency Management Administration (FEMA), or SASP notification of a declared State Emergency).  Note: Federally declared disasters take priority.
(b) DoD Request	DoD request for DoD property to be allocated to a specific SEA.	Written request from DoD.
(c) Need and usability of property	Specific expressions of need and interest on the part of the donee. Requests transmitted through the SASPs to GSA.	Evidence that the requested item is “donee screened.” The donee itself has initiated the request through its own screening.  Note: Requests that demonstrate the donees’s



		intent to utilize the property will take priority over requests to cannibalize the property before use.
(d) Specific and important needs	Donee-supported evidence that the property fills a specific need.	Written justification from a donee for a specific item. Explicit written requests have priority over generalized "Want Lists."
(e) Quantity of previously allocated property	Quantity of similar property under consideration previously received by a SASP.	Evaluation of data found in the State Allocation Grid.
(f) Past performance of SASP	Timely pickup or removal of property from holding agency premises. Prompt distribution of property to eligible donees.	Timely pickup: Number of cancellation and shortage reports. Number of notifications from holding agencies for failure to remove property.  Prompt distribution to donees. This is measured by a SASP's donation rate. The donation rate is measured by the amount of property distributed to donees is analyzed against the amount of property warehoused to satisfy future needs (See RCS 55-3040 Reports).
(g) Value of previously allocated property	The total value of property received by the SASP, taking into consideration the property's condition code and original acquisition cost.	RCS 41 (Over/ Under Report) and RCS 55 (3040 Reports).
(h) Relative neediness of each State	Fair and equitable distribution based on the State's population and per capita income.	RCS41 (Over/ Under Report) and the National Distribution Target Report.

a. How Does GSA Adjust the Original Acquisition Cost to Reflect Property Condition? In support of [FMR § 102-37.100\(g\)](#), the allocating office in which the property is located may revise the acquisition cost of property to effect a fair representation of the current value of the property.

(1) Acquisition cost will be adjusted based on the recorded condition code of the property as shown below: (These charges will be automatically computed in PPMS and reflected in the RCS 41 report).

Condition Code	Adjusted Acquisition Cost
N (New, formerly "1")	100%
U (Usable, formerly "4")	80%
R (Repairable, formerly "7")	60%
X (Salvageable)	10%
S (Scrap)	10%

(2) The adjusted acquisition cost for any line item will be subject to GSA review and approval (these charges will be automatically computed in PPMS and reflected in the RCS 41 report).

(3) GSA records will be adjusted for overages or shortages reported in accordance with [FMR § 102-37.70](#).

(4) SASPs can recommend adjustments when the original acquisition cost on the acquiring document is not reasonable. Any property without a written recommendation request by the SASP will not receive adjustments.

b. How Does GSA Allocate Highly Desirable Property? The allocating zones use the Allocation Grid and the National Distribution Target report to equitably distribute property in accordance with [FMR §102-37.100\(e\)](#). These reports are publicly available on GSA's website.

(1) If sufficient quantities are available to all States requesting the property, GSA will allocate a proportionate share of the total available to each State based on the National Distribution Target Report.

(2) If sufficient quantities are unavailable to allocate to all requesting States, GSA will allocate available items on a rotating basis.

c. What Do the Different Reports Cover?

(1) RCS 41 Report “Over/ Under Report.” This monthly report calculates each State’s percentage of Federal surplus personal property in relation to their established allowance.

State	Over/ Under	Property Approved for Transfer	Adjusted Allocation	State’s Total Distribution Target	% of Adjusted Allocation to Distribution Target
XX	Over (O) Under (U)	Original Acquisition Cost	Adjusted for Property Condition	What State should Receive (Goal)	Adjusted Value/ State’s Goal
Ex.	U	\$1,700,000	\$250,000	\$575,000	43.48%

(2) RCS 55 Report “GSA 3040: State Agency Monthly Donation Report of Surplus Personal Property” (3040 Report). This quarterly report uses a State’s 3040 data to calculate its “donation rate” (the percentage of property donated and transferred to other SASPs for donation versus the property received over the last four quarters).

For Example State		
	Last Quarter	Last 4 Quarters
A. Beginning Inventory	\$0	\$0
B. Property Received*	\$1,000,000	\$8,000,000
C. Property Donated*	\$750,000	\$7,650,000
D. Miscellaneous		
a. Transfers*	\$100,000	\$200,000
b. Non-Transfers*	\$100,000	\$100,000
E. Ending Inventory	\$50,000	\$50,000
F. Percent of Receipts Donated	=(Property Donated+Misc. Transfers)/ Property Received= 85%	=\$7,850,000/\$8,000,000 = 98%

\*Additional sub-categories not shown here

7. How Does the Donee Physically Receive the Property?

a. GSA transfers property to the selected SASP with an executed [SF 123, Transfer Order Surplus Personal Property](#), as the record of transfer. The SF 123 can be completed electronically via PPMS or manually.

b. The SASP donates the property to the eligible donee and maintains records of the disposition of the property. For additional information see Chapter 5, SASP Responsibilities.

c. The donee either picks up the property from the SASP warehouse, picks up directly from the federal agency location, or arranges for shipping / transportation of the personal property from the respective location.

8. How Does an Agency Recover Property for Federal Use? A GSA zonal office may transfer Federal surplus personal property approved for donation and still in the possession of a SASP to any Federal agency via the steps below.

a. The agency provides a written justification to GSA for withdrawing the property from donation.

b. The GSA zonal office lists the requested property on an SF 120, Report of Excess Personal Property, showing GSA as the holding agency and the SASP as the custodian. The GSA zonal office will describe the property fully.

c. The SASP records their reimbursable costs, such as cost of care, handling, and transportation in originally acquiring the property. (See [FMR §102-37.315](#) for the complete list of permitted reimbursable costs).

d. The GSA zonal office secures agreement of the Federal agency to pay reimbursable costs to SASP per [FMR § 102-37.315\(b\)](#).

e. The Federal agency requesting the property prepares an SF 122, Transfer Order Excess Personal Property, and submits it to the GSA zonal office for approval.

f. The GSA zonal office reviews the SF 122, and if GSA approves it, forwards the SF 122 to the SASP.

g. The Federal agency requesting the property pays the SASP's reimbursable costs.

h. The SASP coordinates the physical transfer to the requesting Federal agency.

9. How Can a SASP Request Property Be Withdrawn From Sale for Donation?

a. Per [FMR §102-37.85](#), Federal surplus personal property that has already been listed on a sales offering may be withdrawn and approved for donation.

b. The SASP requesting GSA to withdraw surplus personal property from sale must submit its request to the appropriate GSA zonal office. The SASP in its request must include a justification, such as:

(1) A statement of whether the property had been available for screening during the authorized donation screening period (*e.g.*, due to a system error).

(2) An emergency need for that property.

c. A withdrawal from sale must be made before a sales award of the property at issue.

## CHAPTER 4. GSA RESPONSIBILITIES

1. What Is the Purpose of This Chapter? The purpose of this chapter is to describe the responsibilities of GSA with respect to the Federal Surplus Personal Property Donation Program. This chapter covers the responsibilities of the zonal and allocating offices and provides information on SASP reviews.

2. What Are the Responsibilities of All Zonal Offices? All zonal offices are responsible for the Program Procedures and Processes listed here:

a. Coordinating with State and local officials on program matters, including the State Plan of Operation (SPO) and the operation of the Federal Surplus Personal Property Donation Program.

b. Conducting periodic reviews of the operations of SASPs in accordance with its SPO and [FMR § 102-37, Donation of Surplus Personal Property](#), and following up to confirm compliance by the SASP with the recommendations and requirements in the report issued by the zonal office. Please see par. 4 of this chapter for additional details on SASP reviews.

c. Assisting SASPs, as requested, on eligibility determinations.

d. Assisting and cooperating with all Federal, SASP, and donee representatives, and eligible screeners to promote the maximum utilization and expeditious release of Federal surplus personal property for donation.

e. Ensuring that holding activities are adhering to reporting requirements and are aware of the importance of providing accurate condition codes, adequate property descriptions, and photos of the property when reporting excess Federal personal property.

f. Visiting agency customers to identify large volumes of excess property with high donation potential at a holding agency.

g. Non-allocating zonal offices are responsible for recommending actions, as appropriate, for coordination with the allocating zonal office to conduct expedited onsite donation screening sessions.

h. Having a thorough knowledge of the Federal Surplus Personal Property Donation Program and all program changes, including State allocating formulas and entitlements, donation eligibility requirements, special situations and considerations, special categories of property, and nondonable property.

i. Being thoroughly familiar with personal property disposal policies, regulations, and procedures of the Department of Defense (DoD) and other Federal agencies.

j. Participating in Federal, State, and local conferences and other public meetings to explain the function of the Donation Program and to promote program goals through discussion, distribution of brochures, presentations, and other appropriate methods.

k. Educating Federal agencies and SASPs on all aspects of the Federal Surplus Personal Property Donation Program.

3. What Are the Responsibilities of Allocating Zonal Offices? In addition to par. 2 above, allocating zonal offices are responsible for the allocation of all Federal surplus personal property for donation in accordance with the guidance set forth in ch. 3 par. 6 and the requirements set forth in [FMR § 102-37.100](#).

4. How are State Agencies for Surplus Property (SASPs) Reviewed?

a. Purpose of Reviews. The purpose of the review is to evaluate the operation of the SASP's program for the donation of Federal surplus personal property for effectiveness and compliance. The review will assess the SASP's conformance with the FMR, GSA Central Office Policy Memoranda, this Handbook, and the SASP's approved SPO. The review will address the requirements of the SPO listed at [FMR § 102-37 Appendix B](#). These requirements are listed in the State Review Template, which can be obtained from GSA zonal offices.

GSA will focus on five of these elements, namely, Property Accountability and Control, Fiscal Management, Compliance, Customer Relationships and Eligibility, in all its reviews. The GSA reviewer(s) will decide which of the other elements to focus on during the review and which to rely on the SASP's self-certification statement.

b. Frequency of Reviews. GSA will conduct SASP reviews every two or four years based on the results of the most recent review. Reviews can be conducted more frequently if deemed necessary.

c. Scheduling Reviews. In coordination with the SASPs, each zonal office will coordinate with OCR to establish an internal projected review schedule each fiscal year and a copy of the schedule will be provided to the zone's Center of Expertise (COE), Central Office, and the Office of Civil Rights (OCR) as soon as it becomes available.

d. Conducting the Review.

(1) Notification to the SASP. A GSA manager or GSA lead reviewer will contact the SASP Director to establish the review date. Initially, this can be done by phone or email, but a GSA manager or the GSA review team leader should follow up with a formal letter or email sent at least 60 days in advance of the scheduled review. This

correspondence will confirm the established dates, provide other miscellaneous details, and request information from the SASP for use by the GSA reviewer(s).

(2) Notification to GSA's OCR. After the SASP confirms the review date, the GSA team leader will email the details to the appropriate COE and coordinate with OCR on conducting both the FAS and the OCR compliance reviews.

(3) Preparation for the Review. Before the visit, the GSA reviewer(s) will:

(a) Review the SASP's SPO and examine prior reviews, audits, open compliance cases, and other relevant material.

(b) Obtain a copy of the SASP's financial documents since the time of the previous review and before the previous review, as needed. If financial documents are not available, the GSA reviewer(s) should fully explain the reason for the documents not being available in the review report.

(4) Entrance Interview. The GSA reviewer(s) will meet with the SASP Director and his/her staff for introductions; discuss the purpose of the visit; provide a brief explanation of the report format; discuss areas of nonconformance from the previous review; arrange access to files, phones, fax, internet connectivity, and an undisturbed place to work; retrieve any items that were requested with the pre-review checklist, but not provided; and answer any SASP questions.

(5) Arrangement for Payment Receipts Inspection. The reviewer(s) will arrange to examine multiple payments received from donees during the period of the review. This is done to ensure that SASPs are accepting service charges only in the form of organizational checks, organizational credit cards, or other official instruments drawn or issued by an authorized official of an eligible donee. Personal checks, personal cashier checks, personal credit cards, or personal money orders are not acceptable for payment of service charges. Where eligible donees have their operational expenses paid by the parent institution or organization, checks issued by such parent institutions or organizational credit cards in payment of service charges will be acceptable. The SASP should maintain evidence that an organizational credit card was used. Such evidence includes: organization's name on a printed receipt or a copy of the credit card with organization's name (with personally identifiable information redacted).

(6) Checklist for Review. The checklist for the review is recommended for use in conducting a SASP review. SASPs may obtain the checklist from their GSA zonal office. The completed checklist should be included in the review report as a preface. The completed checklist lists review comments, requirements (those actions needed to bring the SASP into compliance with the FMR or its SPO), and recommendations (suggested actions for improving SASP operations). The GSA reviewer(s) may extend the scope of the review beyond items on the checklist and are responsible for reviewing any special or unusual matters pertaining to the SASP's operations.



(a) Operational Capabilities. The SASP's adherence to its organization's staffing description in its SPO should be reviewed. Reviewers will look to see if the SASP has adequate personnel to ensure accountability, proper warehousing and maintenance, and distribution of property. Employee training should also be evaluated to determine if employees have adequate training to perform the duties assigned to them and, if not, what provisions have been made to provide such training. This applies especially to those involved in making eligibility determinations.

(b) Property Accountability and Control. SASPs must maintain accurate records that establish the accountability of all property. GSA will review to make certain that such records are sufficiently detailed so that in the event of theft, the SASP may determine what specifically is missing. SASPs must complete periodic physical inventories and their records should provide an "audit trail" for individual items of property from receipt to distribution. The GSA reviewer(s) should review SASP ledgers and compare property receipts with property distribution statements. The GSA reviewer(s) should examine inventory records for frequency, accuracy, and methods of reconciliation. The GSA reviewer(s) should give special attention to records relating to items with an acquisition cost of \$5,000 or more, property subject to special terms and conditions, items with perpetual restrictions, and items sensitive to theft. The GSA reviewer(s) should review procedures for reporting overages and shortages and compare reports with zonal office records.

1. Receiving and Warehousing. The GSA reviewer(s) will physically inspect the SASP's distribution center facilities. If the SASP operates satellite distribution facilities, the GSA reviewer(s) should visit at least one of these facilities. Particular attention should be directed to the areas of activity listed below. Any deficiencies in these areas should be included in the review report:

a. Receiving, Storage, and Display of Property. The GSA reviewer (s) will determine if the SASP is displaying the property to permit inspection by eligible donees. They will ascertain if the warehouse is clean, orderly, and efficiently run and check if there are adequate provisions for protecting property against fire, theft, vandalism, and weather. The GSA reviewer(s) will ensure that suitable provisions have been made for hazardous and unusually valuable materials. They will also establish if Federal property is segregated from State-owned property and if procedures are in place to ensure Federal program donees receive property that aligns with their eligibility.

b. Safety Practices. The GSA reviewer(s) will ensure that the agency's facilities are free of obvious safety hazards.

2. Distribution Methods. The GSA reviewer(s) will examine the following areas of the SASP's distribution system:

a. Shipping practices, including efforts made by the SASPs to increase the number of direct pickups by donees and efforts to establish cooperative arrangements with other SASPs to pick up property.

b. Methodology of receipt of donee payments for service charges.

c. Ratio of donations to year-end inventory; e.g., the GSA reviewer(s) will examine whether inventories are too high when compared to annual donations.

d. Inventory turnover rate; e.g., the GSA reviewer(s) will check the SASP's performance in making prompt distribution of property to eligible donees.

(c) Fiscal Management. The GSA reviewer(s) will ensure that the SASP's accounting system complies with the SASP's SPO (normally a double entry accounting system is required) and all supporting activities (billings, disbursements, etc.) are conducted in an appropriate manner.

1. Service Charges. The GSA reviewer(s) will determine if service charges are being assessed in accordance with the SASP's SPO and used only for the promotion and extension of the Federal Surplus Personal Property Donation Program.

2. Financial Viability. The GSA reviewer(s) should analyze financial documents to determine if service charges are adequate to recover operating costs or if the State has to rely on State funds, reserves, or other subsidies to offset losses. The GSA reviewer(s) will check whether service charges are periodically reviewed for possible adjustments and will look at the ratio of direct-to-indirect operating expenses, if that information is available, to determine if the indirect costs that are being passed on to donees are reasonable in relation to services being provided. Also, the GSA reviewer(s) will determine if the State is incurring unnecessary costs by keeping too much property in inventory. If the State has a reserve fund, the GSA reviewer(s) will review the fund to ensure the State is not in excess (if in excess, the reviewer will ensure State is following the contingency plan outlined in its SPO to lower the fund).

(d) Compliance. The GSA reviewer(s) will determine if utilization surveys are used to check if donees are properly using and complying with the terms and conditions of the donated property. The GSA reviewer(s) will review survey frequency and the number of annual donee visits. They will also use the checklist provided by Central Office to examine and report on the results of aircraft and vessel utilization surveys. The GSA reviewer(s) will determine if there is a system in effect for monitoring compliance on items, including those with perpetual restrictions (e.g., firearms).

1. Undistributed Property. The GSA reviewer(s) will review methods used to dispose of undistributed property. The GSA reviewer(s) will determine if procedures for identifying undistributed property and offering it for transfer to other States or reporting it back to GSA are effective. They will determine what steps are being taken to minimize the acquisition of property that is not donated.

2. Return of Donated Property. The GSA reviewer(s) will examine procedures for handling the return of donated usable property when the donee has not put the donated property into use within one year of receipt or when the donee has not used the property for the entire donation restriction period.

3. Terms and Conditions. The GSA reviewer(s) will review methods used to remind donees of the terms and conditions of donation. They will review actions taken to resolve open noncompliance cases and to enforce compliance with the terms and conditions of the donation. They will also ascertain whether any amendments, modifications, or releases from conditions conform to the SPO requirements and the provisions in [FMR § 102-37.465-.475](#).

(d) Customer Relationships. The GSA reviewer(s) should make survey visits at selected donee institutions to evaluate the effectiveness of the SASP's marketing efforts and to ascertain whether donated property is being used in accordance with the terms and conditions of the donation document. The number of such visits will be contingent on the GSA reviewer's available time and a variety of factors (e.g., the activity level of the SASP, compliance requirements, eligibility files). The GSA reviewer(s) should use the State review donee visit section of the State review checklist to document findings during these visits and should supplement it as needed. They should also review SASP correspondences to examine how donee complaints are handled.

1. Fair and Equitable Distribution. The GSA reviewer(s) will evaluate how effectively the SASP ensures fair and equitable distribution of property, especially desirable items, based on the relative needs and resources of its donees. The GSA reviewer(s) will examine donee records to see if the SASP distributes more to particular donees and regions within the State, as well as the donation ratio of nonprofit organizations to public agencies.

2. Consultation with Advisory Bodies and Public and Private Groups. The GSA reviewer(s) will review the SASP's methods to obtain public input on its program. The GSA reviewer(s) will determine if a SASP advisory board has been established and, if so, when the last meeting was held. If a SASP has not established an advisory board in accordance with its SPO, reviewers should require the SASP to do so.

3. Holding Agency Relationships. The GSA reviewer(s) will check with local APOs and visit at least two holding agencies that generate a significant amount of property for the purpose of donation to determine the effectiveness of the SASP's screening. The GSA reviewer(s) should ask the holding agencies about the SASP's screening effectiveness and the timeliness of property pickups. The GSA reviewer(s) should also engage with the holding agencies to learn about their general attitudes towards the SASP. These findings should be included in the review report.

4. Program Promotion. The GSA reviewer(s) will evaluate the SASP's efforts to promote the Federal Surplus Personal Property Donation Program and the SASP's efforts to seek out potential eligible donees within a State to encourage and expand the program.

(f) Eligibility. SASPs should maintain eligibility files in a systematic manner which contains all necessary documentation. SASPs must update files periodically and annotate them to indicate when they were last reviewed. The GSA reviewer(s) should direct close attention to files maintained for nonprofit and tax-exempt organizations and institutions. The GSA reviewer(s) should evaluate a representative number of all types of donee files, with an emphasis on donees that have received property within 12 months of the review.

(g) Screening. The GSA reviewer(s) will make sure the SASP maintains complete donee screener files to include an outline of qualifications and locations where donees are authorized to screen. Also, the GSA reviewer(s) will establish if the SASPs maintain screening schedules. When a SASP is listed as an "under" State (a State at less than 86% of its entitlement) on the most recent over/under allocation report, the GSA reviewer(s) should discuss with the SASP methods to increase its effectiveness in screening, attendance at onsite screenings, the extent of donee screening, property transfers from other SASPs, and the use of property rehabilitation programs.

(h) Audits. The GSA reviewer(s) will assess the extent of internal and other audit coverage of the SASP, especially when the Single Audit Act requires them to do so. They will determine if internal audits are being performed as prescribed in their SPO and ascertain when the last external audit was made and/or the date the next is scheduled. The GSA reviewer(s) will determine if the SASP took corrective actions to resolve any outstanding deficiencies or requirements from prior audits and reviews. The GSA reviewer(s) will review the donee tracking system to verify that State and local government donees are identified and the dollar value of property donated to each sub-recipient is accurately recorded. The SASP should comply with audit requirements listed in [2 CFR 200 \(f\)](#).

(i) Cooperative Agreements. The GSA reviewer(s) will check donable property that the SASP has retained for their use in accordance with [FMR § 102-37.270](#) and [.325](#). A complete listing of such property should be on file with evidence that it has been approved by the GSA zonal office. Reviewers should determine if all property included on the listing is of a type and quantity that is reasonably needed and useful to the SASP. Also, The GSA reviewer(s) will determine if the SASP is complying with drug-free workplace requirements and the anti-lobbying certification and disclosure requirements in FMR § [102-37.210](#) et seq., [105-69](#) and [74](#), respectively. In addition, they will examine how sales proceeds are handled if/when the SASP sells undistributed Federal surplus personal property under a cooperative agreement.

(j) Records Management. The SASPs should file the SPO, cooperative agreements, SASP review and audit reports, eligibility records, and other program files

in an orderly manner and the records should be kept current. The GSA reviewer(s) should examine SASP program manuals and handbooks to make sure that they are complete, current, and accessible to SASP office staff. The GSA reviewer(s) should check the SPO files to ascertain if the plan has been updated to conform with any changes in the FMR that affect SASP operations (e.g., regulations which changed the acquisition cost criterion for SASPs to impose additional restrictions on donated property, limited fees that could be imposed on nonprofit providers of assistance to homeless individuals). The GSA reviewer(s) should determine if official records are kept in accordance with retention criteria in [FMR § 102-37 Appendix B \(p\)](#). Also, the GSA reviewer(s) should examine the efficiency of records retrieval and evaluate its effectiveness.

(k) Nondiscrimination Assurance. The responsibility for conducting civil rights compliance review lies entirely with OCR.

(l) Conclusion. The GSA reviewer(s) will report if the SASP has taken corrective action on all findings from previous State reviews. Additionally, the GSA reviewer(s) will reexamine the findings and determine when the next State review will take place.

(8) Exit Interview. When the review has been completed, the GSA review team leader should arrange a meeting with the SASP director to discuss any findings, requirements, and recommendations. If possible, the GSA review team leader should assemble a draft report that can be provided to the SASP director during the exit interview.

e. The Review Report.

(1) Content. The final report on the review of operations should be in letter form following the outline of the summary review checklist. The report should cover the GSA reviewers' findings and outline both requirements and recommendations for improved SASP performance. Any deficiencies that require extensive explanation and correction will be stated in the body of the report with the indication that more complete information will be forwarded by attachment or under separate cover. If zonal or Central Office assistance is required, it should be indicated on the report. Supporting data may be included with the report as exhibits. The report should be critical, fair, and objective, avoiding the use of general laudatory or critical phrases to describe SASP operations. It should also include an invitation for the SASP to comment within a reasonable and realistic timeframe.

(2) Distribution. All reports must be approved and signed by the lead GSA reviewer, the zonal office's Director, and the Central Office's Director of Utilization and Donation before being distributed to those parties listed below. Ensure a complete copy of the review report with all attachments is submitted to the following:

(a) SASP Director.

- (b) Respective Center of Expertise.
- (c) Central Office.
- (d) Zonal Office.

(3) Time of Submission. The GSA lead reviewer should finalize and distribute the review report to GSA Central Office and the SASP no later than 30-45 days after completion of the actual SASP review.

f. Review Requirements Follow-up. The SASP has 30 days from the date GSA issues the final review report to respond with a corrective action plan addressing any deficient requirements. The SASP must provide periodic updates to the zonal office until each requirement has been addressed to GSA's satisfaction. The zonal office should review all requirements to determine if the SASP has taken the corrective actions. While it is appropriate for the report to cite all instances of noncompliance with the SPO and recommend corrective action, enforcement of those actions by initiating a compliance case should be limited to instances of noncompliance with those specific SPO provisions which are required by Federal and State law or regulation. The GSA reviewer(s) should keep GSA's Central Office advised of the progress made in correcting noncompliance or violations noted in the report and should notify GSA Central Office when the SASP has completed its corrective actions. If a SASP is unwilling or is unreasonably delayed in addressing the corrective actions, the GSA reviewer(s) should consult with Central Office to determine what alternative actions may be taken.

g. Informal SASP Visits.

(1) Zonal office personnel, including Property Disposal Specialists and APOs, should attempt to visit SASPs when in official travel status in the vicinity of a SASP in accordance with their travel orders.

(2) The purpose of such visits is to discuss general areas of mutual interest or concern and to provide any assistance the SASP may require. During such visits, GSA personnel may inquire as to the SASP's relationships with holding agencies; condition of property being received from holding activities (e.g., erroneous condition coding, damage in shipment, overages and shortages, receipt of property not requested for donation); requirements for sale of property; compliance problems; delays of shipment of property; distribution of property to donees; and any other areas of discussion the SASP may propose.

(3) When informal visits are undertaken, advance notice to the SASP should be made by telephone or email, if possible. Upon arrival, the SASP Director should be immediately contacted.

(4) Central Office should be advised of any major items of interest resulting from such visits.

h. Unscheduled Reviews. The zonal office may conduct an unscheduled review if it sees fit to do so. In such cases, the zonal office may give prior notice to the SASP Director of the intent to conduct a review and the reason why the review is to be made. The zonal office should advise the COE of the anticipated dates for the review and the reason(s) for the review.

5. How Does GSA Handle SASP Nonconformance? The SASP must operate in accordance with its SPO and the requirements of [FMR § 102-37](#). In the event that GSA determines the SASP is not operating in conformance with these requirements, either through information obtained from a SASP audit or program review, or from other sources, the GSA zonal office will immediately initiate appropriate action(s) to correct such nonconformance by working with the SASP or, if necessary, with the State agency/department or State officials who supervise the SASP. The GSA zonal office should keep Central Office advised of the status of any case involving SASP nonconformance. In the event the GSA zonal office concludes that it has exhausted all avenues to correct nonconformance in an expeditious manner, the Regional Administrator (RA) for that GSA zonal office should make a recommendation to the Commissioner of the Federal Acquisition Service (FAS) for temporary deferment of allocation and transfer of Federal surplus personal property to the State until the nonconformance is corrected. The recommendation for temporary deferment must be fully documented by the GSA zonal office. The GSA zonal office should advise the State in writing of its recommendation to Central Office that allocation and transfer be temporarily deferred at the time such recommendation is made. When a determination of temporary deferment is made, the chief executive officer (CEO) of the State will be advised in writing by the Administrator of GSA of the temporary deferment and the reasons for the deferment. When the GSA zonal office is satisfied that the SASP has adequately addressed its nonconformance and that the SASP is operating in accordance with its SPO and the applicable regulations and laws, the RA will promptly recommend to the FAS Commissioner that the SASP be reinstated for donation program participation. The Administrator or the Administrator's designee will notify the CEO of the State in writing when GSA has restored the SASP's full program participation.

6. How Does GSA Review SASP Reports? Each SASP will electronically submit in PPMS a quarterly 3040 report. GSA zonal offices will review and evaluate the donation data on a quarterly basis with respect to the SASP's performance in effecting fair and equitable distribution. Upon certification by the SASP that the 3040 report is complete, the GSA zonal office will review and approve or follow up with the SASP if accuracy issues are suspected.

## CHAPTER 5. STATE AGENCY FOR SURPLUS PROPERTY RESPONSIBILITIES

1. What Is the Purpose of This Chapter? The purpose of this chapter is to describe the responsibilities of the State Agencies for Surplus Property (SASPs) in the Federal Surplus Personal Property Donation Program. The topics discussed in this chapter include the State Plan of Operation (SPO); screening and requesting property; custody, care, and safekeeping property; eligibility; distribution of property; service and handling charges; disposing of undistributed property; audits and reviews; records and reports; and liquidating a SASP.

2. What Is a State Plan of Operation (SPO)?

a. Prior to the allocation and transfer of Federal surplus personal property to a SASP in accordance with the provisions of this chapter, a State must have developed a detailed plan of operation (*i.e.*, State Plan of Operation (SPO)), including adequate assurances that the SASP has the necessary organizational and operational authority and capability to carry out the plan.

b. The SPO must conform to the provisions of [40 U.S.C. §549\(e\)](#) and contain the specific information and assurances required by [FMR § 102-37 Appendix B](#). The CEO of the State must certify the SPO and submit it to the GSA Administrator for approval.

c. An SPO developed by the State legislature and certified by the CEO of the State is in effect and binding upon the State beginning on the date the Administrator notifies the CEO of the State that the plan is approved and that allocation and transfer of donable Federal surplus personal property may begin. The SPO remains in effect until such time as the State withdraws its SPO and the Administrator approves the withdrawal.

d. Amendments to an approved SPO may be made by submitting the amendment to GSA for approval. If the proposed amendment is a major amendment, the amendment must first be published for public comment per [FMR § 102-37.165](#), and interested persons must be given at least 30 days to submit comments. The amendment may be submitted to Central Office for approval no earlier than 60 days after general notice has been published. Requests by a SASP to a GSA zonal office to amend or modify a SPO should be referred to Central Office.

3. How Do SASPs Screen and Request Property? This section describes processes, procedures and requirements for searching for property (called screening), requesting property for donation, and justifying special transfer requests. SASPs may screen property for the SASP's own use in the Federal Surplus Personal Property Donation Program, for use by donees on the basis of the SASP's knowledge and understanding of the general needs of its recipients, or in response to specific requests from donees.



There are two ways for SASPs to screen and request property: (1) on-site or (2) in the Personal Property Management System (PPMS).

a. On-site Screening. SASP representatives physically screen property at the holding agency's site for potentially useful property. This method is used often at DoD installations. The screener will note items that are available for transfer and will advise the property custodian of the SASP's interest. The screener then requests the property in PPMS. In order to perform onsite screening, the SASP representative must ascertain the identification, physical access, and scheduling requirements of the holding agency and coordinate the visit with holding agency's property officials.

b. Screening in PPMS. PPMS users screen available property by utilizing the website's search functions to locate property that meets the SASP's requirements and places selected items in the PPMS shopping cart. The search functions can also be used to locate the records of property selected during on-site screening, and these items are also placed in the shopping cart. The requests are recorded in PPMS upon check out by the user.

c. Justifying Special Transfer Requests.

(1) For certain types of Federal surplus personal property, a SASP must obtain written justification from the intended donee prior to allocation. The SASP must obtain the written justification and submit it to GSA along with the transfer request. Per [FMR § 102-37.220](#), the following types of property require written justification prior to allocation:

(a) Aircraft and vessels covered by [FMR §102-37.455](#).

(b) Items requested specifically for cannibalization.

(c) Foreign gifts and decorations ([FMR § 102-42](#)).

(d) Items containing 50 parts per million or greater of polychlorinated biphenyl ([FMR § 102-40.220](#)).

(e) Firearms ([FMR § 102-40.175](#) stipulates that donated firearms must be released or shipped directly from the Federal holding agency to the designated donee (please see the firearms section in ch. 6 for more details).

(f) Any item on which written justification will assist GSA in making allocation to States with the greatest need.

(2) For additional information concerning donation procedures for special categories of surplus property, please see Chapter 6, Special Categories of Property.

d. Certifications and Agreements Required to Obtain Property.

(1) SASP. Each time a SASP makes a request to GSA for the transfer of donable Federal surplus personal property for donation to eligible donees in that State, the SASP Director (or the SASP Director's authorized delegate) will certify and agree to the terms, conditions, and assurances required by GSA in accordance with the provisions of [FMR §102-37.200](#) and [102-37.205](#). The terms and conditions are set forth on the reverse of the [SF 123](#), Transfer Order Surplus Personal Property. The State agent or the State agent's authorized delegate certifies and agrees to these terms when signing in block 13b of the SF 123, including the required Nondiscrimination Assurance Statement under [Title VI of the Civil Rights Act of 1964](#), section 122 of title 40 (40 U.S.C. §122), [section 504 of the Rehabilitation Act of 1973](#), as amended, [Title IX of the Education Amendments of 1972](#), as amended, and [section 303 of the Age Discrimination Act of 1975](#). SASPs are required to display posters indicating that they are operating programs subject to the nondiscrimination requirements of [Title VI of the Civil Rights Act of 1964](#) and [Section 504 of the Rehabilitation Act of 1973](#). The posters must be displayed prominently and in reasonable numbers and places. SASPs must ensure meaningful access to their programs for limited English proficient (LEP) individuals and the posters must be available in alternative languages, consistent with the requirements of Executive Order 13166, Improving Access to services for Persons with Limited English Proficiency (EO 13166). Copies of the poster may be obtained by emailing [civilrights@gsa.gov](mailto:civilrights@gsa.gov) or mailing your request to:

Office of Civil Rights  
General Services Administration  
1800 F Street NW  
Room 1153  
Washington, D.C. 20405

(2) Donee. Each time a donee makes a request to a SASP for donation of property, the donee will agree that they will comply with the laws specified in subpar. d(1) above. The nondiscrimination assurance required of an SEA, a public airport, or a SASP is on the reverse side of the [SF 123](#). As a prerequisite of donation of Federal surplus personal property by a SASP, each donee applicant is required to execute the nondiscrimination assurance prior to the receipt of any donable property. The SASP is required to retain permanently the nondiscrimination assurance in the donee's eligibility file. Donees are required to display posters indicating that they are operating programs subject to the nondiscrimination requirements of [Title VI of the Civil Rights Act of 1964](#), [Section 504 of the Rehabilitation Act of 1973](#), [Title IX of the Education Amendments of 1972](#), as amended, and [section 303 of the Age Discrimination Act of 1975](#). Donees must ensure meaningful access to their programs for LEP individuals and the posters must be available in alternative languages, consistent with EO 13166. The posters must be displayed prominently and in reasonable numbers and places. Copies of the poster may be obtained by emailing [civilrights@gsa.gov](mailto:civilrights@gsa.gov) or mailing your request to:

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#### 4. What Are SASPs Responsible For?

SASPs are responsible for custody, care, and safekeeping of the surplus personal property prior to receipt by a donee.

##### a. Overages and Shortages.

(1) When a SASP finds that Federal surplus personal property received from a holding agency was not listed on an approved [SF 123](#), or the quantities exceeded the amount approved by GSA on the SF 123 and the estimated fair market value or acquisition cost of the line items involved is less than \$500, it must annotate its receipts and inventory records to document the overage. The annotation must include a description of the property, its estimated condition, the estimated fair market value (or acquisition cost, if known), and the name of the holding agency from which the SASP received the property. However, when the estimated fair market value or acquisition cost of the line items is \$500 or more, the property must be listed on an SF 123 and the SF 123 must be sent to the GSA zonal office for approval per [FMR § 102-37.70](#).

(2) Per [FMR § 102-37.70](#), overages and shortages must be reported, where required, within 30 calendar days of the date of transfer. The shortage report, or the SF 123 in the case of overages of \$500 or more, must be signed by a responsible SASP representative and must provide the following information:

(a) Name and address of the holding agency.

(b) All pertinent control numbers including the holding agency turn-in document number, the GSA control number if property was reported to GSA, and the SASP or donee transfer order number.

(c) A description of each line item of property, whether it is an overage or shortage, the condition code (estimated if an overage), the quantity and unit of issue, and the unit and total acquisition cost (estimated if an overage).

(3) When it appears that a holding agency is causing an excessive number of shortages or overages, particularly overages above \$500 per line item, the GSA zonal office should consult with the holding agency about the reasons for the discrepancies. If the situation continues and cannot be resolved effectively at the zonal level, the GSA zonal office should fully document the situation and forward it to Central Office for appropriate action. The allocating zonal office should be kept advised of all corrective actions taken by Central Office to resolve the issue.

##### b. Property in the Possession of a SASP.

(1) Status of Title. Title for Federal surplus personal property only passes to the SASP if the SASP retains and uses the property for the purpose of performing its functions (see [FMR § 102-37.270](#) for more information on a SASP retaining property for its own use). A SASP does not obtain title for property the SASP receives as an intermediary prior to distribution to an eligible donee, but the SASP maintains accountability of the property until donation.

(2) Protection. During the time title remains in the United States Government, the SASP is responsible as a bailee for the Federal surplus personal property it receives from the time it is released to the SASP or to the transportation agent designated by the SASP per [FMR §102-37.205 \(c\)\(2\)](#) and the SF 123. In the event of any loss or damage to any or all of the property, the SASP will promptly notify the GSA zonal office and file an insurance claim (if insured; see [FMR §102-37.255](#)) and/or institute and prosecute to conclusion the proceedings that are necessary to recover, for the account of the United States Government, the fair value of any property lost or damaged, less the cost of care and handling incurred by the SASP in acquiring the property. The SASP will maintain adequate provision for protecting property in its custody including protection against the hazards of fire, theft, vandalism, and weather. The SASP will promptly notify appropriate Federal officials, including the FBI, the GSA Office of Inspector General (OIG) and the GSA zonal office of any damage to or loss of property in its custody due to theft, vandalism, arson, or other unusual circumstances, and will provide full information concerning the circumstances. The SASP will advise the GSA zonal office of any other types of damage to or loss of property that is in the possession of the SASP.

(3) Insurance. It is GSA's policy not to require a SASP to carry insurance as a condition for acquiring Federal surplus personal property for distribution to eligible recipients. However, where a SASP carries insurance against damages to or loss of property due to fire or other hazards and where loss of or damage to Federal surplus personal property occurs, GSA, on behalf of the United States Government, will be entitled to reimbursement from the SASP of the fair value of the damaged or destroyed Federal surplus personal property payable from the insurance proceeds, less the SASP's actual cost of acquiring and rehabilitating the Federal surplus personal property prior to its damage or destruction.

(4) Distribution. Federal surplus personal property in the custody or possession of a SASP will be distributed promptly to eligible donees within the State.

(5) Direct Shipment. In order to reduce inventory, warehousing, and transportation costs, and ensure prompt utilization of donable Federal surplus personal property, the SASP will, insofar as practicable, if requested by the designated donee, arrange or provide for shipment of the property from the holding agency directly to the recipient. Whether or not the donee pays for the shipment (as incorporated into the service charge fee) depends on the SASP and their SPO.

(6) Transfer Between States. When a SASP determines that Federal surplus

personal property in its possession cannot be utilized by eligible recipients within the State, it will offer the property for transfer to SASPs in other States. GSA encourages prompt transfer of property between the States. A SASP may arrange for visits to its distribution facilities by representatives of other SASPs to inspect and select undistributed property available for transfer. GSA zonal offices, upon request, will assist in making known to other States undistributed property in one State that is available for transfer and may assist in arranging and coordinating visits between SASPs. Transfers of property between States will be accomplished by processing an SF 123, submitted by the requesting State, through the GSA zonal office for the State relinquishing the property. Transfers between SASPs are subject to the allocation adjustments specified in Chapter 3, Section 6. The GSA zonal office at its discretion may reject the transfers of undistributed surplus property between SASPs within 30 calendar days after notice to the GSA zonal office.

(7) Reporting undistributed property. Per [FMR § 102-37.290](#), a SASP should promptly report undistributed property in its possession which is not required for transfer to another State to the GSA zonal office for redistribution or disposal. Normally, any property not donated within a one-year period should be processed in this manner. Per [FMR § 102-37.300](#), in reporting property to GSA, the SASP must:

(a) Provide the best possible description of each line item of property, its current condition code, quantity, unit and total acquisition cost, SASP document number, demilitarization code, and any special handling conditions.

(b) Identify the date of receipt by the SASP of each line item of property listed.

(c) Indicate if the SASP is requesting reimbursement pursuant to [FMR § 102-37.315](#).

(8) Reutilization. Based on the information provided by the SASP, the GSA zonal office may offer available property at a SASP for use by Federal agencies. Transfer orders submitted by Federal agencies for property that have been approved by the GSA zonal office will be forwarded to the SASP to release the property to the transferee Federal agency.

(9) Sale of Nondonated or Undistributed Federal Property.

(a) GSA Sales. Sale of undistributed property in the possession of a SASP must be initiated by the GSA zonal office after receiving a report from the SASP. The GSA zonal office must inform the SASP of the items to be sold and work closely with the SASP in preparing and completing the sale promptly. Property available for sale may be turned in by a SASP to a GSA Personal Property Sales Division with the approval of the GSA zonal office that operates the sales center.

(b) SASP Sales. SASPs that enter into a cooperative agreement with GSA

to sell undistributed Federal surplus personal property in their possession may request approval to conduct a public sale when reporting the property to GSA. While cooperative agreements between SASPs and GSA are entered into for extended periods, a SASP must notify its supporting GSA zonal office each time it proposes to conduct a public sale. Requests to sell Federal surplus personal property under the agreement should include the proposed sale date, location of sale, method of sale, and proposed advertising to be used. The GSA zonal sales office will decide whether or not the SASP should be given authority to conduct the sale. If a request is approved, the GSA zonal sales office will provide the necessary forms and instructions for the SASP to use in conducting the public sale.

(10) Reimbursement. Pursuant to [FMR §102-37.315](#), the GSA zonal office will approve reimbursement for costs of care and handling to a SASP with respect to the transfer or disposal of donable property in its possession as follows:

(a) When a SASP acquires donable property by transfer from another SASP, reimbursement of costs incurred (including packing, handling, and transportation costs) by the releasing SASP will be established by mutual agreement between the two SASPs.

(b) When a Federal agency requests property from a SASP, costs incurred (including packing, handling, and transportation costs) by the releasing SASP will be reimbursable at the time the property is transferred to the Federal agency. The [SF 122](#) used in effecting the transfer will show the amount of reimbursement claimed by the releasing SASP.

(c) When disposing of undistributed property in the possession of a SASP by public sale, the GSA zonal office may authorize reimbursement to the SASP for expenses related to care and handling incurred in acquiring the property. The SASP must certify the costs incurred and support them by documentation if requested by the GSA zonal office. Reimbursement must not exceed the proceeds from the sale of the property.

(d) SASPs may not receive reimbursement for:

1. Actions following their receipt of the property from any source, including: unloading, moving, repairing, preserving, or storing.

2. Property acquired from any source that has been in the possession of the SASP for two years or more from the date the SASP received the property until the date it was reported to GSA for disposal.

3. Costs of transporting property to a location outside a SASP distribution facility unless GSA specifically requested the transportation. The sale of property at a location outside the State distribution facility does not preclude authorized reimbursement to the SASP.

(e) Reimbursement is limited to:

1. Direct costs incurred by the Federal holding agency and billed to and paid by the SASP, including but not limited to packing, preparation for shipment, and loading.

2. Transportation costs paid or otherwise incurred by the SASP and not reimbursed by a donee to the SASP for initially moving the property from the Federal holding agency to the SASP distribution facility or other point of receipt designated by the SASP.

(11) 50/50 Split Reimbursement Method. For reimbursements authorized under (10)(e) above, SASPs will be reimbursed at the rate of 50 percent of the proceeds to the SASP and 50 percent of the proceeds to GSA to cover its costs (per the June 7, 1994 memo, available from GSA zonal offices).

(12) Abandonment or Destruction. When a SASP has nondonable Federal surplus personal property that qualifies for abandonment or destruction as provided in (a) below, the SASP may proceed with abandonment or destruction per [FMR §102-37.320](#), using the following procedures. Property abandoned or destroyed must be properly documented and meet all audit trail requirements.

(a) Decision to Abandon or Destroy. The SASP may propose to abandon or destroy property if:

1. The property has no commercial value either as an item or as scrap  
or

2. The estimated cost of care, handling, and preparing the property for sale would be greater than the expected sales proceeds (estimated fair market value).

(b) Notification to GSA. The SASP must prepare a written finding justifying the proposed action. The written finding must include:

1. The basis for the abandonment or destruction, along with any pertinent supporting documentation.

2. A detailed description of the property, its condition, and total acquisition cost.

3. A statement describing the proposed method of destruction (burning, burying, etc.) or the abandonment location.

4. A statement 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.

6. The SASP must send the abandonment or destruction determination to the appropriate GSA zonal office for approval. Any disapproval of abandonment or destruction by a GSA zonal office will include alternate disposition instructions. If the GSA zonal office does not reply to the SASP within 30 calendar days of notification, the property can be abandoned or destroyed.

## 5. How do SASPs Determine Eligibility?

a. Purpose. This paragraph provides information, guidelines, and standards for the determination of eligibility for public agencies and nonprofit, tax-exempt activities in each State to participate in the Federal Surplus Personal Property Donation Program, and receive Federal surplus personal property to use for authorized purposes.

b. Determinations. The SASP will determine the eligibility of applicants for donation of Federal surplus personal property in accordance with the procedures set forth in its SPO, the standards and guidelines set forth in this chapter, and in Appendix B of this Handbook (Synopsis of Eligibility Determinations). The SASP may request guidance from GSA, but the SASP must make the final eligibility determination and communicate it to the donee.

c. Definitions. Definitions relating to the eligibility of organizations for participation in the Federal Surplus Personal Property Donation Program are in Appendix A of this Handbook.

### d. Categories of Eligible Organizations, Programs, and Purposes.

(1) Public Agencies. Federal surplus personal property may be donated through the SASP to any public agency in the State.

(a) A public agency includes any:

1. State or department, agency, or instrumentality thereof.

2. Political subdivision of the State, including any unit of local government or economic development district, or any department, agency, or instrumentality thereof.

3. Instrumentality created by compact or other agreement between a State or political subdivision.

4. Multi-jurisdictional substate district established by or pursuant to



State law.

5. Indian tribe, band, group, pueblo, or community located on a State reservation.

6. Quasi-public agency offering public services supported in whole or in part with public funds.

(b) Public Purpose. Per [FMR § 102-37.435](#), Federal surplus personal property acquired through the SASP must be used by the public agency to carry out or to promote one or more public purposes for the people it serves. While [40 U.S.C. § 549](#) lists certain specific public purposes such as conservation, economic development, education, parks and recreation, public health, and public safety, this list is not exclusive and is not intended to preclude the acquisition of donable Federal surplus personal property by a public agency for other public purposes. In effecting fair and equitable distribution of property, based on the relative needs and resources of interested public agencies and other authorized donees and their ability to use the property, it is intended that the SASP give full and fair consideration to the requirements of public agencies for property necessary and usable for conservation, economic development, education, parks and recreation, public health and public safety, and other public purposes. Activities and functions involved in designated public programs may include, but are not limited to, the following:

1. Conservation. 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.

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

3. Education. Public schools, colleges, and universities are directly involved in the educational process. Schools for students with intellectual or physical disabilities, as well as vocational and trade schools and educational radio and television stations, are among the educational institutions that directly contribute to the educational development of a district, town, city, county, or other governmental jurisdiction. Child care centers not only provide educational benefits but also may promote economic development. Central administrative and service facilities of public school systems are equally necessary to successfully carry out and improve public

education. Public libraries and museums also provide an essential educational service to a community.

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

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

6. Public Safety. Public safety includes not only law enforcement activities, but agencies and courts within the criminal justice system. Equally essential to public safety are State and local civil defense agencies and local fire departments and rescue squads. Volunteer fire departments and rescue squads must be supported in whole or in part with public funds. Evidence of any public funding received must be provided with the application. The availability of fire and rescue equipment at public airports is another illustration of an equally vital public safety requirement.

7. Assistance to the Homeless. Public agencies providing assistance to the homeless may acquire property for any type of homeless assistance.

(2) Nonprofit Tax-exempt Institutions for the Purposes of Public Health and Education. Federal surplus personal property may be donated through the SASP to eligible nonprofit, tax-exempt institutions within the State (see this handbook's Appendix A "Glossary of Terms" for definitions of individual nonprofits named below). In order to qualify as an eligible donee, a nonprofit institution or organization must be tax-exempt under the provisions of [26 U.S.C. § 501\(c\)\(3\), et.seq.](#)

(a) Eligible nonprofits for the purposes of public health and education may include:

1. Medical institutions, hospitals, clinics, and health centers.
2. Drug and alcohol abuse treatment centers.
3. Providers of assistance to homeless individuals.
4. Providers of assistance to impoverished families and individuals.
5. Schools, colleges, and universities.
6. Schools for students with intellectual or physical disabilities.
7. Child care centers.
8. Radio and television stations licensed by FCC as educational radio or educational television stations.
9. Museums attended by the public.
10. Free libraries serving all residents of a community, district, State, or Region.

(b) Educational and Public Health Purposes. Federal surplus personal property acquired through the SASP must be used by a nonprofit educational or public health institution or organization for purposes of education or public health, including research for any such purpose, as defined in Appendix A of this Handbook. The property must be used essentially for the primary educational or public health function for which the activity receives donable property and not for unrelated or commercial purposes. The listing of institutions and organizations in (a) above, is descriptive and not exclusive and is not intended to preclude determinations by the SASP of eligibility for other nonprofit educational and public health activities. These activities may also include, but are not limited to:

1. Geriatric centers that are public health institutions and that furnish public health and medical services to the aged.

2. Nursing homes that are public health institutions providing skilled nursing care and related medical services to individuals admitted because of illness, disease, or physical or mental infirmity. A nursing home may be considered as a qualified public health institution if it is one of the following:

a. A nursing home operated in connection with a hospital.

b. A facility for long-term care of convalescents, chronic disease patients, or other persons who require skilled nursing care and related medical services

in which the nursing care and medical services are prescribed by or are performed under the general direction of persons licensed to practice medicine or surgery in the State.

c. A nursing home certified to provide health services to Medicaid or Medicare patients under the provisions of the Social Security Act. Nursing homes that do not meet these requirements or whose primary purpose is domiciliary care will not be considered as qualifying as public health institutions.

3. Alcoholic and drug abuse treatment centers that are clinics or medical institutions and that provide for the diagnosis, treatment, and rehabilitation of alcoholics and drug addicts may qualify as eligible donees. These centers should have available professional medical staff on a regular visiting basis.

4. Education programs with training conducted by the applicant organization may qualify if all requirements are met. Approval, accreditation, or licensing for all educational programs is deemed necessary for donee eligibility when required by State law.

a. Apprenticeship programs and vocational-technical schools must conform to State and Federal standards for that trade or industry. The school must have a staff of qualified instructors and be a full-time program for an established school year as required for that type of training. Proof of approval, accreditation, or licensing for all educational programs is deemed necessary when required by State law. The applicant must be advised that eligibility will be for only the “in-house” apprenticeship/vocational-technical instruction and training program(s), and may not be used for on-the-job training, or by the union, or for any other purpose.

b. Home schools are not considered educational institutions for purposes of the Federal Surplus Personal Property Donation Program and are not eligible.

c. Sheltered workshops operating as a school for students with physical or intellectual disabilities that primarily provides specialized instruction to students of limited intellectual or physical capacity may be considered for eligibility. They must operate on a full-time basis for the equivalent of a minimum school year as required for public school instruction for the intellectually or physically disabled. They must have a staff of qualified instructors and demonstrate that the facility meets the health and safety standards of the State or local government. They may qualify with approval by the Commission on Accreditation of Rehabilitation Facilities (CARF). They may also qualify as a quasi-public agency if they are created by State statute, receive public funding, or have a State Department of Education Certificate of Authority. Sheltered workshops that are operated primarily to provide sheltered employment for the physically or intellectually disabled and do not provide training cannot be considered for even partial eligibility.

5. Museums may qualify in the category of education if they meet the definition in Appendix A of this Handbook, satisfy all requirements, including having a full-time professional staff; being open to the public at a minimum accedes to any and all requests submitted for access during business hours. Business hours are interpreted to be approximately 9 a.m. to 4 p.m., with some reasonable variation from these hours to be considered on a case-by-case basis. An institution will be considered to have professional staff if it employs at least one qualified professional staff member full time, whether paid or unpaid, who devotes his or her time primarily to the acquisition, care, or public exhibition of objects owned or used by the museum. A qualified professional is one who, by virtue of education, training, or experience is capable of making museological decisions consistent with the experience of his or her peers. The standard of a 40-hour week should be used in determining whether he or she meets the criteria of being full time. The work hours of two or more staff members may be aggregated to meet the 40-hour standard.

6. Disaster relief organizations do not meet the requirements for nonprofit educational or health organizations. They also do not generally qualify as a provider of assistance to the homeless or impoverished as defined in [FMR Part 102-37](#). Assistance provided during times of disaster is not considered to be a distinct program for the homeless because such organizations provide food or shelter on a regular basis. A program providing services or goods to the impoverished must be the primary function of the organization to be considered for eligibility. Disaster assistance is for all persons regardless of income levels or financial circumstances. Those persons may be temporarily homeless as a result of the disaster but may not permanently be homeless or impoverished.

7. Nonprofit providers of assistance to the homeless must provide food, shelter, or other health or educational services to the homeless to be eligible to participate in the Federal Surplus Personal Property Donation Program. The qualifying program must be distinct, e.g., delivery of food on a regular basis to soup kitchens, shelters, or other facilities where homeless individuals are fed. Property donated must be used primarily in that program for homeless individuals.

8. Providers of assistance 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](#)). These 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.

9. Historic Light Station as defined in [54 U.S.C. § 305101](#), includes: “the light tower, lighthouse, keeper’s dwelling, garages, storage sheds, oil house, fog signal building, boat house, barn, pumphouse, tramhouse support structures, piers,

walkways, underlying and appurtenant land and related real property and improvements associated with a historic light station that is a historic property.”

(3) Programs for Older Individuals. State or local government agencies that receive funds appropriated for older individuals under [42 U.S.C. § 3020d](#) are eligible to receive surplus personal property through donation. Programs for older individuals include services that are necessary for the general welfare of older individuals, such as social services, transportation services, nutrition services, legal services, and multipurpose senior centers.

(4) Service Educational Activities (SEAs). SEAs are national organizations which are of special interest to the armed services as authorized by [40 U.S.C. § 549 \(d\)\(1\)](#) and are eligible to receive donations of Federal surplus personal property through SASPs. Only surplus DoD personal property may be donated to SEAs that DoD finds eligible. Surplus personal property generated by Federal civilian agencies is not eligible for donation to SEAs.

(a) Description. DoD through the Defense Logistics Agency (DLA) and the Military Services will determine eligibility. An SEA applying to the SASP for participation in the Federal Surplus Personal Property Donation Program will verify that it is a service-approved SEA using the letter or other official documents that a Service issued to indicate the activity’s approval/acceptance as an SEA. An Internal Revenue Code 501 determination is not required for SEA eligibility.

(b) Purpose.

1. An agreement executed by DoD and the SEA describes the conditions under which DoD surplus personal property may be donated and lists the categories of property determined by the Secretary of Defense as usable and necessary for each SEA. SEA National Organizations are not limited to specific commodities but can obtain any DoD personal property authorized for donation, subject to GSA allocation and SASP approval.

2. The SASP will maintain SEA eligibility files separate from other donee files for ease of review. The files will have a copy of the official service determination or appropriate documentation recognizing the activity as a member of a national recognized organization. Such documentation could include a copy of the activity’s charter or certification identifying the activity as a recognized entity of a national organization or the official service approval documentation, whichever is applicable.

(5) Veterans Organizations. Veterans organizations may acquire property for purposes of providing services to veterans. These “programs” are not required to be approved, accredited, or licensed as is required for educational and public health “institutions.” The VA provides a list of eligible organizations that are recognized under [38 U.S.C. § 5902](#).

e. Application for Eligibility. Each SASP maintains a record for each eligible donee. This record includes the following:

- (1) The legal name and address of the applicant.
- (2) The category of donee under which the applicant is seeking eligibility (e.g., public agency, nonprofit-tax-exempt organization, SEA).
- (3) Details on the scope of the donee's program.
- (4) Evidence that the applicant is approved, accredited, or licensed when it is a requirement of one or more of the applicant's programs.
- (5) For nonprofit, tax exempt applicants that conduct programs for older individuals, certification that the applicant is receiving funds appropriated for programs for older individuals under [42 U.S.C. § 3020d](#). The certification must state the expiration date of the certification, as eligibility will be limited to the period covered by the certification.
- (6) A written authorization signed by the Chief Administrative Services Officer or executive head of the donee activity designating one or more representatives to act for the applicant acquiring donable property from the SASP and to execute the SASP distribution document.
- (7) Certification that the applicant is not debarred, suspended, or excluded from any Federal program including procurement programs, as required in [FMR §102-37.390 \(d\)](#).
- (8) Assurance that the applicant will comply with applicable Federal nondiscrimination statutes and regulations, as required in [FMR §102-37.390 \(e\)](#) and [FMR § 102-37 Appendix B](#).
- (9) A statement of the types of property needed for use in the applicant's program. The SASP may also request such financial information as may be needed to evaluate the relative financial needs and resources of the applicant.

f. Maintaining Eligibility. Records for public agencies and nonprofit, tax-exempt donees for purposes of education or public health must be updated as frequently as necessary to ensure that all documentation required to justify the donee's eligibility is current and accurate. The donee must notify the SASP of any changes in their program, function, or mission. The SASP must take particular care to ensure that the donee authorization is current and that the statement of designated representatives contained therein is correct. Files for skilled nursing-homes, intermediate care facilities, alcohol and drug abuse centers, programs for older individuals, and other programs whose eligibility depend on annual appropriations, annual licensing, or annual certification must be updated each year. When an eligible donee ceases to operate or when it loses its

license, accreditation or approval, or otherwise fails to maintain its eligibility status, the SASP will terminate its distribution of property to the activity.

g. Conditional Eligibility. In certain cases, applicants who would otherwise qualify as eligible donees, but have been unable to obtain approval, accreditation, or licensing because they are newly organized, may be granted conditional eligibility. Prior to granting conditional eligibility, the applicant must submit a statement from any required approving, accrediting, or licensing authority confirming it will be approved, accredited, or licensed. Under no circumstances will conditional eligibility be granted to a potentially eligible nonprofit, tax-exempt applicant before the SASP has received from the applicant a copy of a letter of determination by the Internal Revenue Service stating that the applicant is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code. Conditional eligibility is not intended to continue indefinitely and cannot exceed one year. The SASP should determine the ending date within that one year. The SASP, after evaluating the progress and potential of the applicant, may at its discretion make available Federal surplus personal property that can be immediately utilized at this point in the applicant's program. As with all Federal surplus personal property donated to donees, property donated during conditional eligibility must be utilized according to their mission and purpose and the SASP must keep a complete record of the property that is donated. The SASP must also advise the applicant that failure to meet the terms under which eligibility was granted would mean that any Federal surplus personal property donated to the applicant would have to be returned to the SASP, or if this is not feasible, the applicant would have to pay the fair market value of the property.

h. Assistance in Determining Eligibility. A SASP may request assistance from the GSA Center of Expertise (COE) in determining the eligibility of an applicant institution or organization. The COE should review the case, draft an opinion on the eligibility of the applicant and, if necessary, have GSA's Office of the General Counsel review the opinion before advising the SASP of its decision. Eligibility applications that might have a national impact must be coordinated with GSA's Central Office before releasing the GSA zonal office's determination. When an eligibility determination cannot readily be recommended by the GSA zonal office, the case may be sent to GSA's Central Office for review. The GSA zonal office must send a copy of its recommendation along with the complete case file. The case file, with supporting documentation, should address all elements referenced in [FMR § 102-37.390](#). Appeals of negative determinations of eligibility, whether appealed by an applicant or a SASP, must be sent promptly to GSA's Central Office, together with the comments and recommendations of the SASP, the GSA zonal office, and the Office of the General Counsel, for review and determination by GSA's Central Office. The SASP makes all determinations of eligibility. GSA's role in eligibility determinations is to ensure that the SASP acts in accordance with relevant statutes and implementing regulations.

i. Subsequent Determinations of Ineligibility. When a SASP determines that an applicant previously determined eligible for receipt of donated Federal surplus personal property but is in fact ineligible, the SASP must immediately terminate the donation of



Federal surplus personal property to that applicant. Guidelines for recovery of property distributed to such applicants are contained in Chapter 9, Noncompliance.

6. How Do SASPs Distribute Property? For SBA 8(a) Program donee procedures, please see Chapter 7; Section 4.

a. Shipping Instructions, Pickup, Shipment, and Delivery.

(1) The GSA allocating office must receive an approved SF-123 transfer order within 7 days of allocation notice. Otherwise, GSA may authorize other disposal of the property.

(2) Per [FMR § 102-37.60](#), the donee must remove the Federal surplus personal property from the holding agency within 15 calendar days from the date of allocation; except for property from DLA Disposition Services, as DLA allows 21 calendar days for pickup.

(3) The donee is responsible for making all arrangements for removing the Federal surplus personal property. Representatives of holding activities will not act as an agent or shipper for donees in this regard. However, the holding agency is responsible for notifying the SASP or the donee when the shipment is ready for pickup.

b. Terms and Conditions on Donated Property.

(1) Distribution Documents. Donation of Federal surplus personal property must be accomplished by the use of a SASP distribution document that contains the same certifications, terms, and conditions set forth in [FMR § 102-37.445](#).

(2) Conditional Transfer Documents. Some Federal surplus personal property, because of its special or sensitive nature, requires special handling and may require additional terms and conditions in the documentation by which it is distributed. In addition to the SASP distribution document, the donation of such Federal surplus personal property will be accomplished by the use of a conditional transfer document that contains the additional terms and conditions applicable to the property. For example, vessels (50 feet or more in length) with a unit acquisition cost of \$5,000 or more, any aircraft, and all firearms that are donated by the SASP are subject to special handling and use limitations pursuant to the FMR and Chapter 6, Special Categories of Property, as well as such further terms, conditions, reservations, and restrictions as are imposed on the donee by the SASP in accordance with the appropriate conditional transfer document. Please see Chapter 6, Special Categories of Property, or FMR §102-37.455 for additional examples.

(3) Donation Purpose. At the time donable property is acquired by a donee, the donee's authorized representative must indicate on the SASP's distribution document the primary purpose for which the donee will use the Federal surplus personal property. In the case of public agencies, including State tribes, such usage could be for public

purposes such as conservation, economic development, education, parks and recreation, public health, public safety, museums, programs for older individuals, or programs for providing assistance to homeless individuals. This document will also indicate when the property is to be used for a combination of these purposes or for some other public purpose. With respect to nonprofit institutions or organizations, the purpose will be shown as education, public health, museums, programs for older individuals, or programs for providing assistance to homeless individuals. The SASP reports these data in its 3040 report (see Chapter 3, Section 6(c)(2)).

(4) Waiver of Terms and Conditions. Per [FMR §102-37.465](#), the SASP may amend, modify, or grant releases for appropriate reasons from the terms, conditions, reservations, or restrictions the SASP has additionally imposed on the use of donated property, provided that it has set forth in the SPO the standards by which actions will be taken by the SASP. Amendments, corrections, or releases must not be granted by the SASP, however, with respect to:

(a) The requirement that usable Federal surplus personal property be returned to the SASP if the property has not been placed in use within 1 year of donation or ceases to be used within 1 year of being placed in use. (SASPs may grant authority to donees to cannibalize for secondary utilization of property subject to this requirement when the SASP determines that such action will result in increased utilization of the property and that the proposed action meets the standards prescribed in the SPO).

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

c. Donation.

(1) Period of Restriction. For all donations, the SASP will specify a period of restriction during which the Federal surplus personal property must be maintained in use for the purposes for which it was donated. The Federal surplus personal property must be placed in use by the donee within one year of donation, and maintained in compliant use during the period of restriction. The minimum period for which Federal surplus personal property must be placed into use is 12 months, but for certain types of Federal surplus personal property, the actual restriction period may be for a longer period of time (*e.g.*, for all vehicles and all other property with Original Acquisition Cost greater than \$5,000 the period of restriction is typically 18 months; for vessels, aircraft, and firearms the period of restriction is as specified in [FMR § 102-37.460](#) and [102-40.175](#)). The SASP and GSA may impose consecutive and/or concurrent periods of restriction.

(2) Conditional Transfer of Title. Until the donee has fulfilled the conditions of the donation, the donee receives conditional title to donated property. The donee receives full title when the donee has fulfilled the conditions of the donation and has executed the appropriate SASP distribution document.

(3) Usage. During the period of restriction (conditional title), the donee must use the Federal surplus personal property for the purposes for which it was acquired and otherwise conform to such terms, conditions, reservations, and restrictions as are imposed in the SASP distribution documents.

(4) Utilization Surveys. The SASP will make utilization surveys and reviews of donated property, as provided in the SPO, to ensure that donated property is being used by the donee for the purpose(s) for which it is acquired.

(5) Disposal of Unneeded Property. If donated property distributed by a SASP and in possession of the donee is not placed in use within one year of donation for the purposes for which it was donated or which ceases to be used by the donee for those purposes within one year after being placed in use, provided the property is still usable as determined by the SASP, such property will be returned to the SASP at the donee's expense. Arrangements between the SASP and the donee may be made for the retransfer or other disposal of the property from the donee's facility.

(6) Reimbursement to Donees.

(a) When a donee no longer has a need or use for donated property that is subject to any special handling condition or use limitations imposed by GSA, and no breach of the conditions or limitations has occurred, the donee may be reimbursed on a prorated basis for the following expenses when the property is transferred to a Federal agency or sold for the benefit and account of the United States Government:

1. Service charges paid to the SASP.
2. Transportation charges paid by the donee in initially acquiring the Federal surplus personal property.
3. Initial costs of repairs required to make the item usable.

(b) The SASP will recommend for approval of the GSA zonal office the amount of reimbursement to which the donee is entitled, taking into consideration the benefit the donee has received from the use of the Federal surplus personal property and making appropriate deductions thereof. Reimbursement is not authorized unless property has been put into eligible use by the donee within 12 months of its receipt. In the case of sale, reimbursement to a donee for any item of property will not exceed the proceeds of the sale of the item. Reimbursement for property to be transferred to a Federal agency will be made a condition of the transfer by GSA.

(c) The allowed prorated amount of reimbursement to a donee will be computed according to the applicable period of restriction on the Federal surplus personal property. On property under a 12-month period of restriction, compute 1/12 of the total costs under (a)(i), (ii), and (iii), above, for each month the property was utilized for eligible purposes; the amount arrived at through this computation should be

subtracted from the total of (a)(i), (ii), and (iii); the remainder is the reimbursement to be allowed. On property under an 18-month period of restriction, use 1/18 of the total costs for each month; 1/24 on property under a 2-year period of restriction; 1/36 for property with 3 years of restriction; 1/48 for 4 years; and 1/60 on property under a 5-year period of restriction.

(7) Trade-in. The donee may trade in donated personal property to the SASP under the following conditions:

(a) A donee desiring to trade in an item of donated property prior to the expiration of the period of Federal restrictions must request in writing authorization for the trade-in from the SASP director. Per [FMR § 102-37.475](#), the SASP must obtain the prior written approval of the GSA zonal office for any trade-ins of property under Federal restrictions or special handling conditions or use limitations imposed by GSA. Items in a noncompliant status will not be authorized for trade-in.

(b) The donee must have put into use the donated property for the purpose for which it was acquired for a minimum of 6 months before a request for trade-in may be considered for approval. Also, the donee must demonstrate that the trade-in will result in improvements to the donee's program and be in the best interest of the public. Per [FMR § 102-37.440](#), SASPs must not donate Federal surplus personal property to donees who intend to sell or trade it for other assets.

(c) Items authorized for trade-in will be only on a one-for-one basis; *i.e.*, one donated item may be authorized for trade-in for one like item having similar potential use in accordance with [FMR § 102-37.465 \(c\)\(2\)\(ii\)](#).

(d) As a condition of approval of the trade-in, the item being acquired will be made subject to the remaining period of restriction imposed on the item being traded in. The donee must submit a signed certification agreeing to the imposition, on the item being acquired, under the same terms, conditions, and restrictions that were imposed on the item being traded, for the remaining time period of restriction. This certification must be included with the donee's letter requesting approval to trade-in an item and the property being acquired through the trade must be specifically identified by serial number or other unique identifier. If specific identification by serial number or other unique identifier is not known at the time of the initial request, a copy of the document by which the new item is acquired will be obtained by the SASP and made a part of the donation case file.

(8) Utilization of Donated Property for Student Training. The following guidelines are provided to prescribe the circumstances under which eligible schools may allow students to use donated property in class-assigned projects in vocational education, science, home economics, horticulture, carpentry, woodworking, etc., and retain the finished item or product resulting from the project as their own personal property.

(a) Raw material, such as scrap lumber, metal, steel or other types of metal

tubing, cloth (or parachutes, uniforms, or other types of clothing for secondary use of the material), etc., may be donated to schools for educational purposes; *e.g.*, for uses outlined above in (8). Any limited-value item or product resulting from the student's project, such as an apron, skirt, footstool, flower pot, plant stand, hog trough, end table, a small desk, or small items made in science class projects may be taken home by the students if it is the policy of the school for the end item of a student's project to become the personal property of the student. Donated property should not be used for student projects in which items are produced for other than the school or student's own use. Surplus materials will not be donated for use by the donee to make items or products for sale.

(b) Higher valued damaged or inoperable non-consumable surplus property, such as desks, automobiles, furniture, refrigerators, computers, machine tools, large appliances, etc., will not become the personal property of students who refinish or repair the items, nor will the school dispose of the items during the period of restrictions. Property will not be acquired to be repaired and then put into a storage room or holding area under the false assumption that the restrictions will run out while the property is not in actual use and the school can then dispose of the property by sale. The property must be needed and used during the entire period of restrictions for the educational purpose for which it was acquired by the school.

(c) How frequently a student may make an item from donated raw materials depends on how frequently such class or student projects are assigned. Donated raw materials may be used as frequently and in as many different student or class projects as are assigned so long as the assignment is a part of the learning experience in a course of instruction within the school's prescribed curriculum.

(d) Large quantities of raw materials or consumable items should not, as a general rule, be given to students for projects for building large or valuable finished products to keep for their own use even though the project may be a part of the student's learning experience. The end items of such projects should be needed for utilization by the institution in its eligible educational program; *i.e.*, the end products from the projects will become the restricted property of the eligible institution until the expiration of the period of Federal and State restrictions on the donated materials from which the items were constructed.

(e) GSA zonal offices and SASPs should exercise discretion when approving requests for property to eligible educational institutions, including eligible sheltered workshop training programs, as they could operate large-scale training programs or courses in auto mechanics and bodywork, computer repair, refinishing, upholstery, etc. These programs may result in more items being repaired or refinished through the cannibalization, secondary utilization, or rehabilitation of donated property than can be effectively utilized in the eligible educational programs of the acquiring donees.

(9) Insurance Proceeds. Any insurance proceeds collected by a SASP from a

donee, which involves damaged or destroyed property that is still under Federal restrictions, must be remitted promptly by the SASP to GSA for deposit in the Treasury of the United States per [FMR §102-37.450\(i\)](#).

d. Modification of Use Requirements.

(1) Justification. [FMR § 102-37.450](#) requires a donee to return to the SASP any donated property that is not placed in use for the purposes for which it was donated within 1 year of donation. Requests from donees for extension of this requirement can be considered using the test of reasonableness based on the reason for the extension and the type of property involved. Justification for an extension can be based on delays for reasons beyond the control and without the fault or negligence of the donee. These reasons may include, but are not necessarily limited to, acts of the Government in either its sovereign or contractual capacity, acts of God or the public enemy, fires, floods, severe weather, epidemics, or quarantine restrictions. The nature of the property itself and the construction, modification, or repair necessary for the property to be used for its intended purpose can be considered justification in requests for an extension.

(2) Actions Required By Donees, the SASP, and GSA Zonal Offices.

(a) Donees should submit their written requests for extension of the 1-year restriction, with a complete detailed justification, to the SASP prior to the termination of the requirement to place property into use within 1 year of its receipt. The requests should be in the form of a certification of the facts and should include:

1. The name of the donee;
2. A description of the property donated;
3. The date the property was donated;
4. The need that exists for which the property is to be used;
5. The date originally planned for the property to be put into use;
6. A detailed justification for an extension with supporting documentation or evidence; and
7. The proposed revised date for putting the donated property into use, along with an implementation milestone schedule.

(b) The SASP should review the request to ensure that all the necessary facts applicable to the requested extension are included. Based on its review, the SASP makes a determination as to whether the property will be returned to the SASP for further distribution or if the request for an extension will be forwarded to the GSA zonal office for approval or disapproval. The SASP should include its evaluation and recommendation on all requests they forward to the GSA zonal office.

(c) The GSA zonal office will apply the test of reasonableness in approving a donee's request for an extension. In evaluating the merits of a request, the GSA zonal office will consider only the facts as presented in the donee's written justification, which should meet the following test of reasonableness in that:

1. The delay in putting the property into use was beyond the donee's control and not due to the negligence or fault of the donee;
2. The donee has acted in good faith and has made every reasonable effort to correct the situation;
3. The donee continues to need the property for the purposes for which it was initially donated;
4. The proposed extension period is realistic; and
5. The expectation of a successful conclusion is reasonable.

(3) GSA Approval/Disapproval. Upon making a determination, the GSA zonal office will inform the SASP, in writing, of its approval or disapproval. The GSA zonal office will maintain a complete record of its actions on each request for an extension for audit and review purposes.

(4) SASP Follow-up Actions.

(a) Approvals by GSA. Upon notification of GSA's approval of a donee's request for extension, the SASP will be responsible for monitoring the donee's progress in complying with the conditions for putting the property into use as set forth in the donee's written justification for the extension and the GSA approval. If the donee cannot perform within the requirements of the approved extension, the SASP must immediately take the necessary action to take custody of the property and notify the GSA zonal office of the action taken per [FMR § 102-37.485](#).

(b) Disapprovals by GSA. Upon notification of GSA's disapproval of a request for extension and, if the donee cannot meet the 1-year period of time for putting the property into use, the SASP will be responsible for taking immediate action to take custody of the property for possible retransfer. The GSA zonal office must be notified of the action taken.

7. How Do SASPs Determine Service and Handling Charges?

a. Per [FMR §102-37 Appendix B](#) and a SASP's SPO, SASPs are authorized to collect service charges based on the direct and reasonable indirect expenses incurred in running the SASP. Per [FMR § 102-37.280](#), these expenses include, but are not limited to, the following major areas: personnel, transportation, utilities, rent, travel and

supplies, transfer, handling, shipping, classification, warehousing, bidding, destruction, scrapping or other disposal of property, and other fees as may be deemed appropriate in order to insure the continued operations of the surplus property function of the SASP.

b. The SASP must set forth in its SPO its method of establishing service charges, affirm that the charges are fair and equitable, and ensure that the charges are based on services performed or paid for by the SASP. When the SASP provides minimal services in connection with the acquisition of property, the SPO must provide for minimal charges to be assessed.

8. How do SASPs Dispose of Undistributed Property? The provisions of this paragraph apply to property approved for donation and subsequently canceled.

a. When a SASP or donee determines prior to pick up or shipment that property approved for transfer cannot be used, the SASP should notify the GSA zonal office that approved the transfer and inform that GSA zonal office why the property is being rejected. The SASP should communicate all rejections to GSA. The donee should not send a rejection of property notice directly to the holding agency. A donee in all cases should communicate its rejection of donable property to the SASP.

b. In the absence of any Federal or other donation requirement, the GSA zonal office will notify the holding agency that the property, which had previously been approved for donation, is subsequently canceled and release the property for other disposal.

9. How Are SASPs Audited and Reviewed?

a. Internal Audit. The SPO provides for a periodic internal audit of the operations and financial affairs of the SASP. The internal audit is made for the benefit of the State agent, and the agent's supervisors, to review the current status of the agency's SASP's operations and financial position. The SASP is not required to furnish GSA with a copy of its internal audit.

b. External Audit. External audits of SASP operations are required to be made in accordance with [2 CFR 200](#) (previously OMB Circulars A-128 and A-133). SASPs must provide the appropriate GSA zonal office with two copies of any portion of an audit report made pursuant to 2 CFR 200 that pertains to the Federal Surplus Personal Property Donation Program. An outline of the corrective actions, which the SASP plans on taking to comply with any exceptions or violations indicated by the audit and the scheduled completion dates for these actions, must accompany the report.

(1) Review of Audit Reports. The GSA zonal office may wish to consult with the GSA field audit staff when reviewing audit reports. In reviewing the reports, the GSA zonal office should note particularly any exceptions or violations of the provisions in the SPO or the requirements of [FMR § 102-37](#) indicated by the auditor. If corrective actions are required, the GSA zonal office should follow up periodically with the SASP, including



a personal visit to the SASP if necessary, to ensure that all audit exceptions and violations have been corrected in a timely manner.

(2) Coordination with Central Office. The GSA zonal office must furnish GSA's Central Office with a copy of the pertinent portion of each report and all related correspondence. When corrective actions have been accomplished, the zonal office must notify Central Office and provide copies of all supporting documentation.

c. GSA Audits. There are two types of GSA Audits. First, a GSA zonal office may conduct an unscheduled SASP review if the GSA zonal office believes that the SASP may not be operating in conformance with its relevant statutes, regulations, previous review requirements, or its SPO. If necessary, this review may be coordinated with the GSA Office of Inspector General. Second, GSA OIG may independently initiate audits of SASPs when deemed in GSA's best interest. Prior to initiating audits, the Regional Administrator or GSA zonal office director should notify the SASP Director of the scheduling of a GSA audit and the specific reasons thereof. The GSA zonal office will also advise GSA's Central Office of the time of the proposed audit and the reasons why it is necessary for GSA to conduct the audit.

(1) Coordination with the SASP. The GSA zonal office must advise the SASP, in writing, of the audit conclusions and recommendations. The GSA zonal office will send a copy of the letter to GSA's Central Office. If the audit report contains exceptions (discrepancies or deviations from expected audit results) or violations of the SPO or the regulations, the GSA zonal office will advise the SASP of the specific findings and the corrective actions to be taken, together with a time schedule for accomplishing such actions. The SASP should report on the corrective actions taken regularly until completed. Any recommendations made by the auditor which do not represent violations of the SPO or the applicable statutes or regulations may be emphasized in the letter to the SASP, as the GSA zonal office deems advisable. The GSA zonal office will keep GSA's Central Office informed of the progress made in correcting deficiencies and violations, including a final report when the situation is satisfactorily resolved and the audit closed.

(2) Closing GSA Audits. The GSA zonal office should coordinate with the GSA field audit office to ensure that all audit reports are processed expeditiously and closed on a timely basis. The GSA zonal office should coordinate closely with the GSA auditor in effecting closure of an audit report.

d. Failure to Take Corrective Actions. If the GSA zonal office determines that the SASP has not corrected deficiencies or violations reported in an external audit or a GSA audit in a timely manner and that all routine efforts for corrective action have been exhausted, the GSA zonal office will initiate appropriate action to correct nonconformance in accordance with the provisions of ch. 4 par. 5.

e. Other Agency Audits. From time to time, the Government Accountability Office (GAO) and other authorized Federal agencies may audit or review a SASP's operations.

The GSA zonal office should provide all possible assistance and coordination in such cases upon request from the auditing or reviewing agency.

f. SASP Records. The SASP must make pertinent records available for inspection by GSA, GAO, and other authorized Federal activities.

10. What Are the SASP Reporting Requirements? Each SASP will electronically submit in PPMS a 3040 report (see Chapter 3, Section 6(c)(2)) by the 25<sup>th</sup> day of the month following the end of a quarter. GSA zonal offices will review the 3040 report and either approve it in PPMS or advise the SASP of corrections required.

11. How Is a SASP Liquidated?

a. Each SPO provides for submission of a liquidation plan to GSA when the State determines that it is necessary to liquidate the SASP.

b. In accordance with [FMR §102-37 Appendix B](#), the State must submit the liquidation plan to the GSA zonal office before the actual termination of the SASP's activities. A liquidation plan constitutes a major amendment of the SPO and, as such, no plan may be filed with GSA until 60 calendar days after general notice of the proposed liquidation has been published and interested persons have been given at least 30 calendar days in which to submit comments.

c. The liquidation plan must include all requirements found in [FMR §102-37.365](#).

d. Upon receipt of a plan to liquidate a SASP, the GSA zonal office will notify GSA's Central Office and work closely with the SASP to effect an orderly and efficient termination. The GSA zonal office will ensure prior to the termination date that all donable property in the SASP's possession is donated, transferred, or sold for the benefit of the Government or otherwise properly disposed of in accordance with established procedures.

## CHAPTER 6. SPECIAL CATEGORIES OF PROPERTY

1. What Is the Purpose of This Chapter? This chapter provides information on donation procedures for special categories of Federal surplus personal property. Per [FMR § 102-37.455](#), GSA is authorized to impose appropriate conditions on the donation of property having characteristics that require special handling or use limitations. GSA's Central Office may, on a case-by-case basis, prescribe special handling conditions or use limitations on property items other than those contained in this chapter. When considering the transfer and allocation of Federal surplus personal property, allocating GSA zonal offices will determine whether the characteristics of the property require any special handling conditions or use limitations. When property not categorized in this chapter is believed to have such characteristics, the GSA zonal office allocating the property will refer the case to GSA's Central Office for review and approval of the proposed conditions.

### 2. How Is Aircraft Donated?

a. General. This section provides procedures and conditions for the donation of Federal surplus aircraft that are not classified for reasons of national security and have had all lethal characteristics removed. The requirements of this paragraph apply to the donation of any fixed- or rotary-wing aircraft, but do not apply to any components, accessories, parts, or appurtenances thereof. Combat type aircraft will not be donated for flight use.

(1) All civil agency aircraft and Department of Defense (DoD) aircraft will be reported to GSA's Pacific Rim Zone for utilization and donation screening.

(2) Surplus release dates are assigned by GSA's Pacific Rim Zone for all aircraft (all combat or noncombat aircraft, regardless of condition). The Federal utilization and donation screening period is 60 days but may be shortened or lengthened if circumstances support it.

(3) Each SF 123, Transfer Order Surplus Personal Property, for aircraft will be forwarded by the applicant SASP to GSA's Pacific Rim Zone for approval.

(4) Civil agency aircraft for which utilization or donation requirements do not exist will be declared surplus and reported to GSA's Pacific Rim Zone sales office for sales action.

### b. Donations of Aircraft to Public Agencies and Eligible Nonprofit Tax-Exempt Activities.

(1) For the donation of Federal surplus aircraft to public agencies and eligible nonprofit, tax-exempt activities, the SF 123, together with the donee's letter of intent, must be processed through the SASP for the State in which the donee is located before submission to GSA for approval. The letter of intent will set forth a detailed plan of

utilization for the property and be signed and dated by the authorized representative of the proposed donee. Letters of intent should provide the following information:

- (a) Identification of the applicant, including the activity's complete address and the name, title, and telephone number of its authorized representative.
- (b) All requirements found in [FMR § 102-37.230](#).
- (c) Schools should describe their aviation programs and State enrollment information, including number of students enrolled. Schools should also explain whether the acquisition or retention of FAA certification depends on acquisition of the requested aircraft.

(2) A SASP should submit only one letter of intent for each aircraft reported. Each letter of intent submitted to GSA should be accompanied by a cover letter signed by the SASP Director containing the following information:

- (a) Confirmation of the applicant's eligibility;
- (b) An evaluation of the applicant's ability to use the aircraft for the purpose stated in the letter of intent; and
- (c) Any supplemental information concerning the needs of the donee that may be of value in the allocation decision.

(3) In order to prevent the pickup of aircraft by the donee before execution of the appropriate donation documents, GSA will not transmit to a Federal holding agency an approved SF 123 authorizing the release of aircraft prior to the GSA allocating office's receipt of copies of:

- (a) A fully executed (signed by both the donee and the SASP) aircraft conditional transfer document;
- (b) An amended letter of intent, if any of the conditions described in the original letter of intent have changed;
- (c) A fully executed SASP distribution document;
- (d) The SASP signed SF 123;
- (e) A transmittal letter from the SASP certifying the applicant's eligibility; and

(4) Upon notification of allocation, the SASP will provide: an executed copy of the aircraft conditional transfer document, the donee's letter of intent, the SASP distribution document, a completed SF123 to its GSA zonal office, and a copy of the completed SF123 to the federal holding agency.

(5) Per FMR §102-37.325 and .330, the SASP is required to impose the following use conditions on the donation of aircraft to be used for flight purposes:

(a) The aircraft is to be used solely in accordance with the plan of utilization set forth in the donee's letter of intent unless the SASP, in writing, authorizes a change in the donee's plan of utilization.

(b) The donee must agree to apply to the Federal Aviation Administration (mailing address: Federal Aviation Administration, Aircraft Certification Service Compliance and Airworthiness Division (AIR-700), 10101 Hillwood Parkway, Fort Worth, TX 76177) for registration of an aircraft intended for flight use within 30 calendar days of receipt of the aircraft.

(6) The SASP may also impose other terms, conditions, reservations, or restrictions on the use of donated aircraft that are not inconsistent with the conditions set forth in this Handbook.

(7) Any breach by the donee of any conditions imposed by GSA on the donation of any aircraft must be reported immediately by the SASP to GSA.

(8) The special handling and use limitations imposed by GSA on the donation of aircraft as well as the terms, conditions, reservations, and restrictions imposed by the SASP on the donee are set forth in the noncombat-type aircraft conditional transfer document and the combat type aircraft conditional transfer document.

(9) For combat-type aircraft, as designated by DoD:

(a) The SASP is required to impose a period of restriction on the use of the property which will be in perpetuity and will not be released by the SASP without the prior written approval of GSA.

(b) During the period of restriction, the donee must not sell, trade, lease, lend, bail, encumber, or cannibalize for parts unless provided for in the donee's plan of utilization, or otherwise dispose of the aircraft or parts without the written approval of GSA.

(10) If a combat-type aircraft is no longer usable or further needed by the donee, the donee must promptly notify the SASP and:

(a) Release the aircraft to another donee as determined by the SASP. In such cases, the transfer must be subject to the same use conditions as previously approved;

(b) Release the aircraft to a department or agency of the United States as determined by GSA; or

(c) Render the aircraft completely unfit for any purpose except for the recovery of its basic material content as determined by DoD and the material content to be disposed of in accordance with the instructions of the SASP.

(11) When the donee disposes of a combat-type aircraft without the prior written approval of GSA or is used for a purpose other than the purpose stated in the donee's letter of intent, the donee, at the option of GSA, will be liable to the United States Government for the proceeds of the disposal, the fair market value, or the fair rental value of the aircraft at the time of the unauthorized transaction or use, as determined by GSA.

(12) In the event of a breach by the donee of any of the above conditions pertaining to a combat-type aircraft, whether caused by the legal inability of the donee or its successor in function to perform said conditions or otherwise, all rights, title, and interest in and to the aircraft will, at the option of GSA, revert to and become the property of the United States Government. The donee, or its successors or assigns, will forfeit all of its or their rights, title, and interest in and to the aircraft.

(13) Per [FMR § 102-37.460\(g\)](#), for all aircraft donated for nonflight use, the donee must, within 30 calendar days of receipt of the aircraft, turn over to the SASP the remaining (not retained by the reporting agency) aircraft historical records (except the records of the major components/life limited parts; e.g., engines, transmissions, rotor blades, necessary to substantiate their reuse). The SASP in turn must transmit the records to GSA for forwarding to the FAA. The SASP must also obtain the manufacturer's aircraft data plate and send it to the GSA zonal office for forwarding to the FAA unless it has already been removed by the reporting agency. Both the records and the data plates are to be sent to the FAA at the following address:

Federal Aviation Administration  
Aircraft Certification Service  
Compliance and Airworthiness Division (AIR-700)  
10101 Hillwood Parkway  
Fort Worth, TX 76177

c. Donations of Aircraft Through the FAA for Public Airport Purposes.

(1) When a Federal surplus aircraft is allocated for public airport purposes, the FAA must process the SF 123 and the donee's letter of intent before submitting to GSA for approval.

(2) Surplus cannibalized or demilitarized aircraft may be approved by GSA for donation to a public airport for use in firefighting and rescue training.

(3) For more detailed information, please see Chapter 7, Section 3(b) "Donations Through the Federal Aviation Administration."

d. Donations of Aircraft Through SASPs for Public Airport Purposes. Public municipal airports may request Federal surplus aircraft through the SASP and are subject to all of the conditions prescribed in subpar. b above.

### 3. How Are Vessels 50 Feet or More in Length Donated?

a. General. This section provides procedures and conditions for the donation of vessels 50 feet or more in length. These vessels will be screened for 60 days, but the screening period may be shortened or lengthened if circumstances support it.

(1) If the holding agency is a military activity, the vessel is reported to the GSA Mid-Atlantic Zonal Office.

(2) If the holding agency is a civilian activity, the vessel is reported to the GSA Southeast Great Lakes Zonal Office.

b. Donations of Vessels 50 Feet or More in Length to Public Agencies and Eligible Nonprofit Tax-exempt Activities.

(1) When requesting a Federal surplus vessel 50 feet or more in length, the SASP must have a specific intended donee for the vessel. In addition to submitting a request, the SASP must meet the requirements set forth in [FMR § 102-37.225](#).

(2) The donee is required to record the vessel conditional transfer document with the Coast Guard Documentation Officer at the port of documentation of the property within 30 days after the receipt of the fully executed vessel conditional transfer document. The Coast Guard may require the vessel to be inspected by the Coast Guard and receive a Certificate of Inspection prior to documentation.

(3) The period of restriction for vessels that are 50 feet or more in length is 5 years. As with other property, once the period of restriction has expired and all terms and conditions have been fulfilled, the SASP will issue the donee a release document indicating that all restrictions have been fulfilled and that full title has passed to the donee.

4. How are Federal Surplus Firearms Donated? GSA donates Federal surplus firearms in accordance with [FMR § 102-40.175](#) and [FMR § 102-37.240](#).

a. What is the Firearms Donation Program? GSA transfers Federal surplus firearms to SASPs for donation to State and local law enforcement agencies after normal Federal utilization screening.

b. Who is Eligible to Receive Federal Surplus Firearms? Donations of Federal surplus firearms and other weapons in FSC 1005 and 1010 are limited to only those eligible State and local law enforcement agencies whose primary function is the

enforcement of applicable Federal, State, and/or local laws and whose compensated law enforcement officers have powers to apprehend and arrest.

c. How Does a Law Enforcement Agency (LEA) Receive Federal Surplus Firearms?

(1) The LEA submits a letter of intent requesting firearms to meet its mission in accordance with [FMR § 102-37.240](#). The letter of intent must:

(a) Be written on letterhead and dated and signed by the chief or county sheriff; and

(b) State how many Federal surplus firearms the LEA received in the past 12 months from all Federal agencies.

(2) The State or local LEA must complete a firearms conditional transfer document.

d. How Many Federal Surplus Firearms Can Be Requested? The number of firearms requested within each firearms category (which includes rifles, shotguns and handguns) may not exceed the number of full time compensated law enforcement officers.

e. Who Retains Title to the Federal Surplus Firearms? Conditional title to the firearms passes to the donee when the donee has executed the appropriate SASP distribution documentation and takes possession of the property. The donee retains conditional title to the firearms in perpetuity. The United States maintains a future contingent interest in the conditional title and may exercise the power of the reverter if the donee breaches or violates the conditions and restrictions in the firearms conditional transfer document. At the option of GSA, full title will return to the United States.

f. Are There Other Requirements for the Requesting LEA? The LEA must provide GSA an annual inventory through PPMS.gov of all donated firearms and a signed certification statement by the senior official of the LEA certifying the inventory results.

g. What Happens When the LEA No Longer Needs the Firearm?

(1) If the LEA no longer has a need for the firearm, it may transfer the firearm to another eligible LEA. GSA must approve the request prior to the transfer.

(2) If there are no other requests or needs, the firearms must be destroyed in accordance with [FMR § 102-40.175](#) with the authorization of the GSA National Firearms Officer.

h. Does GSA Donate Ammunition? No. It is GSA policy not to approve the donation of any ammunition, explosives, fired brass, or other similar items.



i. Does GSA Donate Non-Federal Firearms? No. GSA does not donate forfeited, abandoned, or confiscated firearms. These firearms must be destroyed.

## 5. What Are the Other Categories of Property with Special Handling Requirements?

a. There are other categories of property with special handling requirements. These categories can be found in FMR Parts [102-36](#) and [102-40](#), Subpart E.

b. Procedures for the transfer and donation of personal property with special handling requirements can be found in FMR Parts [102-36](#), [102-37](#), and [102-40](#).

## 6. How Are Foreign Gifts Donated?

### a. General.

(1) Foreign gifts and decorations will be donated for public display or other purposes approved by GSA in accordance with [FMR § 102-42](#), Utilization, Donation, and Disposal of Foreign Gifts and Decorations. Under no circumstances will a gift or decoration be made available to a SASP for merchandising from its distribution center.

(2) Foreign gifts and decorations will only be made available for donation by the National Capital Zone (NCZ) Personal Property Division (Foreign Gifts Program).

b. Information on Availability. Foreign gifts and decorations available for donation are listed in the Foreign Gifts module of [PPMS](#). Interested SASPs may contact the NCZ Personal Property Management Division for instructions on requesting available items.

c. Requests. Requests for donation of foreign gifts and decorations must comply with [FMR § 102-42.125](#). Contact NCZ Personal Property Management Division if assistance is needed with the request process.

d. Allocations. Allocation of foreign gifts and decorations will be made on a fair and equitable basis for the maximum public benefit. NCZ will consider the following in addition to [FMR § 102-42.125](#) when effecting allocation and transfer of foreign gifts and decorations among the SASPs:

(1) Request by the recipient of the foreign gift or decoration that it be donated to a specific donee. Such a request must be supported by a letter from the recipient outlining any special significance of the gift or decoration to the proposed donee;

(2) Period of time specified in the donee's letter of intent for keeping the property in use for the purpose for which it is being acquired;

(3) Need and utilization for the gift or decoration, as described in the letter of intent;

- (4) Quantity and value of the gift or decoration;
- (5) Prior receipt of similar item; and
- (6) Other criteria as deemed appropriate by NCZ.

e. Approvals.

(1) Upon notification from GSA, the SASP will submit an SF 123 to NCZ for approval. The SF 123 must be conspicuously marked "FOREIGN GIFTS AND/OR DECORATIONS" and include a certification that donees receiving the property will be required to comply with the provisions of [FMR § 102-42.130](#).

(2) NCZ will furnish the transferring zonal office with a copy of the approved SF 123 and the letter of intent.

7. How is Law Enforcement Equipment Donated? GSA's Office of Government-wide Policy (OGP) and the Federal Acquisition Service's Office of Personal Property Management have flexibility in what is provided to donees under [FMR § 102-37](#). Please see [OGP's supplemental guidance on Law Enforcement Equipment donations](#) for the most current procedures, also available from GSA zonal offices.

## CHAPTER 7. SPECIAL DONATION CATEGORIES

1. What Is the Purpose of This Chapter? This chapter provides information on special donation categories within the Federal Surplus Personal Property Donation Program. These special donation categories include donations to the American National Red Cross, to public airports, and to participants within the SBA's 8(a) Business Development Program.

2. How Does the American National Red Cross Receive Property? This section prescribes the procedures for donation to the American National Red Cross. Donations to the American National Red Cross are made pursuant to [40 U.S.C. § 551](#). As a Service Educational Activity, the American National Red Cross may also receive DoD surplus personal property (see Chapter 2, Donee Categories).

a. Eligible Property. Only personal property which has been determined to be surplus property and which has been identified as having been processed, produced, or donated by the American National Red Cross to the Federal Government may be donated to the American National Red Cross.

b. Action By the American National Red Cross. The American National Red Cross may request from GSA the donation of property as described in [FMR § 102-37.545](#).

c. Action By GSA Zones. The GSA zonal office will review and must approve all transfers to the American National Red Cross. These approvals occur before the subject personal property is offered to the SASPs for donation.

d. Transfer By Holding Agencies. The holding agency, upon receipt of the request and shipping instructions, will transfer the requested property directly to the American National Red Cross. The holding agency will coordinate with the American National Red Cross for the shipment or delivery of the requested property. The American National Red Cross is responsible for the transportation/shipping charges of donated property.

e. Surplus Property Not Requested By the American National Red Cross. Property eligible for donation to the American National Red Cross which the American National Red Cross declines to request will be disposed of through the normal surplus process. When such property is offered for disposal, the disposal document will require that all American National Red Cross labels or other American National Red Cross identifications will be obliterated or removed from the property before use by the recipient or transfer to other users in accordance with [FMR § 102-37.555](#).

3. How Do Public Airports Receive Property? This section prescribes the procedures for donation to public airports. Public airports are eligible to receive surplus Federal personal property through two separate programs:

a. Donations Through a SASP As a Public Agency. As public agencies, airports may receive property through SASPs as participants in the Federal Surplus Personal Property Donation Program. In this capacity, public airports receive property in accordance with, and are bound by, all parameters of the Federal Surplus Personal Property Donation Program described in Chapter 2, Donee Categories.

b. Donations Through the Federal Aviation Administration (FAA). Under special authority granted the FAA, public airports, as well as State aeronautical commissions when acting as an agent for a public airport, can receive property through the FAA. In this capacity, public airports receive property and are bound by the authority granted to the FAA. The authority for these public airport donations is [49 U.S.C. §§ 47151-47153](#), which provides for the donation of surplus personal property determined by the Administrator of the FAA to be essential, suitable, or desirable for the development, improvement, operation, or maintenance of a public airport. FAA and GSA must both approve property transferred under this authority.

(1) Application Procedures Through the FAA.

(a) The airport manager must submit a written request (by letter or email) to the local FAA Airports Region or District Office to receive Federal surplus personal property.

(b) After receiving the request, the FAA Airports Region or District Office will provide the Airport Manager all necessary program information and paperwork to participate.

(2) Donation Procedures Through the FAA. The procedure by which a public airport requests property, and by which the FAA and GSA approve the transfer, is as follows:

(a) The public airport screener requests the property in [PPMS](#);

(b) If the requested property has been designated by the reporting agency for donation to a public airport, the Allocating Official considers the priority request over SASP recipients;

(c) The GSA Allocating Official allocates the property;

(d) The FAA Approving Official confirms the request in PPMS; and

(e) The GSA Allocating Official approves the transfer in PPMS and the completed transfer order is issued.

(3) FAA responsibility. The Administrator of the FAA or his duly authorized representative will:

(a) Determine requirements for Federal surplus personal property of any State, political subdivision, municipality, or tax-supported institution for public airport use;

(b) Prescribe the eligibility requirements for public airport applicants and make determinations of eligibility;

(c) Determine whether available Federal surplus personal property is essential, suitable, or desirable to fulfill the immediate or foreseeable future requirements for the development, improvement, operation, or maintenance of a public airport; and.

(d) Ensure that public airport donees comply with the terms and conditions applicable to donated property, including surveillance to ensure proper use of such personal property.

(4) Public Airport Responsibility. The public airport representative will:

(a) Provide on the transfer document the name and address of the public airport, including the county and ZIP code, and the name and contact information for the official of the public airport who will sign the transfer order accepting the Federal surplus personal property. Title to the property is taken in the name of the donee airport, not the agent.

(b) Remove the Federal surplus personal property from the holding agency within the time period specified in the transfer order.

(5) Property Available for Transfer Under the FAA Authority. The following types of Federal surplus personal property may be transferred for donation to public airports. A request for an item not listed below may be approved provided a suitable explanation and justification is submitted to GSA by the applicant public airport and endorsed by the FAA:

air compressors	portable buildings or structures
aircraft rescue trucks	radio equipment
approach lights	rakes
arresting barriers	rollers
asphalt kettles	runway, taxiway, and apron lighting fixtures and equipment
beacons	segmented circles
blast fences	small utility vehicles
blitzers	snow plows
boundary lights	sweepers
cable	tetrahedrons
concrete mixers	T-hangars
dump trucks	tractors

fencing	trucks
fire trucks	wind cones
hangars	wind direction indicators
mowers	wind socks
navigational aids	wind tee

(6) Aircraft. Federal surplus flyable aircraft may not be transferred for donation to public airports through the FAA. Public airports requesting aircraft through the FAA can only receive aircraft for firefighting ground training with no flight use. Requests for aircraft for other uses (including firefighting ground training) may be requested through a SASP. All aircraft requests are reviewed, allocated, and approved by the GSA Pacific Rim Zone.

4. How Do SBA 8(a) Business Development (BD) Program Participants Receive Property? This section describes the procedures for donation to 8(a) BD program participants by the authority granted by [15 U.S.C. § 636\(j\)\(13\)\(F\)](#). For the most current guidance, please refer to the signed Memorandum of Agreement (MOA) among GSA, SBA, and the applicable State. Donees can request a copy of the signed memorandum from their SASP.

a. Conditions for Participation (Validated by the SASP).

(1) An SBA 8(a) participant may obtain Federal surplus personal property only from the SASP in the State(s) where the participant operates.

(2) The SBA, GSA, and the SASP have signed a Memorandum of Agreement (MOA) setting forth the terms and conditions governing the transfer of such property.

(3) SBA certifies to the SASP that the requesting 8(a) firm is a BD program participant, and that the property requested is consistent with the 8(a) firm's business plan.

b. Participant Responsibilities (Agreed to by the 8(a)). Participant must agree in writing to all requirements set forth in [13 CFR § 124.405\(c\)](#):

(1) That the intended use of the Federal surplus personal property is consistent with the objectives of the participant's 8(a) business plan.

(2) That it will use the property to be acquired in the normal conduct of its business activities or be liable for the return of the property at the participant's expense or reimbursement of the fair market value (as determined by GSA or the SASP) at the date of its receipt.

(3) That it will not sell or transfer the property to any party during its term of participation in the 8(a) BD program and for one year after it leaves 8(a) BD program,

unless it has received express written authorization from the SASP and GSA pursuant to [FMR §102-37.320](#).

(4) That it will use the property as intended within one year of receipt.

(5) That it will give SBA, GSA, and/or the SASP access to inspect the property and all records pertaining to it.

(6) That should the participant violate any of the paragraphs above, the participant will return the property to the donating SASP at the participant's expense, or if the participant has sold, transferred, or otherwise disposed of the acquired surplus property in violation of the agreement covering sale and disposal, the participant will be liable to the Federal Government for the fair market value (as determined by GSA or the SASP) or the sale price of the property, whichever is greater.

c. SBA Responsibilities. The SBA will:

(1) Educate. Assist in educating participants on the availability of Federal surplus personal property, and the terms, conditions, and limitations of use.

(2) Verify Eligibility. Upon receipt of a request from a participant to participate in the Federal surplus personal property program, the servicing SBA District Office will verify to the SASP in writing that the participant is an eligible 8(a) participant. SBA will respond in writing to each subsequent request from the SASP for an eligibility determination concerning particular property requested by the eligible 8(a).

(3) Enforce Compliance. SBA will periodically review whether 8(a) participants have used and maintained the property as agreed. This review may include site visits to visually inspect the property to ensure that it is being used in a manner consistent with the terms of its transfer.

(a) Where SBA receives credible information that transferred surplus property may have been disposed of or otherwise used in a manner that is not consistent with the terms of the transfer, SBA may investigate such a claim to determine its validity.

(b) SBA may take any action to correct any noncompliance involving the use of transferred property still in possession of the participant or to enforce any terms, conditions, reservations, or restrictions imposed on the property by the distribution document. Actions to enforce compliance, or which may be taken as a result of noncompliance, including the following:

1. Requiring that the property be placed in proper use within a specified time.

2. Requiring that the property be returned to the donating SASP.

3. Recovery of the fair market value (as determined by GSA or the SASP) of the property or sale price.

4. Initiation of proceedings to terminate the participant from the 8(a) BD program.

d. SASP Responsibilities:

(1) Allocate Property. Be responsible for allocating property to participants.

(2) Verify Eligibility. Prior to allocating any property, the SASP will have in its possession a determination from SBA that the participant seeking to acquire the surplus personal property is eligible and that the identified use of the property is consistent with the participant's business plan objectives. A SASP may not release property to a participant without this verification.

(3) Charge Fees. Charge participants fees in the same manner that they are assessed for other donees under the Federal Surplus Personal Property Donation Program.

(4) Maintain Records. Maintain accurate records on all property transferred to participants, including the acquisition value, fees, and the number of 8(a) participants registered with the SASPs, and provide such information to SBA on a quarterly basis.

e. Title. Title to Federal surplus personal property, other than an aircraft or vessel, as defined in 41 CFR 102, acquired from a SASP will pass to the participant when the participant executes the applicable SASP distribution documents and takes possession of the property. In all cases, regardless of title passage, the conditions of use, including sale and transfer restrictions in Section III and compliance requirements in Section IV(c) of the MOA, still apply.

f. Aircraft and Vessels.

(1) Terms and conditions of donations of aircraft and vessels, specified at [41 CFR 102-37.460](#), apply to donations of such items to 8(a) participants as well.

(2) Aircraft and vessel donations have a mandatory five year period of restriction that begins when the aircraft or vessel is placed in use for the purpose stated in the letter of intent. SBA's 8(a) BD Program participants must have at least five years remaining in the 8(a) BD Program to be eligible for aircraft or vessel donations.

(3) The aircraft or vessel must be placed in use for the purpose for which it was acquired no later than one year after acquisition.



(4) Conditional title to a surplus aircraft or vessel, as defined in 41 CFR 102, acquired from a SASP will pass to the participant when the participant executes the applicable SASP distribution documents and takes possession of the property. Full title for an aircraft (other than combat configured aircraft) or vessel, will not pass until the following conditions are met:

(a) The participant has placed the property in use for five years; and

(b) One year has passed since the participant graduated from the SBA 8(a) BD Program. In all cases, regardless of title passage, the conditions of use, including sale and transfer restrictions in Section III and compliance requirements in Section IV(c), still apply. (Title for combat configured aircraft never passes; therefore SBA, GSA, and the SASP will not approve any request for combat configured aircraft.)

g. Foreign Gifts. SBA, GSA, and the SASP will not approve any request for foreign gifts.

## CHAPTER 8. COOPERATIVE AGREEMENTS

1. What Is the Purpose of This Chapter? This chapter provides information, guidelines, and procedures for the establishment of cooperative agreements between GSA (and/or the head of any Federal agency designated by the Administrator of General Services) and a SASP for use of property, facilities, personnel, and services, with or without payment or reimbursement, and for the use by the SASP of any Federal surplus personal property in its possession, subject to conditions imposed by GSA.
2. Can SASPs Use GSA Property, Facilities, Personnel, and Services? Per [FMR §102-37.325](#), the GSA zonal office may enter into a cooperative agreement with a SASP to furnish to the SASP property, facilities, personnel, or services of GSA that are found by the GSA zonal office and the SASP to be necessary and useful in assisting the SASP to distribute and use surplus donable personal property and otherwise to carry out the purposes of the Federal Surplus Personal Property Donation Program. The GSA zonal office provides assistance to the extent possible, without reimbursement; however, any extraordinary costs incurred by the GSA zonal office in providing assistance will be on a reimbursable basis.
3. How Can a SASP Enter into an Interstate Cooperative Distribution Agreement? Per [FMR § 102-37.335](#), the GSA zonal office may concur in a cooperative agreement between two States which have contiguous boundaries whereby one SASP agrees to distribute donable surplus property to certain specified donees in the adjoining State. Agreements may be considered when the donees, because of their geographic proximity to the property distribution centers of the adjoining State, could be more efficiently and economically serviced than by their own State surplus property facilities. The payment or reimbursement of service charges by the donee will be a matter of mutual agreement between the SASPs. By entering into an interstate cooperative distribution agreement, the State agreeing to service donees in an adjoining State will agree, as agent for the adjoining SASP, to comply with FMR § 102-37.205.
4. Can a Cooperative Agreement Be Terminated? Yes, for more information see [FMR § 102-37.340](#).
5. What Is the Authority To Enter Into These Agreements? The SASP, in its SPO, will set forth its intention to enter into or to review or revise cooperative agreements and cite State authority to do so. GSA Order, [ADM 5450.39D CHGE 1 Delegations of Authority Manual](#), delegates to the RA authority to enter into cooperative agreements with a SASP for the purposes of this paragraph.

## CHAPTER 9. NONCOMPLIANCE

1. What Is the Purpose of This Chapter? This chapter provides information, guidelines, and procedures for correcting noncompliance by a SASP or donee with the terms, conditions, and restrictions imposed on the use of personal property or special handling conditions or restrictions placed on personal property transferred to them.

2. What Does “Noncompliance” Mean? For the purpose of this chapter, the term "noncompliance" includes, but is not limited to, one or more of the following:

- a. Personal property not placed in use by the donee for the purposes for which donated within one year of donation;
- b. Personal property no longer needed by the donee during the period of restriction;
- c. Unauthorized use of personal property by the SASP or donee during the period of restriction;
- d. Unauthorized sale, disposal, cannibalization, or destruction of personal property by the SASP or donee during the period of Federal restriction;
- e. Failure by a SASP or donee to comply with the terms, conditions, reservations, or restrictions imposed on the use of personal property or special handling conditions or restrictions placed on property;
- f. Unauthorized acquisition or use of the personal property by an ineligible recipient;
- g. Damage to or loss or theft of property while personal property is in the possession of either the SASP or donee during the period of restriction imposed by law, GSA, or the SASP;
- h. Donation to an eligible donee who later becomes ineligible or a donee erroneously determined eligible at the time of application;
- i. A SASP operating in nonconformity with its approved State Plan of Operation (SPO), State laws, or Federal regulations and Federal laws, including Title VI, Title IX, Sec 504 of the Rehabilitation Act, and Sec. 303 of the Age Discrimination Act;
- j. A SASP who has failed to address requirements noted in a State agency review report in an appropriate and timely manner;
- k. Donees receiving personal property in excess of needs;
- l. Improper administration of funds; or

m. Fraud.

### 3. What are the SASP's Compliance Responsibilities?

#### a. SASP Responsibilities.

(1) The SASP is responsible for ensuring that personal property it donates is used by donees in accordance with the provision of the transfer document and that the donee meets all terms, restrictions, and conditions imposed by the transfer.

(2) The SASP, as a bailee per the SF 123 and [FMR §102-37.205\(c\)\(2\)](#), is responsible for surplus personal property transferred to it by GSA from the time it is released to the State or to the transportation agent (including donees who directly pickup property) as designated by the State, until the time the donee executes the certifications and agreements required by the SASP. For personal property physically received by a SASP, the SASP will submit within 30 calendar days all appropriate overage or shortage reports to the GSA allocating office. For more information on overage or shortage reports, please see Chapter 5, Section 4(a).

(3) The SASP will coordinate with the GSA Center of Expertise (COE) before proceeding with any efforts to rectify any noncompliance, including determination of fair market value. The GSA COE will advise the SASP of the appropriate actions that must be taken to rectify the noncompliance, protect the taxpayers' interest in the personal property, and satisfy the interest of the Federal Government.

#### b. Temporary Deferment.

(1) "Temporary deferment" means the action taken by the SASP to refrain from donating additional Federal surplus personal property to a donee until the issue precipitating the deferment is resolved.

(2) The SASP may initiate temporary deferment only when GSA's COE approves. GSA may approve when there are indications of noncompliance, fraud, or other situations, such as changes in the donee's eligibility status. In addition to initiation by the SASP, the donee may also request, in writing, temporary deferment.

(3) The SASP will notify, in writing, the donee and GSA zonal office of any deferment. Upon resolution of the situation that prompted the deferment, the SASP will notify, in writing, the donee, GSA COE, and GSA zonal office of the cancellation of the deferment.

### 4. What Are GSA's Compliance Responsibilities?

a. Each GSA zonal office will ensure that SASPs within its area are operating in compliance with 40 U.S.C. §549, applicable regulations, and their approved SPOs. GSA allocating offices and GSA zonal offices will monitor the allocation of surplus personal property among the States and overage and shortage reports (For more information on

allocation, please see Chapter 3, Section 6). All GSA offices will be alert for evidence of noncompliance, including fraud, misappropriations, theft, or embezzlement.

b. GSA allocating offices will pay special attention to all requests for those types of personal property requiring special handling, certifications, or use limitations, as well as personal property with a high acquisition cost. Prior to any allocation and transfer approval, the allocating office will require the SASP or donee to provide essential background information and a detailed justification to warrant the transfer. The allocating office will also obtain from the SASP or donee a certification that adequate facilities and personnel are available to meet storage, security, usage, and safety requirements applicable to the personal property requested. As stated previously, GSA can impose additional special handling or use limitations. For more information, please see Chapter 6, Special Categories of Donation.

5. What Use Restrictions Are Placed On the Property? Restrictions are found in [FMR § 102-37.450](#). GSA and the SASP reserve the right to impose additional restrictions. For more information on use restrictions, see Chapter 5, Section 6(b) “Terms and Conditions on Donated Property.”

6. What Are Utilization Reviews?

a. SASPs, pursuant to their SPOs, will make utilization visits or obtain written utilization reports from donees giving the date donated personal property was placed into proper use and the nature of its continuous use during the period of restriction.

b. When the SASP receives information which indicates or alleges that donated personal property may have been misused or mishandled, the SASP will immediately make a report to the GSA COE for compliance. Upon receipt of the report, the GSA COE will prepare a [GSA Form 3396, Report of Compliance Activity](#). The SASP will comply with all requests for information or action given by the GSA COE. The GSA COE will then take appropriate action.

7. How Is Recovered Property Disposed Of? The SASP will implement procedures, as required by the terms and conditions of the donation distribution document, to require the donee to return donable personal property to the SASP for further distribution in the State or otherwise transfer or dispose of. The SASP may also require the donee to return donable personal property in accordance with the provisions of the SASP’s SPO when the donee has not placed the property into use for the purposes for which it was donated within one year of donation or ceases to be needed or used by the donee at any time during the applicable restriction period. For more information on time restrictions, see Chapter 5, Section 6(c)(1) “Period of Restriction.”

8. What Actions Will Be Taken to Address Noncompliance? The following administrative actions will be taken to close all other noncompliance cases:

(1) Whenever possible and practicable, the personal property will be placed into proper use by the current donee or transferred to another eligible donee.

(2) When the property cannot be immediately placed into proper use or transferred to another eligible donee, the donee, at its own cost, will return the property to the SASP distribution center, or another secure location as designated by the SASP, when the SASP lacks a distribution center. If circumstances make this impracticable, the SASP will seek approval of other disposal options from the GSA COE.

(3) When property is found to be improperly used by the donee, the SASP will demand that the donee must pay GSA, for deposit to the U.S. Treasury, the fair rental value for the time the property was not in compliance. The SASP may also require that an ineligible recipient pay the fair market value of the property if the ineligible recipient refuses to return the property.

(4) When a determination is made that an institution or organization previously determined eligible for the donation of surplus personal property was, in fact, never eligible, it is the responsibility of the SASP to terminate the donation of surplus personal property to that organization and to take whatever action is necessary to recover all surplus personal property distributed to the institution or organization as directed by the GSA COE.

(5) When a determination is made that an institution or organization previously determined eligible for the donation of surplus personal property later becomes ineligible, it is the responsibility of the SASP as directed by the COE, to terminate the donation of property to that organization and to take whatever action is necessary to recover such property already distributed to the institution or organization, which was received while eligible and is still under restriction. All Federal surplus property received by the institution or organization after it becomes ineligible must be returned.

(6) When it is impossible or impracticable to have the property put into eligible use or returned to the SASP because it has been improperly disposed of or consumed, the GSA COE will demand, for the deposit to the U.S. Treasury, the gross proceeds realized from the disposal or the fair market value of the property, whichever is greater, at the time of the disposal or at the time it was placed into ineligible use. The donee will not be entitled to any reimbursement for costs incurred in acquiring or rehabilitating property which was disposed of unless otherwise approved by the GSA COE. It may be considered impossible or impracticable to have the property placed into eligible use or returned to the SASP when:

(a) The property has been damaged or worn out to the extent that it does not have a useful operating life.

(b) The property has been sold or otherwise disposed of and its whereabouts are unknown.

(c) The property has been consumed.

(d) The property has been rehabilitated or installed in such a way that to

remove and return it would cause serious damage to the property and expense, and would, therefore, not be beneficial to either the Government or the donee.

(e) The cost of returning the property to the SASP or distributing it to another donee would exceed the commercial value of the property involved.

9. How Are Noncompliance Issues Investigated and Documented? When FAS receives a complaint alleging a civil rights violation, FAS must forward the complaint to the Associate Administrator, OCR for further action.

a. Where there are allegations or indications of fraud or other types of noncompliance as discussed above, the SASP will immediately make a report that includes all known information to the appropriate GSA COE. When a Federal employee is involved, the SASP will immediately report the facts directly to the GSA OIG. The GSA COE will report all allegations or indications of fraud to the GSA OIG. Any additional correspondence or documentation received by the GSA zonal office related to any noncompliance case previously reported will be forwarded to the GSA OIG's Office of Investigations. Upon notification from the GSA COE for cases in which fraud is alleged or indicated, the GSA OIG will evaluate the circumstances for a determination whether the matter warrants investigation. The GSA OIG will provide the GSA COE with a written determination at the GSA OIG's discretion.

b. When a SASP learns of theft of Federal property under its jurisdiction, it will immediately report all available information to the local State law enforcement officials and the GSA COE by telephone and promptly confirm the report in writing. The SASP will keep the GSA zonal office informed as the case is developed. Upon receipt of the telephone information, the GSA COE will immediately inform the GSA OIG. The GSA COE will forward a copy of any supporting documentation as requested by the GSA OIG.

c. While a case is under investigation by the GSA OIG, no independent investigation will be conducted by employees of GSA or the SASP. The GSA COE will offer their cooperation and assistance to the GSA OIG, the Federal Bureau of Investigations (FBI) office, and/or the U.S. Attorney, as appropriate, in any investigation or legal actions involving the Federal Surplus Personal Property Donation Program property. The GSA OIG may coordinate with an U.S. Attorney's office.

d. When noncompliance is suspected, the details of the case will not be divulged to anyone other than an employee of GSA who has a legitimate need for the information. Any official investigatory reports generated by the GSA OIG or FBI will not be duplicated without permission from those offices. Excerpts from the report may be made for the GSA COE files. If an excerpt from a GSA OIG report is made part of the GSA COE file, the file must include the following warning indicating any public release of the excerpt must be coordinated with the GSA OIG:

THE FOLLOWING EXCERPTED MATERIAL SHOULD BE SAFEGUARDED TO PREVENT IMPROPER DISCLOSURE AT ALL TIMES. THE INFORMATION CONTAINED IN THIS EXCERPT IS GOVERNED BY THE PRIVACY ACT, AND ANY DISCLOSURE MUST BE IN ACCORDANCE WITH THAT ACT. PERSONS DISCLOSING THIS INFORMATION PUBLICLY OR TO OTHERS NOT HAVING AN OFFICIAL NEED TO KNOW ARE SUBJECT TO POSSIBLE ADMINISTRATIVE, CIVIL, AND CRIMINAL PENALTIES.

AGENCY OFFICIALS WHO RECEIVE REQUESTS FOR THIS EXCERPT FROM THE PUBLIC SHOULD REFER THE REQUESTOR TO THE OFFICE OF INSPECTOR GENERAL, OFFICE OF COUNSEL – FREEDOM OF INFORMATION ACT OFFICER.

If GSA wishes to disclose a portion of an FBI report, it will coordinate with the FBI to follow proper procedures such as including disclosure warnings similar to OIG, above. Where any information, such as names of informants, is intended to be confidential, such confidentiality will be adhered.

e. Where noncompliance allegations have been made against a donee, and the donee is to be investigated, any request for further donations of property to the donee under investigation may be temporarily deferred as directed by the GSA COE until such time as the investigation has been completed and the donee is cleared of the allegations. When deferral action is warranted, the appropriate GSA COE will request the SASP, in writing, to temporarily defer the donation of personal property to the donee.

f. On those cases which, after referral to the GSA OIG, the GSA Inspector General reports to the GSA COE that the U.S. Attorney has declined to prosecute, that the FBI investigation is no longer being pursued, or the GSA OIG determines there is insufficient evidence to justify further investigation, the GSA COE will take such remedies as required (see subpar. 8b) to resolve any administrative actions remaining to close the case.

10. What Are the Reporting Requirements for Noncompliance Issues? The GSA COE will keep Central Office advised of any compliance activity having national implications by use of [GSA Form 3396, Report of Compliance Activity](#). Noncompliance cases will be controlled by a noncompliance case number and it is important that all means of communication bear this number. The noncompliance case number consists of four parts, as illustrated below. Part 1 is the GSA zonal PPM office filing the report, preceded by the letter "R." Part 2 is the last two numbers of the fiscal year in which the case was opened. Part 3 is the two-letter abbreviation of the State in which the case originated. Part 4 is the case number for that State for the current fiscal year. For example, if two cases had been previously opened in Georgia in fiscal year 2010, the next one to be opened in Georgia in fiscal year 2010 would be R4-10-GA-3.



Region	FY	State	Case No.
R4	10	GA	3

11. What Follow-up Actions Will Be Taken? Once noncompliance cases are opened, they will be aggressively pursued until they are satisfactorily closed. The GSA COE is responsible for monitoring and documenting efforts to rectify the case on a regular basis. The GSA COE will document efforts to close each case using a Compliance Case Report Log. For cases being investigated by the GSA OIG, the GSA COE will occasionally contact the GSA OIG to request a case update. Likewise, the GSA COE will regularly contact the SASP for the latest status of cases that are being managed administratively. A noncompliance case may not be considered closed by the GSA zonal office until funds for the case, less all authorized reimbursements, have been transferred to the miscellaneous receipts account of the U.S. Treasury.

12. How Do SASPs Deposit Noncompliance Funds to GSA?

a. The SASP must promptly remit funds collected from enforcement of noncompliance to the GSA COE for deposit per [FMR § 102-37.495\(a\)](#). All payments must be in the form of certified checks, money orders, cashier's checks, or State warrants made payable to GSA.

b. The GSA COE will forward any funds to its respective PPM Sales Manager for deposit. After receipt of the funds, the sales staff will process the payment for deposit to the U.S. Treasury within five business days and complete all necessary documentation in accordance with all GSA approved collection procedures. The GSA zonal office will maintain a register of all remittances received. The [GSA Form 687](#), Register of Remittances Received should be used for this purpose with minor modifications. Remittances should be listed and numbered numerically in the order received, starting with "1" at the beginning of each fiscal year. A column "Noncompliance Case Number" should be added to the right margin to identify deposits or refunds involving a noncompliance case.

c. DPD Format 1, Remittance Transmittal, will be used to transmit each remittance to the Regional Finance Division for appropriate deposit. If the case is in litigation, if it is a performance deposit, or if it is a sale or other disposal case where reimbursable investments or expenses must be paid later, the remittance must be deposited in Suspense Account No. 47X3875. All other deposits will be designated for deposit into the U.S. Treasury, Miscellaneous Receipts Fund No. 0890. The GSA zonal office must furnish a copy of all remittance transmittals to Central Office.

13. When Can SASPs Retain Noncompliance Funds? The SASP may retain and use funds derived by the SASP from any noncompliance action involving any terms and conditions imposed on the donee by the SASP as provided for in its SPO.

## APPENDIX A. GLOSSARY OF TERMS

Many of the definitions below are taken from [FMR Part 102-37](#) and are included here for your convenience. The definitions in the FMR may have changed from the time this handbook was issued. For the most accurate and up-to-date definitions, please visit [FMR Part 102-37](#).

**Accredited.** 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.

**Acquisition Cost.** The original cost to the Government of an item of personal property as it is recorded in the financial and accounting records of the holding agency.

**Adult Day Care.** A program of services provided under health leadership in an ambulatory care setting for adults who do not require 24-hour institutional care and yet, due to physical and/or intellectual impairment, are not capable of full-time independent living. Participants in the day care program are referred to the program by their attending physician or by some other appropriate source such as an institutional discharge planning program, a welfare agency, etc. The essential elements of a day care program are directed toward meeting the health maintenance and restorative needs of participants. However, there are socialization elements in the program which, by overcoming the isolation so often associated with illness in the aged and disabled, are considered vital for the purposes of fostering and maintaining the maximum possible state of health and well-being. These day cares must be approved or licensed by the State or other appropriate authority.

**Agricultural Commodity.** A product resulting from the cultivation of the soil or husbandry on farms and in the form customarily marketed by farmers.

**Approved.** Recognition and approval by the State department of education, State department of health, or other appropriate authority where no recognized accrediting board, association, or other authority exists for the purpose of making an accreditation. For an educational institution or an educational program, approval must relate to academic or instructional standards established by the appropriate authority. An educational institution or program may be considered approved if its instruction and credits therefor are accepted by three accredited or State-approved institutions, or if it meets the academic or instructional standards prescribed for public schools in the State; i.e., the organizational entity or program is devoted primarily to approved academic, vocational (including technical or occupational), or professional study and 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. For a public health institution or program, approval must relate to the

medical requirements and standards for the professional and technical services of the institution established by the appropriate authority. A health institution or program may be considered as approved when a State body having authority under law to establish standards and requirements for public health institutions renders approval thereto whether by accreditation procedures or by licensing or such other method prescribed by State law. In the absence of an official State approving authority for a public health institution or program or educational institution or program, the awarding of research grants to the institution or organization by a recognized authority such as the National Institutes of Health, the National Institute of Education, or by similar national advisory council or organization may constitute approval of the institution or program provided all other criteria are met.

Cannibalization. To remove serviceable parts from one item of equipment in order to install them on another item of equipment. Parts recovered from cannibalization may be used for any eligible donee purpose such as for replacement parts or, to cite another example, an engine removed from an inoperable vehicle can be used to power other equipment.

Child Care Center. 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. 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. 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. 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.

Donable Personal Property. Surplus personal property under the control of an executive agency (including surplus personal property in working capital funds established under [10 U.S.C. 2208](#) or in similar management-type funds) except:

(1) Property that may be determined to not be donable from time to time by the Administrator of General Services;

(2) 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 the Secretary's responsibilities with respect to price support or stabilization;

- (3) Property in trust funds; or
- (4) Nonappropriated fund property.

Donee. Any of the following entities that receive Federal surplus personal property through a SASP:

- (1) A service educational activity (SEA).
- (2) A public agency (as defined in appendix C as: any State; political subdivision thereof, including any unit of local government or economic development district; any department, agency, or instrumentality thereof, including instrumentalities created by compact or other agreement between States or political subdivisions; multijurisdictional substate districts established by or pursuant to State law; or any Indian tribe, band, group, pueblo, or community located on a State reservation) which uses surplus personal property to carry out or promote one or more public purposes. (Public airports are an exception and are only considered donees when they elect to receive surplus property through a SASP, but not when they elect to receive surplus property through the Federal Aviation Administration).
- (3) An eligible nonprofit tax-exempt educational or public health institution (including a provider of assistance to homeless or impoverished families or individuals).
- (4) A State or local government agency, or a nonprofit organization or institution, that receives funds appropriated for a program for older individuals.

Economic Development. A program carried out or promoted by a public agency for public purposes which involves, directly or indirectly, efforts to improve the opportunities of a given political area for the successful establishment or expansion of industrial, commercial, or agricultural plants or facilities and which otherwise assists in the creation of long term employment opportunities in the area or primarily benefits the unemployed or those with low incomes.

Education. A program to develop and promote the training, general knowledge, or academic, technical, and vocational skills and cultural attainments of individuals in a community or other given political area. These programs may be conducted by schools, including preschool activities and child care centers, colleges, universities, schools for students with physical or intellectual disabilities, educational radio and television stations, libraries, or museums. A public educational program may include public school systems and supporting facilities such as centralized administrative or service facilities.

Educational Institution. An approved, accredited, or licensed public or nonprofit institution, facility, entity, or organization conducting educational programs or research for educational purposes, such as a child care center, school, college, university, school for the students with physical or intellectual disabilities, or an educational radio or television station.

Educational Radio or Television Station. A public or nonprofit radio or television station licensed by the FCC and operated exclusively for noncommercial educational purposes.

Eleemosynary Institutions. A nonprofit institution organized and operated for charitable purposes, whose net income does not vest in whole or in part to the benefit of shareholders or individuals, which shall have filed with the Regional Administrator, GSA National Capital Zone, a satisfactory statement establishing such status.

Decoration. An order, device, medal, badge, insignia, emblem, or award offered by or received from a foreign government.

Foreign Gift. A monetary or non-monetary present (other than a decoration) offered by or received from a foreign government. A monetary gift includes anything that may commonly be used in a financial transaction, such as cash or currency, checks, money orders, bonds, shares of stock, and other securities and negotiable financial instruments.

Health Center. An approved public or nonprofit facility that provides public health services, including related facilities such as diagnostic and laboratory facilities and clinics.

Historic Light Station. Historic Light Station as defined in [54 U.S.C. § 305101](#), includes: “the light tower, lighthouse, keeper’s dwelling, garages, storage sheds, oil house, fog signal building, boat house, barn, pumphouse, tramhouse support structures, piers, walkways, underlying and appurtenant land and related real property and improvements associated with a historic light station that is a historic property.”

Holding Agency. Holding agency means the Federal agency having accountability for, and generally possession of, the property involved.

Hospital. 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. A public or nonprofit facility providing library services free to all residents of a community, district, State or region.

Licensed. 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. Licensing may be required for educational or public health programs such as occupational training, physical or mental health rehabilitation services, or nursing care. Licenses frequently must be renewed at periodic intervals.

Local Government. A government, or administration of a locality, within a State or a possession of the United States.

Medical Institution. 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. A public or nonprofit institution that is organized on a permanent basis for essentially educational or aesthetic purposes and which, using a professional staff, owns or uses tangible objects, either animate or inanimate; cares for these objects; and exhibits them to the public on a regular basis. At a minimum, the institution must accede to any request submitted for access during business hours. Those hours are interpreted to be approximately 9am to 4pm, with some reasonable variation from these hours to be considered on a case-by-case basis. As used in this part, the term museum includes, but is not limited to, the following institutions if they satisfy all other provisions of this definition: Aquariums and zoological parks; botanical gardens and arboretums; nature centers; museums relating to art, history (including historic buildings), natural history, science, and technology; and planetariums. For the purposes of this definition, an institution uses a professional staff if it employs at least one full-time 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. For example, an institution which is engaged primarily in the sale of antiques, objects d' art, or other artifacts and which incidentally provides displays to the public of animate or inanimate objects, either free or at a nominal charge, does not qualify as a museum.

No Commercial Value. Personal property which is not usable and cannot economically be rehabilitated for use for the purposes for which it was originally intended, and can reasonably be expected to have no market value for use as an entity for any other purposes.

Nonprofit Tax-exempt Activity. Nonprofit means not organized for profit and exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code ([26 U.S.C. 501\(c\)\(3\)](#)).

Parks and Recreation. A program 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. These facilities include, but are not limited to, parks, playgrounds and athletic fields, swimming pools, golf courses, nature facilities, and nature trails.

Program for Older Individuals. A program conducted by a State or local government agency or nonprofit activity that receives funds appropriated for services or programs for older individuals under [42 U.S.C. 3020d](#).

Public Agency. 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 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.

Public Health. A program 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. An approved, accredited, or licensed public or nonprofit institution, facility, or organization conducting a public health program 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. A program carried out by a public agency that is legally authorized in accordance with the laws of the State or political subdivision thereof and for which public funds may be expended. Public purposes include but are not limited to programs such as conservation, economic development, education, parks and recreation, public health, public safety, programs of assistance to the homeless or impoverished, and programs for older individuals.

Public Safety. A program 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 public police departments, sheriffs' offices, the courts, penal and correctional institutions including juvenile facilities, State and local civil defense organizations, and fire departments and rescue squads,



including volunteer fire departments and rescue squads supported in whole or in part with public funds.

Quasi-public Agency. An institution which offers public services, although under private ownership or control is quasi-public, but supported in whole or in part with public funds.

Reporting Activity. The activity which initiates the SF 120 or reports the property in PPMS. It may or may not be the same as the holding agency.

School (including schools for students with physical or intellectual disabilities). 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.

Secondary Use. The use of an item of personal property for a purpose other than the purpose for which it was originally designed; e.g., truck tires placed in a school yard for use as playground equipment or engine containers utilized as water tanks for watering livestock.

Service Educational Activity (SEA). Any educational activity designated by the Secretary of Defense as being of special interest to the armed services; e.g., maritime academies or military, naval, Air Force, or Coast Guard preparatory schools, or civilian youth organizations which are national in scope and have been chartered by Congress.

Standby Use. The use of an item of personal property as backup for a similar item or function; e.g., a generator set used to supply emergency electrical power. Such items must be installed and be ready for immediate use.

State. 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). The agency designated under State law to receive Federal surplus personal property for distribution to eligible donees within the State as provided for in [40 U.S.C. 549](#).

Surplus Release Date (SRD). The date on which Federal utilization screening of excess personal property has been completed, and the property is available for donation.

University. 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.

## APPENDIX B. SYNOPSES OF ELIGIBILITY DETERMINATIONS

This appendix provides case histories of eligibility determinations to serve as a guide for GSA Zonal Offices and SASPs in this process. Determinations are provided as they were analyzed at the time and may not reflect an entity's current eligibility status.

### ARRANGEMENT OF DETERMINATIONS

Determinations are arranged, as far as possible, according to type of institution and the program in which they are engaged. The groups of eligibility determination cases are arranged in the following order:

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**PART I. PUBLIC AGENCIES**

Required documentation (per [FMR § 102-37 Appendix B](#) and [FMR § 102-37.390-395](#)):

- Proof of public agency status (any of the following is acceptable)
  - Proof of public funding
    - The agency's budget as reported by the agency
    - The Annual State Budget Report from cities and counties listing the agency
    - A page from the State website showing the municipality or the annual municipal budgets
- Narrative that includes the following information:
  - Persons served
  - Type of service provided to the State (or compact/ agreement with the State)
  - Facilities
  - Background information about the organization (should detail agency purpose such as conservation, economic development, etc.)
- Authorized representatives list
- Signed Nondiscrimination Assurance Statement
- Signed non-debarment statement

## 100 - CONSERVATION

**Conservation:** 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.

### Questions Addressed:

- What if the public agency charges user fees for the surplus property?
- What if the conservation program is a nonprofit?

101 – What if the public agency charges user fees for using surplus property?

**Summary Answer:** The agency may be eligible if:

- The fees collected cover direct operating and maintenance costs of the equipment used;
- This is not the same as the loan, lease, or rental of equipment for profit or to ineligible users; and
- The equipment pool is key to the agency's conservation program.

**Eligibility Case Study:** Navelencia Resource Conservation District (NRCD)

A district letter states that the NRCD is a special district, organized pursuant to Division 9 of the Public Resource Code (PRC) of California to achieve the aims of the State for preserving and increasing the productivity of agricultural, range and forestry lands. The letter advises that,

"The Code provides . . . for the organization and operation of Resource Conservation Districts for the purpose of soil and water conservation, the control of run-off and the prevention of soil erosion. . . improvement of farm irrigation, the development of storage and distribution of water, land drainage and land clearing."

Although the regional attorney agrees that the applicant is an eligible public agency, he is concerned over a possible prohibition to donated property being "loaned or leased" to users within the district as described in paragraph one, page two of the district's letter of November 23, 1977, to the State agency. We do not consider that the property is either loaned or leased to the users under the procedure outlined by the district, inasmuch as the equipment is made available for use through a cooperative agreement with the district and may be used only for those conservation purposes declared by legislative determination as being in the general public interest and benefit..

Furthermore, the legal authority for this mode of operation is contained in sections 9250, 9256, 9257 and 9260 of Article 9, Division 9, PRC, which are quoted in the district's letter to the State agency.

The fees collected by the district in providing earth moving services through its equipment pool of tractors, scrapers, rippers, graders, etc., are merely users fees to cover direct operating and maintenance costs of the equipment by eligible users under the cooperative agreement. It is our determination that this should in no way be construed to be the same as the loan, lease, or rental of equipment for profit or to ineligible users in the usual sense of the meaning of such terminology.

It is our determination that the NRCD is an eligible public agency within the meaning of the Federal Property and Administrative Services Act of 1949, as amended, and as defined and described in the FMR. As an eligible public agency, the district may acquire donable Federal surplus personal property through the California State Agency for Surplus Property for conservation purposes, including the acquisition of property for its equipment pool for use in its soil conservation activities.

102 – What if the conservation program is a nonprofit?

**Summary Answer:** The agency is ineligible because

- Conservation for the purposes of donation must be performed by a public agency in a program for public purpose.
- Public agency programs are supported in whole or in part with public funds.

**Eligibility Case Study:** The Nature Conservancy, West Virginia Field Office, Charleston, WV

The Nature Conservancy is a nonprofit, tax-exempt, membership conservation organization concerned with the preservation of ecological diversity through the protection of natural areas.

The objectives of this organization are: (1) to preserve or aid in the preservation of all types of wild nature, including natural areas, features, objects, flora and fauna, and biotic communities; (2) to establish nature reserves or other protected areas to be used for scientific, educational, and esthetic purposes; (3) to promote the conservation and proper use of our natural resources; (4) to engage in or promote the study of plant and animal communities and of other phases of ecology, natural history, and conservation; and (5) to promote education in the fields of nature preservation and conservation.

It is funded through a variety of sources, such as membership dues, individual contributions, foundation grants, and recovery of expenses.

The applicant organization is member-governed and has a volunteer staff that often works in cooperation with corporations, government agencies, and other organizations and individuals.

Based on the documentation, there is no evidence of the applicant being a public agency carrying out for the residents of West Virginia a public purpose. Public agency programs are supported in whole or in part with public funds. Nor does it qualify as an approved, licensed, or certified educational or health activity.

It is recommended that the State agency determine this organization ineligible to participate in the Donation Program.



## 200 - ECONOMIC DEVELOPMENT

**Economic development:** a program or programs 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.

Economic development activities may include:

- Municipal water and sewage departments operating sewage systems and waste treatment plants
- State or local street or highway departments involved in construction or improvement of roads
- Port authorities and public airport commissions involved in harbor and public airport development
- Public transit authorities providing public transportation
- Environmental and anti-pollution programs of municipal, county, or State agencies
- State and local agencies involved in tourism development
- Housing authorities.

**Questions addressed:**

- What if a tribe applies as a corporation?
- Can an individual be considered a public agency?
- What if the public agency is a corporation?

201 – What if a tribe applies as a corporation?

**Summary Answer:** The corporation may be eligible if:

- The corporation is designated by Congress to meet the criterion of being a public agency.
- Their function is similar to that of a port authority, which is deemed eligible as a public agency carrying out or promoting for the residents of a given political area one or more public purposes.
- Organizations or institutions working in conjunction with, or assigned by law to, the Regional Corporation shall establish their own eligibility to obtain property under the program.

**Eligibility Case Study:** Alaska Native Regional Corporation

Section 6 of Pub. L. 94-519 repealed section 514 in Title V of the Public Works and Economic Development Act of 1965, as amended, whereby a new property assistance program had been set up, authorizing the Federal Co-chairmen of seven Regional Action Planning Commissions to obtain excess property in order to distribute it locally by loan or gift for economic development purposes. Section 514 enumerated specifically the organizations or institutions fostering economic development eligible to receive excess property through the Regional Action Planning Commission. Among those designated as eligible were "any Indian tribe, band, group, pueblo, or Alaskan village or Regional Corporation (as defined by the Alaskan Native Land Claims Settlement Act of 1971) recognized by the Federal Government or any State."

In repealing section 514 and enacting P. L. 94-519, Congress intended that those recipients eligible under section 514 to obtain excess property would continue to be assisted by making them eligible to participate along with other eligible donees in the Federal Surplus Personal Property Donation Program.

In our opinion, the for-profit corporations designated by Congress as one of the twelve Alaska Native Regional Corporations (the thirteenth ANRC was in "dissolved" status at the time of this printing) meet the criterion of being a public agency (since it obviously does not fall within the criterion of a nonprofit, tax-exempt health or educational organization or institution), and being an instrumentality created by or pursuant to a State or Federal law, may be eligible to participate in the Donation Program on its own behalf to receive property for its own use in fostering the economic development of the Alaskan Indian.

The surplus property received by the Alaska Native Regional Corporation is for its own use and may not be alienated by its being leased or loaned or transferred to some other organization or institution. To permit the lease or loan of the property would in effect circumvent the law and regulation, permitting the use of the property to organizations, institutions or individuals ineligible in the first instance to obtain the property.

Organizations or institutions working in conjunction with, or assigned by law to, the Regional Corporation should establish their own eligibility to obtain property under the program. This includes the Alaska Native Village Corporations and their represented

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village communities. This requirement is for the purpose of establishing a direct compliance responsibility with respect to the use of the property.

We have noted the fact that the Regional Corporations, as defined by the Alaskan Native Land Claims Settlement Act of 1971, are not located on reservations, since the act in effect revoked reservations previously granted to Alaskan Natives. What the act did, however, was to create the Regional Corporation in lieu thereof, not only to take fee title to certain lands, but to perform other economic development functions on behalf of Native Alaskan Indians who are stockholders in the Regional Corporations.

Accordingly, the Alaskan Native Regional Corporation falls into a category somewhat analogous to a port authority, an eligible entity. This case would be applicable to for-profit corporations designated by Congress as one of the twelve Alaska Native Regional Corporations.

202 – Can an individual be considered a public agency?

**Summary Answer:**

- No, because Congress specifically stated that surplus property would be donated for one or more public purposes
- Congress did not intend that property would be used for the benefit of any individual for private gain, no matter how deserving that individual may be
- An individual may be considered a small business per the Small Business Act

**Eligibility Case Study:** City of Waynesboro, Virginia's Request for Eligibility of an Individual

The question of defining the words "public purposes" within the context of section 3(A) of Pub. L. 94-519 stems from an inquiry from the Virginia Federal Property Agency in connection with the request by the city of Waynesboro, Virginia, to make a shoe finishing machine available to an individual for use by that individual in his own business.

The circumstances surrounding this case are as follows: A citizen of the city of Waynesboro, disabled by reason of deafness, conducted a small shoe repair establishment for some 35 years. As a result of a fire, this individual's establishment was destroyed with a considerable financial loss, as well as loss of income. It is the desire of the city to help this individual in getting reestablished. The city cites as its basic authority to furnish assistance in cases such as this, Section 63.1-51 of the Code of Virginia. The city indicates that such assistance comes under the meaning of serving a public purpose.

"Public purpose" is defined in FMR 102-37 Appendix C as follows:

"(22) 'Public purpose' means a program or programs carried out by a public agency which are 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."

The purposes cited as examples were all public as distinguished from private or individual. The word "public" stemming from the French word "populous," meaning the people, is defined as relating to, or effecting all the people or the whole area of a nation or State, this as opposed to the private affairs of an individual. Thus, when Congress specifically stated that the property would be donated for one or more public purposes, it did not intend that property would be used for the benefit of any individual for private gain, no matter how deserving that individual may be.

Accordingly, while the State or local government may have passed legislation seeking to assist certain classes of individuals, where that legislation is in conflict with the Federal law, the Federal law will have precedence. In the case at hand, the State may, should it choose, assist the individual to become gainfully employed; however, the State may not use donated Federal surplus property for that purpose.

203 – What if the public agency is a corporation?

**Summary Answer:** The corporation may be eligible if:

- It is a duly constituted public agency carrying out a public purpose for residents.
- It is publicly-funded.

**Eligibility Case Study:** Gateway Housing Corporation (GHC), Owingsville, Kentucky

In 1967, an Executive order by the Governor established 15 Area Development Districts (ADD's) throughout the State. The formation and direction of the ADD's in 1967 was under Kentucky's State Program Development Office, which is presently the Department for Local Government of the State government. The GHC is one of the ADD's serving the five counties of Bath, Rowan, Montgomery, Menifer, and Morgan.

The GHC is designed to enable families, who would be unable to afford such housing from their own resources, to live in decent housing. The program utilizes existing, substantially rehabilitated, and newly constructed housing units. GHC's decisions and policymaking are made by its board of directors, composed of at least 51 percent elected public officials, as required by public law, plus citizen members, the heads of the principal committees or councils, and minority representatives.

GHC's funding comes from a combination of Federal, State, and local funds. On the Federal level, sources of funding include the Appalachian Regional Commission, Economic Development Administration, Department of Health, Education, and Welfare, Department of Labor, Department of Housing and Urban Development, and the Department of Justice. These Federal funds are administered by the State's Department for Local Government and are allocated through the Joint Funding Administration. In addition to Federal and State funds, the GHC received support from the local units of government. Local contributions are based on a per capita formula established by State statute.

GHC is a duly constituted public agency carrying out a public purpose for the residents of the five counties noted in the second paragraph of this opinion. Thus, the applicant qualifies for eligibility to participate in the Donation Program as a public agency.

The State agency should advise the GHC that the use of the property received by the corporation through the Donation Program is for its own needs and requirements and that it may not make any of the donated surplus property available to individuals acquiring public housing, nor should donated surplus property be incorporated into any of the structures not owned by the housing corporation and which are rented.

### **300 - PUBLIC HEALTH**

**Public health:** A program or programs 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:

- 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
- Control and elimination of disease-carrying animals and insects.

#### **Questions Addressed:**

- What if the entity is a quasi-public corporation?
- Do outpatient programs qualify as eligible health public agencies?

301 – What if the entity is a quasi-public corporation?

**Summary Answer:** The entity may be eligible if:

- It was established by the State for public health purposes.
- Its responsibilities meet the public health criteria set forth in FMR 102-37 Appendix C.

**Eligibility Case Study:** Vermont Health Policy Corporation, Inc., Montpelier, Vermont

The Vermont Health Policy Corporation is a private, nonprofit, tax-exempt organization that was created by the 1977 Vermont Legislature, and authorized by the Federal Government (July 1, 1977), to see that all Vermonters have access to the most appropriate health care at prices they can afford.

Vermont's Health Policy Corporation grew out of the National Health Planning and Development Act of 1974. In passing this act, Congress aimed, via health planning, to contain rising health care costs, more evenly distribute health services, and to improve the health of Americans.

The applicant has the following responsibilities: (1) To develop a statewide "health systems plan" to improve the health of Vermonters and guide the growth of health services in the State. (2) To prepare an "annual implementation plan" that spells out what part of the health systems plan will be achieved each year. (3) To review proposed capital expenditures by health facilities and to review certain Federal grants. (4) To make recommendations to the State on the need for new health facilities/ services and to review the appropriateness of existing ones. (5) To involve communities and individuals in the health planning process.

We have concluded that the applicant should be deemed eligible to participate in the Federal Surplus Personal Property Donation Program as a quasi-public corporation responsible for the implementation of the State's health planning activities and, as such, meets the criteria as set forth in FMR 102-37 Appendix C.

302 – Do outpatient programs qualify as eligible health public agencies?

**Summary Answer:**

- They can qualify if the program is contracted and funded by the State and meets all other eligibility criteria.
- If their contract is terminated, their eligibility would need to be re-evaluated.

**Eligibility Case Study:** Consejos, Inc., Sacramento, California

An analysis of the application and supporting documentation reveals that the applicant is a private, nonprofit, tax-exempt alcohol and drug abuse treatment center operating an outpatient drug-free and drug prevention program, providing training seminars, educational programs, and counseling services. Article II(a) of its Articles of Incorporation states that, "The specific and primary purpose is to establish a charitable nonprofit drug abuse prevention and counseling center in the Chicano community."

The applicant's outpatient drug-free program is approved by the California State Department of Health, Division of Substance Abuse. This is the single agency in the State designated to approve drug abuse grant programs as meeting Federal requirements for funding under the Federal drug abuse grant program provided for under the Drug Abuse Office and Treatment Act of 1972, Public Law 92-255.

Professional medical care is provided through an agreement between Consejos, Inc., and the Department of Personal Health of the county of Sacramento health agency.

The applicant is funded through Federal and State funds under Public Law 92-255 sections 409 and 410 funds, which they contract for through the State of California, Department of Health, Treatment Section, Division of Substance Abuse, and Sacramento County.

Based on the documentation submitted, it is our opinion that the applicant is an approved public health entity with a professionally qualified staff which meets the eligibility criteria for participation in the Donation Program as an alcohol and drug abuse treatment center as defined in [FMR § 102-37 Appendix C](#). Should the applicant's contract with the State and/or the grant for funds to operate its drug-free program be canceled or terminated, its program would need to be reviewed and eligibility reestablished as a nonprofit health organization.



## 400 - PUBLIC SAFETY

**Public safety:** A program or programs 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:

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

### Questions answered:

- Are National Guard units eligible to participate?
- Can a State civil defense office approve its local units?
- What if the fire department or rescue squad is grant-funded or volunteer-based?
- What if the entity is a nonprofit that is affiliated with a public agency?
- Are Civil Air Patrols eligible to participate?

401 – Are National Guard Units eligible to participate?

**Summary Answer:** Yes, National Guard units are eligible.

**Eligibility Case Study:** National Guard Units

National Guard units, although funded and supplied by the Army or Air Force for all of their requirements, are considered to be public agencies eligible to participate in the surplus property program as they are a part of the State mechanism.

402 – Can a State civil defense office approve its local units?

**Summary Answer:**

- Yes, because by law, each of the local civil defense units is a component of the parent State civil defense office and the parent civil defense office approves their programs.
- Care should be taken to see that an arrangement with the State civil defense office does not violate the intent of Pub. L. 94-519, insofar as it may affect the eligibility of public agencies serving one or more public purposes.

**Eligibility Case Study:** Indiana State Civil Defense Units

The State Director of the Department of Civil Defense, State of Indiana requested that the eligibility, as well as the type of property selected by a local civil defense unit, be cleared through his office.

Generally, most communities in each State have created civil defense units as part of the local governments and, accordingly, would be considered eligible as a public agency, performing functions involving the public safety of the community.

However, by law, each of the local civil defense units is a creature of the parent, the State civil defense office, which provides the guidelines and funding, etc., for each of the local units, as well as approving their programs.

Accordingly, we see no objection to agreeing to abide with the determination or certification of eligibility relating to any individual local unit made by the State office of civil defense, providing the certifications are communicated to the State agency for surplus property and relates only to the civil defense activities of the local unit and does not attempt in any way to bind or control any other public agency of the State or local governments in acquiring surplus property for one or more public purposes.

There may be problems which may arise in connection with this arrangement. An example is the case where a fire department of a community may likewise be the designated civil defense unit. In a case such as this, the local fire department being a public agency of the community would be eligible for property regardless of its status as a civil defense unit. Accordingly, the State civil defense office could only certify as to the eligibility of that local fire department as a civil defense unit to acquire property for civil defense purposes, but not as to its requirements and eligibility as a public agency.

As stated previously, care should be taken to see that an arrangement with the State civil defense office does not violate the intent of Pub. L. 94-519, insofar as it may affect the eligibility of public agencies serving one or more public purposes.

403 – What if the fire department or rescue squad is grant-funded or volunteer-based?

**Summary Answer:**

- They can be eligible if a political subdivision only operates fire stations through this method, then it could be determined that they are acting on behalf of a department, agency or instrumentality of a State.
- The department should show proof of a grant with a supporting agreement.

**Eligibility Case Study:** Volunteer Rescue Squads and Volunteer Fire Departments

Volunteer rescue squads and volunteer fire departments are nongovernmental in that they do not meet the criteria of being a public agency, but which are nonprofit and tax-exempt.

Public Law 94-519 sets out two basic categories of eligible donees. The first is any public agency is eligible when such property is used in carrying out or promoting for the residents of a given political area one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety. The enumeration of the kinds of services is illustrative and not intended to be exclusive.

To meet the qualifications of a public agency, such agency, organization or institution must be supported in whole or in part with public funds. By public funds it is meant such funds as may have been appropriated by the State, county, or local government in support of the function performed. Grant funding alone is not considered public funding. However, a grant with a supporting agreement or compact, where public funding is not otherwise distributed, could be considered public funding. Therefore, a situation in which the county provides water and radios and authorizes the purchase of gasoline from county sources is not one which can be categorized as a public agency unless it is provided in conjunction with supporting agreement or compact. However, if further evidence can be established that the volunteer fire department, even though not fully funded by the county, has been accepted by the county and considered as an integral part of its safety program and has been chartered as an approved fire department by the proper approving or authorizing authority of the county or State or local government, we may accept such an organization as a quasi-public agency carrying out for the residents of a given political area one or more public purposes such as public safety. Basic information suggested above should be furnished.

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

Some of the questions which need answering are: (1) Is the rescue squad affiliated with a health service--hospital, clinics, etc? (2) Is the rescue squad one which has been approved or certificated by the proper health official of the community being served? (3) What is its basis for being designated a rescue squad and for what purpose? (4) With respect to funding, is it tax supported in whole or part, or is it only given grants or gifts of property or the use of property, and what is the legal authority for the gift or grant by the local government?

404 – What if the entity is a nonprofit that is affiliated with a public agency?

**Summary Answer:**

- No, the entity is not eligible if it is not an integral part of the public agency.
- However, the public agency could acquire property in its own name for the use of the affiliated nonprofit.

**Eligibility Case Study:** Desert Rescue Squad, Barstow, California

The applicant has applied as a search and rescue activity. Its membership is made up of reserve deputy sheriffs.

It is performing a public service in carrying out its search and rescue program using specialized types of equipment furnished by the county.

The organization is an independent, nonprofit entity affiliated with and working closely with the sheriff's office. It is not an integral part of the official county sheriff's office so as to qualify as a public agency.

The title to the specialized equipment used by the applicant is retained by the county.

Because the organization is performing a public service in carrying out its search and rescue program and its members are all reserve deputy sheriffs, we would have no objection to the county sheriff's office acquiring property in its name for the use of the sheriff's Barstow Desert Rescue Squad. However, title to and accountability for the property, during the period of Federal restrictions, would be the responsibility of the county sheriff's office.

405 – Are Civil Air Patrols eligible to participate?

**Summary Answer:**

- Yes, Civil Air Patrols can be eligible as quasi-public entities.
- As always, each eligibility application should be reviewed and eligibility determined on a case-by-case basis.

**Eligibility Case Study:** Civil Air Patrols

The Civil Air Patrol (CAP) is a nonprofit corporation chartered by Congress and established as a volunteer civilian auxiliary of the U.S. Air Force. Organized into 8 regions and 52 wings (1 for each State, the District of Columbia, and Puerto Rico), CAP operates in close cooperation with State and local governments to provide assistance during emergency situations. While the organization was previously considered to be ineligible, it has now been determined that CAP wings may qualify as eligible donees for particular functions based on the quasi-public nature of certain CAP functions and the public safety role which CAP fulfills. Each eligibility request should be reviewed and determined on a case-by-case basis, using the following information as guidance.

The CAP wing must be supported in whole or in part with public funds that have been appropriated for the specific purpose of promoting the public safety role of the CAP. The wing must be considered as an integral part of a public safety program and its public safety role must be clearly indicated in official State emergency plans.

The CAP wing, represented by the wing commander as a senior corporate officer, is the lowest level authority for requesting or accepting property through the Donation Program. An eligible CAP wing may acquire property for the use of its subordinate groups, squadrons, and flights, but these subordinate units shall not be determined eligible entities or be allowed to acquire property on their own through the State agency, except as authorized by the wing commander.

Property which is donated to CAP wings shall be limited to property for public safety purposes since it is only in the public safety role that CAP qualifies as a quasi-public agency. All property acquired by CAP wings shall be received in the name of "Civil Air Patrol" subject to the bylaws of the corporation (CAP Constitution, article XIII), as well as all Federal/State rules and regulations applicable to the Donation Program. The CAP wing will enforce, be familiar with and comply with all Federal/State rules, regulations, and restrictions relative to property it may acquire through the Donation Program for use of the wing or its groups, squadrons, and flights. In any instance where CAP rules, regulations, or systems conflict with these established for the donation of Federal property, the Federal and State donation authorities shall take precedence. In order to ensure that CAP accountability is maintained on all property received through the Donation Program, State agencies must send a copy of each distribution document for property donated to CAP wings to Headquarters Civil Air Patrol.

National Headquarters CAP, as the parent organization, must continue to satisfy all rules and regulations assuring nonprofit and tax-exempt status in order for CAP wings to meet this facet of the criteria for eligibility to receive property through the Donation Program.

## 500 – EDUCATION

**Education:** a program or programs 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
- Supporting facilities (such as centralized administrative or service facilities)

**Educational institution:** an approved, accredited, or licensed public or nonprofit institution, facility, entity, or organization conducting educational programs or research for educational purposes, such as a child care center, school, college, university, school for students with physical or intellectual disabilities, or an educational radio or television station.

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

**Questions addressed:**

- Can a daycare qualify as an educational public agency?
- Can a radio club qualify as a public agency?
- Can a corporation qualify as a public agency?

501 – Can a daycare qualify as an educational public agency?

**Summary Answer:**

- Yes, but only when the day care is established by State law.

**Eligibility Case Study:** Dillon-Marion Human Resources Commission Day Care Development Center

The applicant's day care development center is operated to provide child care services for children ages 3 to 5 who qualify for Aid for Dependent Children (AFDC) assistance or meet the Department of Social Services, Title XX income eligibility guidelines. The narrative description of its public health and educational program meets the definition of a child care center as set forth in FMR 102-37 Appendix C.

The day care development center is licensed by the State, as evidenced by the enclosed license, to provide daycare for a maximum of 47 children.

The Human Resources Development Commission of Dillon and Marion Counties is a community action agency grantee under the Community Services Administration of the Federal Government, with grantee number 40605. Accordingly, the letter of tax exemption under section 501(c)(3) of the Internal Revenue Code, in the name of Dillon-Marion Community Action, is acceptable.

The application for eligibility indicates that the Applicant is applying for eligibility as both a public agency and as a nonprofit, tax-exempt health or educational institution.

We have confirmed that the SC State legislature passed "A Bill to create the Dillon-Marion Human Resources Commission in Dillon and Marion Counties and to prescribe its power and duties," which became effective on February 23, 1977, as Act 22. Pursuant to the bill, the Dillon-Marion Human Resources Commission is a public agency, and it meets the definition of a "public agency" as set forth in FMR 102-37 Appendix C.

Based on the facts in the application for eligibility file and the research by this office, it is our determination that even though the Dillon-Marion Resources Commission Day Care Development Center qualifies for eligibility as a licensed, nonprofit, tax-exempt child care center to acquire donable personal property for educational purposes, the Dillon-Marion Human Resources Commission also qualifies as a public agency, which is eligible to acquire donable Federal surplus personal property for use for any public purpose.

It is our opinion that the Dillon-Marion Human Resources Commission is an eligible public agency. As an eligible public agency, the commission may acquire property for its child care center as well as for its other programs for use for any public purpose. However, no property should be distributed to the commission until properly executed assurances and authorization required by FMR 102-37 Appendix C have been submitted to the State agency for inclusion in the applicant's eligibility case file.



502 – Can a radio club qualify as a public agency?

**Summary Answer:**

- Radio stations are only eligible as public educational institutions.
- Accordingly, a radio club, not supported by public funds or established by State legislation (even if providing a public service for public safety) would not be eligible.

**Eligibility Case Study:** Beesville Amateur Radio Club, Beesville, Texas

The purpose and programs of the applicant appears to be specifically that which its name implies, an amateur radio club, which incidentally volunteers its services to the community in times of emergencies.

This type of organization is distinguishable from that of the volunteer fire departments or rescue organizations in that the latter performs full time services of a public nature in the protection of the health and safety of the community, and its services are taken into full account by the community in its planning and programming for the health and safety of the community. In many instances relating to volunteer fire units and rescue squads, financial support of one kind or another, whether it be tax funds or other property such as equipment or real estate, is frequently given to the organization by the State, county, or local community in support thereof.

There is no data supporting the applicant as a nonprofit, tax-exempt health or educational institution or organization meeting the criteria of the regulation or legislation. Accordingly, in order to sustain eligibility, the applicant would have to be found to be a public agency. If there is legislation, which we are unaware of, which would establish this organization as a public agency of the State and which is further confirmed by an opinion of the State attorney general, we would reconsider our opinion in the light of such new evidence.

503 – Can a corporation qualify as a public agency?

**Summary Answer:**

- Yes, when the corporation has been established by State law as the official agency responsible for a public purpose.

**Eligibility Case Study:** Maryland Advocacy Unit for the Developmentally Disabled, Inc., Baltimore, MD

The Maryland Advocacy Unit for the Developmentally Disabled (MAUDD), a private, nonprofit corporation incorporated under Maryland law, is designated as the official agency, for purposes of Public Law 94-103, responsible for the implementation of the State system for the protection and advocacy of the rights of the developmentally disabled.

The corporation has no stockholders. The corporation has nine members divided into three classes with three members per class. Each class has one member who is developmentally disabled, one member who is concerned with the problems and interests of developmentally disabled persons, and one other public member. The members are designated by the State of Maryland. None of the members are from any private agency or any agency or department of State government providing treatment, services, or rehabilitation to developmentally disabled persons. The applicant has indicated that its source of funds come from grants.

When an applicant is established by the State as a public agency to carry out specific public purpose functions within the State, it would qualify for eligibility as a public agency of the State. MAUDD is such a public agency.

It is recommended that the State agency determine MAUDD eligible to acquire Federal surplus personal property through the Donation Program for public purposes as a public agency of the State as defined in P. L. 94-519 and FMR § 102-37 Appendix C.

**PART II. NONPROFIT EDUCATIONAL AND PUBLIC HEALTH ACTIVITIES**

Required documentation per [FMR §102-37 Appendix B \(i\)](#):

- IRS 501 (c) ruling
- Current copy of License, Accreditation, or Approval
  - Note expiration date if applicable
  - See [FMR §102-37.395](#) for a detailed list of acceptable documentation
- Narrative on official letterhead that includes some or all of the following information:
  - Number of employees
  - Persons served / Enrollment
  - Type of service provided to the State / Course details
  - Facilities
  - Background information about the organization
- Authorized representatives list
- Signed Nondiscrimination Assurance Statement
- Signed non-debarment statement

## 100 - MEDICAL INSTITUTIONS

**Medical institution:** 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. See [FMR 102-37 Appendix C “medical institution” definition](#).

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.

### Questions Addressed:

- What if the organization addresses the health of animals instead of people?
- What is the difference between a license and a certification?
- What if no form of accreditation authority exists for the institution?
- Are regional Red Cross centers eligible to participate?
- What if the organization serves only men or women?
- Are adult day care centers eligible medical institutions?

101 – What if the organization addresses the health of animals instead of people?

**Summary Answer:**

- The organization is not eligible as a medical institution because the primary function of its activity is the provision of public health service to animals, not humans.
- The organization could be eligible as a public agency if:
  - It is publicly funded
  - It shows that their focus on animals presents a public health benefit to humans

**Eligibility Case Study:** Dakota Foundation for Animal Health

The foundation has been determined exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

The specific purpose of the organization, as stated, is to "engage in research in the causes, characters, nature, management and treatment of animal diseases, also engage in research that would have some economic benefit to the animal owner."

The definition of Public Health in Appendix C of the FMR includes the following statement at the end: "the control and elimination of disease-carrying animals and insects." A public health institution must demonstrate that the primary function of its activity is the provision of public health service to benefit humans.

Accordingly, the Dakota Foundation for Animal Health is not eligible to participate in the Donation Program as a nonprofit organization in the field of health. However, if the focus on animals presents a public health benefit to humans and the organization can demonstrate public funding of some type, they may be eligible under a Public Agency Health Category.

102 – What is the difference between a license and a certification?

**Summary Answer:**

- License: recognition and approval by the appropriate State or local authority approving institutions or programs in specialized areas. Generally relates to established minimum public standards of safety, sanitation, staffing, and/or equipment as they relate to the construction, maintenance, and/or operation of a health or educational facility, rather than to the academic, instructional, or medical standards for these institutions.
- Certification: recognition of completion of academic, instructional, or educational standards.

**Eligibility Case:** Mission Farm Nursing Home, Inc.

The nursing home has been licensed and certified by the Minnesota State Board of Health for a 72-bed Intermediate Care Facility I Nursing Home and 32-bed Intermediate Care Facility II Boarding Care Home. They are tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1954.

The certification by the Minnesota State Board of Health means that a nursing home, a boarding care home, or supervised living facility has been classified as an intermediate care facility and meets the requirements of Title XIX of the Social Security Act. For a nursing home to receive Medicaid or Medicare payments under Title XIX, it must be certified by the State health agency.

An "intermediate care facility" (ICF) is an institution which:

- "(1) is licensed under State law to provide, on a regular basis, health related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities,
- (2) meets such standards prescribed by the Secretary (of HHS) as he finds appropriate for the proper provision of such care, and
- (3) meets such standards of safety and sanitation as are established under regulation of the Secretary in addition to those applicable to nursing homes under State law."

The term 'intermediate care facility' also includes:

- Any skilled nursing facility or hospital which meets the requirements above.
- A Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts, but only with respect to institutional services deemed appropriate by the State.
- Any institution which is located in a State on an Indian reservation and is certified by the Secretary as meeting the requirements of clauses (2) and (3) of this subsection and providing the care and services required under clause (1).

With respect to services furnished to individuals under age 65, the term 'intermediate care facility' shall not include, except as provided in subsection (d), any public institution or distinct part thereof for mental diseases or mental defects."

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Some nursing homes may be licensed by the State health agency, but not certified. The certification document (not the license) in this case is the key to declaring that the institution meets the requirement of FMR 102-37 Appendix C.

103 – What if no form of accreditation authority exists for the institution?

**Summary Answer:**

- Verification by a relevant Federal or State agency, as detailed below, can be submitted as acceptable evidence of its recognition by an appropriate authority

**Eligibility Case Study:** La Jolla Cancer Research Foundation

The information contained in the brochure submitted by the La Jolla Cancer Research Foundation convinces us that the program of the subject applicant meets the definition of a "medical institution" provided in FMR 102-37 Appendix C.

This foundation's scientific medical research staff and its board of scientific advisors are composed of distinguished scientists and physicians in the fields of cancer research, molecular embryology, molecular oncodevelopmental biology, oncodevelopmental enzymology, etc. The foundation is nonprofit and exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

The file contained no acceptable documentary evidence that the applicant is approved, accredited, or licensed in accordance with the requirements of our regulations. There is a copy of an administrative review report made by a committee of representatives from the National Cancer Institute and the Fred Hutchinson Cancer Research Center, which states that it is the opinion of the reviewers that the La Jolla Cancer Research Foundation has the capability to accept and manage Federal grant dollars.

The La Jolla Cancer Research Foundation's brochure included the statement that the foundation has received research grants from the National Cancer Institute, the Council for Tobacco Research, and the National Institute for Child Health and Development. The National Institute of Health (NIH), Department of Health, Education, and Welfare reported that the La Jolla Cancer Research Foundation was awarded three research grants, starting in 1977. In lieu of formal approval, accreditation, or licensure by a recognized authority, when verified, as was done here by NIH, it is acceptable evidence of its recognition of approval by an appropriate authority.

It is our opinion that the applicant be determined eligible to participate in the Donation Program as an appropriately approved medical institution engaged in cancer research. However, no property should be distributed to the applicant until it has provided the State agency with the written authorization prescribed by FMR 102-37.

Furthermore, in considering the eligibility of La Jolla Cancer Research Foundation, the question arose as to whether the intent of FMR 102-37 Appendix C was to confine eligibility to programs which provide services to individuals. It is our opinion that "Public health" could be promoted and served by research programs without necessarily providing services to individuals. Thus, we believe that La Jolla Cancer Research Foundation should also be considered as coming within the meaning of the FMR as a "Public health institution," since the benefit of its research will affect and be available to the "public at large."



104 – Are regional Red Cross Centers eligible to participate?

**Summary Answer:**

- Yes, regional Red Cross centers are qualified for eligibility (see [FMR § 102-37.540](#)).

**Eligibility Case Study:** Regional Red Cross Blood Centers

Some questions have risen in the past concerning the eligibility of Red Cross blood centers to participate in the Donation Program. It is our opinion, based on our review of the programs and operations of Red Cross blood centers, that such centers are fully qualified for eligibility as a medical center where the primary mission is the provision of medical services and the promotion of health through its blood program designed and operated to provide whole blood, blood derivatives, and blood products sufficient to meet the medical treatment and diagnostic needs of persons in the area served by the center.

105 – What if the organization serves only men or women?

**Summary Answer:**

- The organization may be eligible if it has:
  - Signed an appropriate Nondiscrimination Assurance Statement with the provisions of the Civil Rights Act
- The organization could lose eligibility if found noncompliant with the Civil Rights Act

**Eligibility Case:** Grandview Foundation, Inc.

The applicant is a nonprofit, tax-exempt organization providing the only residential treatment services for nearly 25,000 indigent adult male alcoholics, who live in the San Gabriel Valley area as established by the Los Angeles County Department of Health. It also provides the local community with a continuing educational program relative to alcohol abuse and alcoholism, and cooperates with other community-based agencies in achieving these goals.

The applicant has a contractual agreement with the County of Los Angeles Department of Health Services, Office of Alcohol Abuse and Alcoholism for its basic operating capital. Other funds come through grants from Federal agencies and fees from self-paid clients for its treatment and rehabilitative services.

The applicant is approved by the State department of health as an alcohol treatment center, and the facility is licensed by the State for residential care and rehabilitative services. The Grandview Foundation, Inc., maintains a 24-hour program and has a staff of five professionals. Its professional staff includes four counselors with M.A. and M.S. degrees and an executive director. There is a coordinated program of weekly participation meetings between the men of Grandview Foundation and the women of Casa de Los Amigos residential treatment center for women. The reason for separate facilities is due to the living accommodations provided.

Since alcohol and drug abuse treatment centers are included under our definitions of medical institutions and public health institutions, a chemical (drug and/or alcohol) dependency treatment center which meets the State's licensing and approval requirements for such institutions would be an eligible public health entity under our Donation Program, provided it fulfills all other eligibility criteria for such institutions.

The file shows that the applicant has executed the appropriate Nondiscrimination Assurance Statement with the provisions of the Civil Rights Act. We also checked the applicant's status with the HHS Office of Civil Rights. The HHS Civil Rights Office advised that they had no record of any complaints that the organization is in noncompliance with Title VI of the Civil Rights Act. They also advised that until or unless a complaint is filed against an organization which has executed an appropriate Nondiscrimination Assurance Statement, and the organization's name is published in their periodic status report as being in possible noncompliance, it is considered to be in compliance with the law.

The applicant may be determined eligible, but that it should advise the applicant that it must live up to its assurances of compliance as set forth in the FMR and the nondiscrimination form or it may lose its eligibility should the HHS Office of Civil Rights later find it to be in noncompliance because of sex discrimination.

106 – Are adult day care programs eligible to participate?

**Summary Answer:** Any adult day care program that furnishes an approved health service would be an eligible public health entity under the Federal Surplus Personal Property Donation Program, provided it fulfills all other GSA eligibility criteria for such institutions.

**Eligibility Case Study:** Adult Day Care Programs

Any adult day care program that furnishes an approved health service would be an eligible public health entity under our Donation Program, provided it fulfilled all other GSA eligibility criteria for such institutions. Eligible programs would include day care centers that are certified to provide health services to Medicaid-eligible clients under title XIX of the Social Security Act, one of the primary funding sources for adult day care services in the United States.

Programs reimbursed by title XIX are required to be health oriented and are commonly called medical day programs. In the States that reimburse for medical care through Medicaid, program standards are established by the State. All of the programs require a core of services that include nursing, social work, occupational therapy, meals, activities, transportation, administration of medications, and emergency services. Additional services that are required or optional in the various States are: hearing therapy, speech therapy, inhalation therapy, psychiatric or psychological services, dental services, case management, podiatric services, eye examinations, laboratory and diagnostic services, and pharmaceutical services.

## 200 - HEALTH CENTERS

**Health center:** An approved public or nonprofit facility that provides public health services, including related facilities such as diagnostic and laboratory facilities and clinics.

**Questions Addressed:**

- Could an ambulance service qualify as an eligible health center?
- Can health foundations be eligible to participate?
- Do family planning centers qualify as health centers?
- Is March of Dimes an eligible entity?
- Does the health center have to provide medical services to be eligible?

201 – Could an ambulance service qualify as an eligible health center?

**Summary Answer:**

- Yes, if the applicant can show county or State recognition and approval of the applicant's program for providing public health services.

**Eligibility Case Study:** Community Betterment Committee, Inc., West Point, California

Under Part III of the application, "Other - Community nonprofit ambulance operation" is checked for the type of nonprofit, tax-exempt public health or educational institution.

The articles of incorporation of the Community Betterment Committee which were filed with the Secretary of State of California stated that:

"The primary purpose for which this corporation is formed is to: Solicit, procure and receive donations or contributions for use in acquiring, building, maintaining, expanding and perpetuating a health center and health services at West Point, California, for the benefit of all residents of Calaveras County, California generally and to pursue any and all activities in connection with, or in any manner pertaining to the promotion and execution of those purposes."

The applicant is tax exempt under section 501(c)(4) of the Internal Revenue Code. The Community Betterment Committee's ambulance drivers/attendants are certified Emergency Medical Technicians (EMT), qualified to administer first aid and/or CPR (coronary pulmonary resuscitation), and to provide blood pressure clinic services and first aid training at various locations in the service area.

The Calaveras County Health Department, in its letter of January 26, 1977, to the State Department of Health, advised that the West Point-Welseyville area of Calaveras County is designated a rural medically underserved area, that Calaveras County subsidizes the ambulance services, and that this emergency organization provides a number of medically related services as well as an ambulance. The California State Department of Health, by its letter of August 26, 1977, advised of the approval of Rural Health Contract #76-57928 with Community Betterment Committee, Inc., to provide funding, under the State Rural Health Grant Program, for its local community health and ambulance services and emergency transport to professional medical services. This is evidence of county and State recognition and approval of the applicant's program for providing public health services.

It is our determination that Community Betterment Committee, Inc., of West Point, California, meets the definitions of a nonprofit, tax-exempt "health center" and "public health institution" as defined in FMR 102-37 Appendix C and has an eligible public health program "to promote, maintain, and conserve the public's health by providing health services to individuals.

Therefore, this applicant is an eligible health center and is authorized to acquire donable Federal surplus personal property for public health purposes.

202 – Can health foundations be eligible to participate?

**Summary Answer:** It depends on the foundation. However, if the foundation itself does not qualify, individual programs within the foundation may qualify.

**Eligibility Case Study:** Kidney Foundation of Mississippi

The Kidney Foundation collects and disseminates information about kidney diseases, raises funds, supports research, and provides transportation service to kidney patients, qualified by the State department of public welfare, to and from dialysis and medical facilities. The foundation is a nonprofit corporation, tax exempt under section 501(c)(3) of the Internal Revenue Code.

It is clear that the foundation would not qualify, in itself, as an educational or public health institution or organization within the requirements of section 203(j)(3) of the Federal Property and Administrative Services Act of 1949, as amended. There are, however, two programs of the foundation which might qualify as eligible for the receipt of surplus personal property. The first is a therapeutic facility for kidney patients. Referrals are made only through the attending physicians. If approved by the State department of public health, this program may qualify as a "clinic" for the receipt of donable property within the definition of FMR 102-37 Appendix C.

The second program involves the training of kidney patients in a printing program which the foundation may establish. It was pointed out that such a program must be designed to train patients on a continuing basis so that they can, after training, find gainful employment in the printing field. It cannot be essentially a working facility or a program to train only a few people to print and distribute informational material of the foundation. All the requirements of the State involving vocational training and/or training of the physically disabled would have to be met and the facility would require the approval of the competent State authority to become eligible.

203 – Do family planning centers qualify as health centers?

**Summary Answer:** Yes, if the center provides services that are approved by a department of health as summarized below.

**Eligibility Case:** Lyon County Family Planning Center, Inc., Emporia, Kansas

In its application, the applicant describes itself as a health-oriented, nonprofit, tax-exempt organization involved in family planning services, including medical and educational services.

The applicant states that it provides medical and educational services, relating to family planning matters, to persons of childbearing age. These services include gynecological exams, pregnancy testing, problem pregnancy counseling, contraceptive supplies, and a speaker's bureau for educational purposes. The center operates 5 days a week, Monday through Friday, from 12 noon to 5:00 p.m., and also 5:00 p.m. to 10:00 p.m. on Wednesday evenings. Approximately 4 to 6 patients are served each day, and 14 to 20 are served each Wednesday evening. Fees for services are based on a sliding scale, and no one is refused service because of inability to pay.

The tests and physical examinations are performed at the center by four physicians, three of whom are obstetricians/gynecologists and one who is a general practitioner. The staff also includes a clinic coordinator, who is a registered nurse (RN); a staff nurse, also an RN; and a secretary/ receptionist, who is a licensed practical nurse (LPN).

The contract and funding provided by the Kansas Department of Health and Environment would constitute an approval.

In view of the foregoing, it is our opinion that the Lyon County Family Planning Center, Inc., meets the definitions of a nonprofit, tax-exempt "public health institution" as defined in our regulations in FMR 102-37 Appendix C.

It is recommended that the applicant be authorized to participate in the Federal Surplus Personal Property Donation Program.

204 - Is March of Dimes an eligible entity?

**Summary Answer:** No; unless it provides some type of evidence of approval in terms of the public health services provided.

**Eligibility Case Study:** National Foundation - March of Dimes, Cranston, Rhode Island

Our analysis of the documentation reveals that the applicant provides informative educational programs to Rhode Islanders, especially the youth, in the ways of good prenatal care, good nutrition, and the importance, dangers, and responsibilities of being or becoming a parent.

The applicant is neither an educational nor a public health organization, as it is not conducting educational programs to develop and promote the training, general knowledge, or academic, technical, and vocational skills and cultural attainments of individuals in a community or other given political area. Nor is it conducting a public health program or programs such as a hospital, clinic, health center, or medical institution, including research in any of these programs, the service of which are available to the public at large.

The National Foundation, March of Dimes, and its chapters are primarily engaged in promotional, fundraising, and funding activities. March of Dimes improves the health of mothers and babies through five programming areas: medical research, education of pregnant women, community programs, government advocacy, and support of pregnant women and mothers. The organization provides women and families with educational resources on baby health, pregnancy, preconception and new motherhood, as well as supplying information and support to families in the NICU who are affected by prematurity, birth defects, or other infant health problems. However, to be eligible it would require some type of evidence of approval in terms of the public health services provided.

It is recommended that the State agency determine this organization ineligible to participate in the Donation Program, since it does not meet the definition of an eligible nonprofit educational or public health institution as defined in the FMR.



205 – Does the health center have to provide medical services to be eligible?

**Summary Answer:** No, it does not if:

- The program was established and funded under recognized standards AND
- Was approved or licensed by a department of health.

**Eligibility Case Study:** Gateway Foundation, Inc., Sacramento, California

This organization operates an inpatient treatment recovery facility for alcoholic women. The program includes individual and group therapy, a structured program plan for recovery, and provisions for receiving medical care as needed. The applicant's program is licensed by the State to operate a "Social Rehabilitation Facility" for 12 adults. Its program is also approved by the State of California Health and Welfare Agency, Department of Alcohol and Drug Abuse.

The applicant's program is a part of the Sacramento County Community Mental Health Services program as indicated by the State Health Audits Bureau Report. Sacramento County Community Mental Health Services has contracted with the applicant to provide services to county residents who are referred from the Sacramento Detoxification Center. The contract is funded by State and county under the Short-Doyle Act funding for mental health programs. Under the California Community Care Facilities Act, a social rehabilitation facility is defined to mean a facility of any capacity that provides services in a group setting to persons who currently or potentially are capable of meeting their life support needs independently, but who temporarily need assistance, guidance or counseling. The State's licensing requirements spell out the special program requirements for a social rehabilitation facility under Article 4, pages 2381 through 2383. The basic requirements, as well as the special requirements for such facilities, are prescribed in the licensing criteria. It is noted in section 81301 on Policy, under Article 4 - Social Rehabilitation Facility, that "It is the policy of the Department (of Health) to encourage the development of licensed social rehabilitation facilities wherein persons recovering from mental illness, alcoholism or drug misuse may reside and find opportunities for furthering their recovery..."

We have determined, in past cases involving alcohol and drug abuse treatment or rehabilitation centers whose programs did not necessarily provide medical services, that these centers were eligible entities under the Donation Program. These centers were providing approved non-medical drug abuse treatment programs were established and funded under recognized standards for the operation of such programs and were approved or licensed by the State department of health, by the State drug abuse program official, or by the local regional or county mental health department.

It is our determination that the applicant is operating a licensed and approved public health program which meets the definitions in FMR 102-37 Appendix C. It has the proper tax-exemption letter and has included an executed board resolution, but the file did not include an executed Nondiscrimination Assurance Statement, which must be provided before any property may be distributed to the applicant.

### **300 - CHILD CARE CENTERS**

**Child care center:** 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.

**Questions Addressed:**

- What if the child care center is affiliated with a faith-based organization?
- What if the children are over 14 years old?
- What if the organization changes its name?

301 – What if the child care center is affiliated with a faith-based organization?

**Summary Answer:** The child care center may be eligible if:

- It's a nonprofit for the purpose of education
- There are secular educational or developmental activities offered
- Attendance is open to every child, regardless of religion
- It meets all other eligibility requirements as stated at the beginning of this chapter.

**Eligibility Case Study:** Lutheran Church of the Holy Spirit Early Childhood Development Center

A review of the supporting documentation revealed that the Lutheran Church of the Holy Spirit Early Childhood Development Center was established for the purpose of providing quality day care, kindergarten, and primary elementary school care, and developmental activities for children preschool (3 to 4 years old) through third grade.

Hours of operation are normally Monday through Friday, 7:00 a.m. to 5:30 p.m. A hot lunch is served daily. A developmentally educational/recreational afterschool program component operates for children 6 to 10 years of age, from 12:30 to 5:30 p.m.

Funds are from fees paid by parents and occasional donations.

The staff of the center consists of the pastor who functions as the director, two teachers, three teacher aides, one cook/aide, and a secretary/ bookkeeper.

Based on the above information, it is our determination that the Lutheran Church of the Holy Spirit Early Childhood Development Center qualifies for eligibility as a "child care center" as defined in FMR 102-37 Appendix C. It is recommended that this applicant be determined an eligible child care center and authorized to acquire donable Federal surplus personal property through the South Carolina State Agency for Surplus Property.

302 – What if the children are over 14 years old?

**Summary Answer:**

- The FMR definition above includes “or as prescribed by State law.”
- If State law defines a child care center as including children over 14 years old, then they are eligible provided all other eligibility criteria have been met.

**Eligibility Case Study:** Boys' Haven, Louisville, Kentucky

An analysis of the supporting documentation reveals that Boys' Haven was established for the purpose of providing home care for homeless and needy boys, regardless of creed or race.

The boys range in age from 14 to 18 inclusive. They attend local schools and churches and return each day for their shelter, food, recreation and any other care normally provided in a home. An enclosed brochure stated that such activities as competitive athletics, hobbies, and counseling are provided. Manual skills like auto repairing and woodwork are developed as hobbies by the boys in the facility's own shops.

Boys' Haven has a staff of 17 full-time and 2 part-time professional, technical, and other type personnel. In addition to the director and assistant director, there are four counselors, two social workers, three full-time house mothers, one part-time house mother, one secretary, three full-time cooks, one part-time cook, one laundress, and one maintenance man.

The application states that it is a private, nonprofit institution for child caring. A letter from the Internal Revenue Service advises that the Boys, Haven is exempt from taxation under section 501(c)(3) of the IRS Code under the broad tax-exempt ruling for the Catholic Church.

The file included a copy of the Boys' Haven license from the Kentucky Department of Human Resources to operate a basic child caring facility for 51 boys, ages 14 through 18 years. Under Kentucky's guidelines for licensing child caring facilities, persons under age 18 are considered children.

With respect to the age limitation, the definition in our FMR conforms to the standards which are prescribed by each State insofar as age limitations are concerned, not however, to exceed through age 17.

Accordingly, it is our determination that Boys' Haven, Louisville, Kentucky qualifies for eligibility as a child care center to acquire donable property from the Kentucky Division of Surplus Property. However, before any property is released to this institution, the applicant must provide the Kentucky Division of Surplus Property with an executed copy of the "Donee Agreement" part of the application as required by the FMR 102-37 for the State's eligibility records concerning this applicant.

303 – What if the organization changes its name?

**Summary Answer:** If an organization changes its name, the SASP should obtain:

- Notification to the Internal Revenue Service of the change in its organization and
- A letter from the IRS acknowledging the change in name or a letter advising of continued tax-exemption for its programs.
- Copies of the articles of incorporation, and all amendments, for review to determine whether these organizations are a single entity or two separate entities.

Additionally, the SASP should verify all licenses/ certifications etc. are current and match the new name and address of the organization.

**Eligibility Case Study:** Social Advocates for Youth, Inc., Santa Rosa, California

Upon review of the case file, we conclude that in addition to being licensed to operate a residential child care home for up to 14 children, the applicant is licensed to care for children requiring special services, i.e., mentally-disordered children, and it also provides an outpatient mental health counseling and therapy program for youths and families.

Its program is approved by and is a part of the county of Sonoma mental health services in that the county mental health services has contracted for Social Advocates for Youth to provide the county with (1) an Adolescent Day Treatment Program and (2) a Counseling and Crisis Service Program for adolescents. Dr. Melvin L. Haynes, Chief of Youth Services, county of Sonoma Department of Mental Health Services has also certified in his letter of October 3, 1979, to Mr. R. W. Evans, California State Agency for Surplus Property (SASP) that these mental health therapy programs have been in operation for several years and are funded by the California Department of Mental Health under the Short-Doyle Act.

A review of the applicant's funding source for 1979-80 reveals that it is funded primarily through county, State, and Federal funds for programs involving child care, youths, and mental health.

It is our determination that, relying upon the State's licensing regulations pertaining to child care group homes and the State and county regulations regarding approving and funding community mental health programs, the residential child care program of Social Advocates for Youth, Inc., meets the definitions of "child care center," and "public health institution" and its outpatient program is a mental health counseling and therapy program which meets the definitions of "public health" and "public health institution."

However, eligibility cannot be granted until acceptable documentation is provided to prove that Social Advocates for Youth, Inc., is either a part of the corporation named Individuals Now, Inc., and covered by the tax-exemption letter of October 4, 1979, or that the name has been changed from Individuals Now, Inc., to Social Advocates for Youth, Inc. The applicant should have notified the Internal Revenue Service of any change in its organization and program and should have a letter of acknowledgement of change in name or a letter advising of continued tax-exemption for its programs.

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The State should obtain copies of the articles of incorporation, and all amendments thereto, of Individuals Now, Inc., and to Social Advocates, Inc., for review to determine whether these organizations are a single entity or two separate entities. Without copies of these documents it is impossible for us to determine whether either organization legally qualifies as an eligible applicant under our program. Mr. Evans' letter of September 24, 1979, requested clarification of this matter, but the reply on October 4, 1979, that stated "Our Corporation name is Individuals Now, Inc., DBA Social Advocates for Youth" is not sufficient. At the very least, the organization should submit a document from the California Secretary of State that it recognizes the DBA name. The tax-exemption letter does not appear to be a group exemption letter. "Inc." after each of the names implies that they are separate organizations, unless it is merely a name change.

The material included with the application in the name of Individuals, Inc., does not establish its eligibility as either a public health or educational entity. The program information, licensing, and approval submitted for Social Advocates for Youth, Inc., would qualify, but there is no tax exemption letter, application, board resolution, or Nondiscrimination Assurance Statement in the name of Social Advocates for Youth, Inc. We note that the stationery used by Social Advocates for Youth, Inc., shows 600 B Street, Santa Rosa, California, which is the same address used on the application and Nondiscrimination Assurance Statement of Individuals Now, Inc. The license issued to Social Advocates for Youth, Inc., to operate Group Homes for Children gives the address of the facility as Cherry Street House, 659 Cherry Street, Santa Rosa, California. The program information for the counseling and crisis service indicates that outpatient counseling is provided at the main offices, which we assume are at 600 B Street, Santa Rosa. We note in the letter of September 10 a reference that "S.A.Y. operates two separate school-based prevention programs in Sonoma County schools," but it is not clear as to what services are provided under these two programs.

This case can be reevaluated upon receipt of the suggested additional documentation.

## 400 - COLLEGES

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

**Questions Addressed:**

- What if the college is a faith-based institution?
- What if there is no recognized accrediting authority?

401 – What if the college is a faith-based institution?

**Summary Answer:**

- Review the curriculum to determine:
  - If classes are only given in theology, scripture study, and other courses of a religious nature or
  - If they also offer classes which meet the educational requirements of the State or national authority
- Determine if the college is operated for educational purposes and if the credits earned are recognized by other universities and colleges
- If the college is not accredited, determine if it is pursuing accreditation.

**Eligibility Case Study:** Talmudic College of Florida

Additional information is required to complete the application for Talmudic College of Florida. There should be a review of the curriculum to determine if classes are only given in theology, scripture study, and other courses of a religious nature, or if they also offer classes which meet the educational requirements of the State or national authority. If the college is operated for religious rather than educational purposes and credits earned are not recognized by other universities and colleges, the institution may not be eligible. However, it may be deemed eligible providing all the eligibility requirements of an educational institution are met, including approval, accreditation or licensing, as defined in 41 CFR Part 102-37, Appendix C.

The State agency needs to determine if the Association of Advanced Rabbinical and Talmudic Schools is an accrediting association recognized on a regional, State, or national level, such as a State board of education or a regional or national accrediting association for universities, colleges, or secondary schools. The State Board of Education may, or may not, recognize independent school accrediting agencies. If not recognized, we recommend Talmudic College of Florida be determined as ineligible. However, if it does have a recognized accreditation, other elements of the application may be further reviewed.

In a written statement from the accrediting agency to the Talmudic College of Florida, they were voted "to grant candidate status." Is this a procedure looking to full accreditation at some future date? An educational institution may be eligible to participate in the Donation Program if it is in the process of being accredited by a recognized authority. According to 41 CFR Part 102-37.420, "You may grant conditional eligibility to such an applicant provided it submits a statement from any required approving, accrediting, or licensing authority confirming it will be approved, accredited, or licensed." When conditional eligibility has been granted, a SASP can only make available surplus property that the donee can use immediately. They may not make available property that will only be used at a later date.

Talmudic College of Florida must also be open to all Christian and non-Christian students wanting to attend, and such a non-discrimination statement should be included with the application.



402 – What if there is no recognized accrediting authority?

**Summary Answer:** If there is no recognized accrediting authority:

- Other documentation may be submitted to meet the approval requirement.
- Approval must relate to academic or instructional standards established by the appropriate authority
- Educational activities may submit letters from three accredited or State-approved institutions that students from the applicant institution have been and are being accepted (e.g., stating that credits earned are recognized by other colleges and universities).

**Eligibility Case Study:** The Way College of Emporia, Emporia, Kansas

The applicant has applied for eligibility as a nonprofit educational institution. The college included with its application a copy of an Internal Revenue Service (IRS) letter in their previous name College of Emporia advising of their tax exemption. Also included is an IRS letter to the Way College of Emporia, which indicates that exemption is under section 501(c) (3), and acknowledges the college's change in name.

We find that the purpose of the Emporia College as quoted from its original charter varies from what is stated in the Way College catalog. The catalog emphasizes the fact that a Biblical studies major is required of every student. Biblical studies serve as the academic cornerstone of the college and are the primary purpose of the students attending the Way College of Emporia. It also states, "this college does not intend to offer any secular courses on its campus by its faculty. All students are thus required to take their secular major and general education courses at other colleges and universities." Since the Way College agenda supersedes the previous charter, it is considered to be the current agenda.

The Way College does not have an accreditation from a recognized approving or accrediting commission, association, board, body or State department of education. In cases where there is no recognized accrediting authority, other documentation may be submitted to meet the approval requirement. Approval must relate to academic or instructional standards established by the appropriate authority (see the "approved" definition in 41 CFR Part 102-37, Appendix C).

According to 41 CFR Part 102-37.395 (d), educational activities may submit letters from three accredited or State-approved institutions that students from the applicant institution have been and are being accepted. The approval letters stating that credits earned by the Way College of Emporia are recognized by other colleges and universities were not received.

Therefore, since the Way College of Emporia, is not an approved or accredited educational institution, and it does not appear to offer non-religious classes we must recommend they be determined ineligible for the Donation Program.

## 500 - SCHOOLS

**School:** Although FMR 102-37 Appendix C defines schools for students with physical or intellectual disabilities separately, this handbook combines them into one category, as they must meet the same eligibility criteria: 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.

**Questions Addressed:**

- What if no authority or accreditation institution exists?
- Can a camp qualify as a school?
- Does “The Official Catholic Directory” or other approval by an official church authority serve as evidence of approval or accreditation?
- What if the school has non-standard school years?
- Are vocational programs eligible schools?
- Are sheltered workshop training centers eligible entities?
- Are the Special Olympics an eligible entity?

501 – What if no approval authority or accreditation institution exists?

**Summary Answer:** In the case of educational activities where no approval authority or accreditation institution exists:

- Letters from **three** accredited or State-approved institutions must be submitted showing that students from the applicant institution have been and are being accepted
- See FMR 102-37.395 (d).

**Eligibility Case Study:** The Children's Theatre Company and School, Minneapolis, Minnesota

We have reviewed the enclosed application from Children's Theatre Company and School (CTC), Minneapolis, Minnesota. The applicant is a nonprofit, tax-exempt organization with some Federal and local grant funding provided by the National Endowment for the Arts and Minnesota State Arts Board. Grant funding is not a factor in determining eligibility.

The CTC offers year-long classes for credit to junior and senior high school students from the Urban Arts Program of the Minneapolis Public Schools and many other school districts. The applicant has its own physical facilities and employs a full-time faculty of 12 -15 members.

A recent expansion of CTC's educational program piloted a formal affiliation with the Minneapolis College of Arts and Design. Through this program, CTC's professional staff offers college-level courses, for which credits are earned, in set and costume design, theater history, and other theater design courses. This college is accredited by the North Central Association of Colleges and Secondary Schools, Commission on Institutions of Higher Education, and also by the National Association of Schools of Art, Commission on Accrediting: Art.

The enclosed two letters from Special School District No. 1 of the Minneapolis Public Schools, and the Minneapolis College of Arts and Design stating they accept credits earned for courses taught by CTC are acceptable approval in lieu of accreditation. However, since three letters are required in 41 CFR Part 102-37.395 (d), CTC will need to submit one additional letter from an accredited or State-approved institution saying that credits earned by CTC are recognized by their institution.

When the third approval letter is received and deemed acceptable, we recommend they be determined eligible as an approved "School," which is defined in 41 CFR Part 102-37, Appendix C.

Since this school's eligibility is dependent upon its continuance of a contract relationship with the schools, the eligibility of this applicant should be reviewed on an annual basis or when expired to maintain eligibility.

502 – Can a camp qualify as a school?

**Summary Answer:** Generally, no, because:

- It is not part of the curriculum mandated by a board of education
- Educational activities must offer actual approved or accredited educational offerings.

**Eligibility Case Study:** Legionville School Safety Patrol Training Center, Inc., St. Paul, Minnesota

The eligibility application from the Legionville School Safety Patrol Training Center was reviewed as a nonprofit educational activity.

The statement of the Assistant Commissioner, Instruction Division, State of Minnesota, Department of Education merely states that he believes the activities carried out by the applicant are instructional in nature. This does not constitute the form of accreditation or approval as defined in 41 CFR Part 102-37, Appendix C.

Looking at the brochure published by the Legionville Training Center, other than for a class in safety, the activity of the camp is no different than thousands of boys' camps throughout the country. They participate in first aid, swimming, boat and water safety, conservation, shuffleboard, indoor games, crafts, football, volleyball, basketball, softball, etc. This camp is not so unique as to distinguish it from camps sponsored by the police department and other communities which raise funds to send boys and girls to camp for at least one week during their summer vacation.

The permit issued by the Minnesota Department of Health relates only to the operation of a children's camp. The activities at the camp are not part of the curriculum of the board of education and do not further the academic achievements of the children at schools to advance in their academic pursuits. The fact that the children are selected from among those who are on the school safety patrol is not a relevant factor. The fact remains that safety patrols operated by the schools are authorized by the Minnesota statutes, which is true in other jurisdictions. However, there is no statutory authority relating to operation of the summer camp for that purpose.

Therefore, we must recommend that Legionville School Safety Patrol Training Center, be determined ineligible to receive Federal surplus property through the Donation Program.

503 – Does “The Official Catholic Directory” or other approval by an official church authority serve as evidence of approval or accreditation?

**Summary Answer:** No, it does not.

- Evidence of approval must be from an authority on the local or State level similar to the local or State board of education, which has the responsibility for setting or monitoring prescribed academics or instructional standards for public schools in the community or State.
- A school’s listing in the directory may be acceptable evidence of tax exemption under section 501(c)(3) of the IRS code depending on what this publication actually represents.

**Eligibility Case Study:** Parochial or Nonpublic Schools

In the case of parochial schools, some State agencies have accepted the school’s listing in "The Official Catholic Directory" as evidence of approval or accreditation in making eligibility determinations.

A listing in the current edition of "The Official Catholic Directory" is acceptable evidence that a parochial school is nonprofit and exempt from taxation under section 501 of the Internal Revenue Code of 1954, and a *copy* of the actual IRS letter of tax exemption need not be furnished.

However, neither a listing in "The Official Catholic Directory" nor a written statement of approval by an official church authority will be recognized as satisfying the requirement for "accreditation or approval" as defined in 41 CFR Part 102-37, Appendix C. This reference provides the methods of establishing accreditation or approval of schools, colleges, and universities, which will meet the eligibility requirements.

The definition of “approved” refers to "... or other appropriate authority ..." This is not intended to include church authorities, such as officials of a diocese or archdiocese who are in charge of or supervise the school activities. It means an authority on the local or State level similar to the local or State board of education, which has the responsibility for setting or monitoring prescribed academics or instructional standards for public schools in the local community or State.

504 – What if the school has non-standard school years?

**Summary Answer:**

- If the school meets all other eligibility requirements, but has a non-standard school year, it is eligible to participate in the Donation Program.
- However, the period of restriction for use of any surplus property it acquires must be extended accordingly.

**Eligibility Case Study:** Skowhegan School of Painting and Sculpture, Skowhegan, Maine

The applicant is an independent nonprofit educational professional institution. It has provided evidence of its tax exemption under section 501(c) (3) of the Internal Revenue Code and has included the authorization and assurance required in 41 CFR Part 102-37.445. Its program is made possible, in part, through the support of the Maine State Commission on the Arts and Humanities and, also, the National Endowment for the Arts. The school's instruction program is recognized and accepted for credit by major art schools and universities. Copies of letters of recognition from three of these accredited art schools and universities were received, meeting the requirement in 41 CFR Part 102-37.395 (d).

Skowhegan enrolls veterans receiving educational benefits under appropriate legislation, and the school is approved by the U.S. Department of Justice for the attendance of non-immigrant foreign students with a proficiency in the English language. The school is licensed by the Maine State Board of Education, Educational and Cultural Services, Office of Veterans Affairs. The State agency should receive a copy of their current license, and updated copies annually or when expired to maintain eligibility.

Skowhegan School has been in operation for more than 30 years. It was established to help talented young people make the difficult transition from art student to professional artist. The school has a highly qualified faculty of five full-time instructors who teach two days a week; two fresco teachers; a sculpture technician; and visiting artist lecturers. Its full-time program is a 9-week summer session, designed to provide an uninterrupted concentrated work period for advanced art students. While the school year lasts for only a 9-week period, this is the established school year for this type of institution.

We recommend Skowhegan School be determined eligible to participate in the Donation Program as a licensed and approved educational institution as defined in 41 CFR Part 102-37, Appendix C. All property acquired by eligible donees must be placed in use for the purposes for which it was donated within 1 year of donation and used for those purposes for one year thereafter according to 41 CFR Part 102-37.450.

Since Skowhegan's normal school year is concentrated into a period of 9 full weeks compared to a normal school year of 9 months, the period of restriction for use of any surplus property it acquires will be extended from 1 year to 3 years. The State agency should closely monitor the types and quantities of property issued to the institution in view of its limited school year.

505 – Are vocational programs eligible schools?

**Summary Answer:** Yes, if the applicant meets all other necessary qualifications for eligibility.

**Eligibility Case Study:** Iredell Vocational Workshop, Inc., Troutman, North Carolina

The organization is nonprofit and tax-exempt under section 501(c)(3) of the Internal Revenue Code.

The applicant's programs of general education and vocational rehabilitation comprise 60 percent or more of the entire program offered at the Iredell Vocational Workshop. The program is approved by the North Carolina Division of Vocational Rehabilitation Services, State Department of Human Resources (HR), as evidenced by its agreement with the Iredell Vocational Workshop, and by its letter of February 16, 1978, in which it certified that at all times the population of the Iredell Vocational Workshop is comprised of at least 50 percent State Vocational Rehabilitation sponsored clients. In addition, the Mitchell Community College at Statesville, in Iredell County, by its letter of February 15, 1978, has certified that the Iredell Vocational Workshop teaches four different classes each quarter for the college. Mitchell Community College is accredited by the Southern Association of Colleges and Schools, Commission on Colleges. The State Department of HR would be sufficient "approval" if that State Office is determined to be the appropriate authority for Vocational Services.

Upon review of this application for eligibility, it is our determination that the applicant's programs of general education and vocational rehabilitation qualify as eligible educational programs for people with intellectual and physical disabilities, and that the applicant is eligible to acquire property for educational purposes for use in its vocational rehabilitation and general education and training programs.

506 - Are sheltered workshop training centers eligible entities?

**Summary Answer:**

- It depends on if all other eligibility criteria for nonprofit education have been met
- The primary objective for the determination of eligibility is whether or not the primary activity of the applicant must be one of educational training rather than employment.
- See Guidelines at the beginning of the chapter for more details.

**Eligibility Case Study:** Pleasantview Achievement Center, Inc., Saugus, California

The applicant operates a training program for the county of Los Angeles for developmentally disabled pupils (ages 18-21) attending special education classes in the public schools. The training is provided pursuant to an agreement between the Pleasantview Achievement Center and the Los Angeles County school superintendent for pupils authorized by the superintendent to participate in the training program at Pleasantview Achievement Center. The county school superintendent pays Pleasantview Achievement Center \$65.00 per month for each student's training (not to exceed \$650.00 per year per student) for a minimum of 2 hours (day) of instructions/training each regular school day. Four days per week, the students go to Pleasantview Achievement Center for training from 12:00 noon to 2:30 p.m., and on the fifth day, the students go to Pleasantview in the morning from 9:00 a.m. to 11:30 a.m. Transportation of the students back and forth between the special education classes in the public school and the Pleasantview Achievement Center training is provided by the county public school superintendent. The students are picked up at their homes by the school bus and taken to the public school. When it is time for the students who are enrolled in the special training at Pleasantview to go to the training center, they are picked up at the public school by the school bus and taken to the training center. The students are returned to the school from the training center, and at the end of the school day, are picked up at the public school and transported back to their homes by the public school bus.

Currently, there are 11 students with severe intellectual disabilities in the public school's special education classes who are also receiving training at the Pleasantview Achievement Center. In California, developmentally disabled students, ages 18-21, attend the special education classes in the public schools. They are graduated or released from the special education public school program at age 21.

The students are young adults whose mental intelligence is so low that they could hardly be employed anywhere in the public sector. Their mental age is such that they could not be left at home alone unsupervised. They have severe intellectual disabilities, but considered trainable in repetitive simple matters, such as putting labels and/or stickers on products or packages.

The contract agreement between the Los Angeles County school superintendent and the training center provides a training program for the special education students, effective through June 30, 1980. The contract is evidence of approval by the county school superintendent of the training program.



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The center is approved by the State department of health and the North Los Angeles County Regional Health Center to provide care and services to developmentally disabled persons.

When examining organizations of this type, names of the organizations are often misleading. It is essential that there be a thorough review made of the programs conducted by the applicant. The primary objective for the determination of eligibility is whether or not the primary activity of the applicant is one of educational training rather than employment. The applicant may be a sheltered workshop-type organization, but its program is devoted primarily to training, and the sheltered workshop permit included in the case file does not provide for or authorize a "Regular Work" program. Accordingly, we conclude that it does not operate a regular employment-production-workshop-type program.

It currently operates 7 hours per day, from 9:00 a.m. to 4:00 p.m., on a year-round schedule.

The director of the center has a B.A. degree in psychology, has done graduate work in special education, and is credentialed by the adult education department. Other staff members are experienced in supervising and dealing with adults with disabilities.

Documentation has been provided by the applicant that it is nonprofit and tax-exempt.

If the center expands its program to include regular employment for the disabled not connected with training, its eligibility would need to be reevaluated and eligibility limited to its training program or facility. Its current overall program appears to be devoted primarily to training and rehabilitative services. Its limited work activities involving contracts to do packing, packaging, and labeling is primarily for the purpose of training the disabled students.

It is recommended that, as long as the applicant's program is devoted to training and rehabilitation services for the disabled rather than providing employment, it be given full eligibility for its total program.

507 - Are the Special Olympics an eligible entity?

**Summary Answer:** No, because the organization fails to meet all the requirements for an educational or health nonprofit entity.

**Eligibility Case Study:** Wisconsin Special Olympics, Inc., Madison, Wisconsin

The Wisconsin Special Olympics, Inc., is a tax-exempt, nonprofit organization whose charter provides for the promotion of physical education, recreation, and physical fitness training and activities for the intellectually disabled.

While the program of the applicant is most commendable and noteworthy, we, nevertheless, must look at the law and the implementing regulations to determine whether or not the applicant meets the eligibility criteria.

The applicant's accreditation is only as to its meeting the standards of the Special Olympics, Inc., an international and national organization which was created and sponsored by the Joseph F. Kennedy, Jr., Foundation.

It is pointed out by the applicant that Public Law 92-142 requires that physical education services must be made available to all disabled children and that the public agency responsible for the education of that child shall provide the services directly, or make arrangements for it to be provided through public or private programs.

The State of Wisconsin has provided for the intellectually disabled to receive physical education, exercise, and to participate in sports by providing grant support to the Wisconsin Special Olympics, Inc., in the amount of \$75,000 for Fiscal Year 1978-1979 to pay for the administrative costs of providing a Wisconsin Special Olympics program.

Under all the consideration we have applied to our review of this case, we are unable to make a determination that the Wisconsin Special Olympics, Inc., is an eligible recipient in its own right to participate in the Donation Program.

## 600 - EDUCATIONAL ACTIVITIES

**Education:** a program 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.

### Questions Addressed:

- Are YMCAs and YWCAs eligible entities?
- Are councils eligible nonprofit educational activities?
- Can a corporation be an eligible nonprofit education activity?
- Are apprenticeship programs eligible nonprofit educational activities?
- What if the educational entity has provisional approval or accreditation?

601 - Are YMCAs and YWCAs eligible entities?

**Summary Answer:**

- Certain programs conducted or sponsored by the YMCA may be eligible to receive surplus personal property.
- Accordingly, the YMCA could be partially eligible for property for those specific programs which meet the criterion set out in Pub. L. 94-519 and the FMR.

**Eligibility Case:** Northern Kentucky Young Men's Christian Association

YMCA's are ineligible, per se, to participate in the Donation Program. However, certain programs conducted or sponsored by the YMCA may be eligible to receive surplus property under the Donation Program. Accordingly, the YMCA could be partially eligible for property for those specific programs which meet the criterion set out in Pub. L. 94-519 and the FMR. For example, in their letter requesting reconsideration of their application, the YMCA lists preschool development programs which, upon investigation, may be a properly approved child care center. The application also indicated that they gave college-level credit courses. If their educational program is one which is accredited, or approved, and meets all the standards set out in the FMR, that part of the YMCA's program could be approved for eligibility.

Where an institution or organization is granted partial eligibility with respect to certain specified approved programs, great care is required to inform the institution of the specificity of eligibility and that such property received for those programs may not be used for any other purpose by the institution.

Similar organizations such as Young Men's Hebrew Association (YMHA) or Young Women's Hebrew Association (YWHA) would result in a comparable eligibility determination.

602 - Are councils eligible nonprofit educational activities?

**Summary Answer:**

- Possibly, but they must meet all requirements of an educational nonprofit as stated in the beginning of the chapter.
- These requirements include providing actual approved or accredited educational offerings.

**Eligibility Case Study:** Hays Art Council, Hays, Kansas

The applicant describes itself as a nonprofit, tax-exempt organization established to help bring the arts to their town.

The applicant's narrative description describes its purpose and operations, and states that the council was established in 1969 by a group of people who felt it important to attempt to help bring to their town the opportunity to enjoy all of the arts. In 1978-79, it plans to bring to Hays, the Kansas City Philharmonic; a Missouri Repertory Theatre production; the Dance Theatre of Kansas for two school demonstrations and a ballet with the local symphony orchestra; and the weekly picture lady programs in the schools. Funds are provided through membership monies.

Although its programs are cultural and highly desirable, the applicant's organization does not meet the criteria of the FMR as an educational organization. It is not an approved or accredited educational institution which offers a curriculum or courses for which credit toward a degree or certificate is attained.

The documentation provided reflects that there are no qualified teachers and no accreditation or approval from any authorized approving authority. From the facts at hand, we have concluded that the applicant cannot be determined eligible to participate in the Donation Program.

603 - Can a corporation be an eligible nonprofit education activity?

**Summary Answer:** Yes, if it meets all other requirements for nonprofit education activities and its primary purpose is education.

**Eligibility Case Study:** Human Relations Center, Inc., Goleta, California

The Human Relations Center, Inc., was founded in 1971 under the umbrella of the University of California at Santa Barbara. In 1975, the agency became an independent, nonprofit corporation designed to serve the mental health needs of the community. Since its inception, the agency has expanded into three major components: The Family Education and Counseling Center, the Adolescent Alcohol Program, and the Human Relations Center.

The most basic and fundamental service is the paraprofessional peer counseling program. The training that a peer counselor receives is designed to acquaint students with basic counseling and communication skills.

The project consists of 9 months of classes taught and supervised by a licensed mental health therapist. Participants not attending an undergraduate program receive 18 units of continuing education credit. Participants already enrolled in an undergraduate program receive class credit at the university or college at which they are enrolled.

Upon completion of the program, graduates receive a certificate of competence in counseling skills, group supervision hours which may be credited toward acquiring various State licenses, and class credit leading toward an undergraduate degree.

There are six faculty members, all of whom are State-licensed marriage, family, child counselors and each hold either M.A.'s or Ph.D.'s. There is an administrative staff of four, all of whom hold B.A.'s.

Based upon our evaluation of the supporting documentation included with the application, it is determined that the applicant qualifies for eligibility as an approved nonprofit educational institution as defined in FMR § 102-37 Appendix C.

604 - Are apprenticeship programs eligible nonprofit educational activities?

**Summary Answer:**

- Yes, if the program meets all requirements for the nonprofit education category.
- Eligibility shall be for only the "in-house" apprenticeship instruction and training program conducted by the applicant (and not "on the job" training).

**Eligibility Case Study:** The Ironworkers Joint Apprenticeship Training Program, Canton, Ohio

The applicant operates a 3-year apprenticeship training program for the ironworker's trade consisting of 6,000 hours of required training, including a minimum of 432 hours of classroom instruction (144 hours per year), and on-the-job training. The classroom training classes are held one or two nights per week, 4 hours each evening (6:00 to 10:00 p.m.) from September through May. The apprentices are given instructions in blueprint reading, welding, structural, rod-tying, and all related aspects of the iron worker's trade. Their on-the-job training is on construction projects under the supervision of journeyman ironworkers and supervisors. The training program is operated in conformity with State and Federal standards for apprenticeship training and is approved by the Ohio State Apprenticeship Council.

Upon completion of the 3-year apprenticeship training program, apprentices must pass the required examination before they may graduate as journeyman ironworkers.

Classroom instruction is conducted by teachers who are certified by the State of Ohio.

The training program has been approved by the State and Federal Government since March 20, 1968, for veterans' apprenticeship training under Public Law 90-77.

The Internal Revenue Service, on January 14, 1972, determined the Local 550 Ironworkers Joint Apprenticeship Trust Fund, Canton, Ohio, to be exempt from taxation under section 501(c)(3) of the Internal Revenue Code as an educational organization.

As is set forth in Article II of the "Agreement and Declaration of Trust," the "Local 550 Ironworkers Joint Apprenticeship and Training Program Trust Fund" was "created for the purpose of financing educational and training programs which are designed to instruct and educate qualified apprentices in the construction industry as it relates to ironworkers within the jurisdiction of Local Number 550."

It is our determination that the applicant operates an approved full-time educational apprenticeship program which qualifies for donations of surplus personal property under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, and our Federal Management Regulations. We emphasize, that the applicant must be advised that eligibility shall be for only the "in-house" apprenticeship instruction and training program conducted by the applicant, and that any property it acquires by donation through the Ohio State Agency for Surplus Property shall be used only for the "in-house" training program and may not be used for on-the-job training, or by the union, or for any other purpose.

605 - What if the educational entity has provisional approval or accreditation?

**Summary Answer:**

- The applicant may be granted conditional eligibility until it attains unrestricted approval or accreditation.
- FMR §102-37.420: Conditional eligibility may not exceed one year.
- FMR §102-37.430: The donee can only have surplus property that they can use immediately.

**Eligibility Case Study:** Bay Area Marine Institute, Pier 66, San Francisco, California

The applicant organization has established an apprenticeship school program to train apprentices for careers as marine service technicians.

The program includes the required hours of classroom instruction and on-the-job training for completion of the apprenticeship program. The area of instruction and training encompasses marine mechanics and engineering, small craft construction and repair, marine electricity and electronics, and vessel operation.

The State Apprenticeship Standards for the Bay Area Marine Institute's marine service technicians apprenticeship program have been approved by both State and Federal Bureau of Apprenticeship and Training representatives. In addition, the classroom instruction part of the apprenticeship program has been given provisional approval by the California State Department of Education, Office of Private Postsecondary Education. The provisional approval letter states that the school's operations will be evaluated by the State department of education for a final determination of approval status to be effected within 1 year. The institute has provided executed copies of the assurances and resolution prescribed pursuant to the FMR 102-37 Appendix C.

The Bay Area Marine Institute has established that it meets the conditional eligibility criteria to participate in the Federal Surplus Personal Property Donation Program as an educational institution. The academic classroom instructional part of the applicant's vocational apprenticeship program currently has provisional approval from the California State Department of Education. Because of the provisional approval, we recommend that eligibility be approved by the State agency on a conditional basis, subject to the institute's attainment of unrestricted approval or accreditation. Its conditional eligibility should be continued as long as it has only provisional approval. The institute should be advised that, should it lose its provisional approval, it may be held accountable for the return of all property it acquired during its conditional eligibility.

The institute should be advised that any property it acquires must be used in its approved educational program only and may not be used by employers in the on-the-job training part of the apprenticeship program.

Please note FMR §102-37.430 regarding property that can be made available to donees with conditional eligibility: "What property can a SASP make available to a donee with conditional eligibility? You may only make available surplus property that the donee can use immediately."



## 800 - MUSEUMS ATTENDED BY THE PUBLIC

**Museum:** a public or nonprofit institution for the purposes of education or public health 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 or at minimum, accedes to any request submitted for access during business hours.

As used in this part, the term “museum” includes, but is not limited to, the following institutions if they satisfy all other provisions of this definition:

- Aquariums and zoological parks
- Botanical gardens and arboretums
- Nature centers
- Museums relating to art, history (including historic buildings), natural history, science, and technology; and planetariums.

For the purposes of this definition, an institution uses a professional staff if it employs at least one full-time 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.

**Required Documentation:** See “Guidelines for Making Museum Eligibility Determinations” on the next page.

**Questions Addressed:**

- What if the building is not used primarily as a museum?
- What if the museum does not have regular business hours?
- What if the museum is a traveling exhibit? (see Guidelines, part (i) Exhibits them to the public)

Guidelines for Making Museum Eligibility Determinations

In making eligibility determinations relating to museums, care should be taken to determine whether or not the museum in question is one which in effect serves a public purpose; that it provides general educational benefits to the public at large.

Definition and clarification of terms. Only institutions that meet all the elements of the basic definition for a museum can be considered for eligibility. When considering the eligibility of an institution as a museum, the following expansion of key words used in the definition will apply:

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

b. Nonprofit. The museum has documentary evidence of its tax-exempt status under section 501 of the Internal Revenue Code (26 C.F.R. 1.501).

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

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

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

f. Professional staff. An institution uses a professional staff if it employs at least one full-time 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 museum.

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

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

i. Exhibits them to the public on a regular basis. The museum must accede to any request submitted for access during normal business hours, interpreted to be 9:00am to 4:00pm, Monday through Friday, with some reasonable variation. Verification of such access will be the applicant's completion of a Museum Access Agreement. An institution does not exhibit objects to the public for purposes of this definition if the display or use of the objects is only incidental to the primary function of the institution (such as an institution which is engaged primarily in the sale of antiques, artistic objects, or other artifacts and which incidentally provides

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displays to the public). If an institution lacks its own facilities for exhibits, it does not disqualify the institution because such objects could be exhibited through educational programs or traveling exhibitions.

Moreover, if the museum is of a traveling type, there should be additional documentation on the planned schedule of travel on an annual basis, the default location of the traveling exhibit during breaks in schedule, the average number of viewers on an annual basis, etc.

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

Documentation to assist determination of eligibility. In order to properly evaluate the eligibility of its museum applicants, State agencies should obtain documentation such as the following and any other relevant information which may be of value in making a determination. This is in accordance with Section 549(c)(3) of title 40, United States Code which requires that sufficient details and specifics about an applicant's program and facilities be made available so that the State agency can determine the program eligibility qualifications listed in 102-37.380 (see Appendix C of this part for definitions); of the applicant. The following should be of assistance in making this determination:

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

- (1) The size (in square feet) and a description of its physical facilities;
- (2) The types of objects exhibited;
- (3) Schedule in which the facility is open to the public without prearrangement;
- (4) Amount of admission fees, if any (If the fee seems to be excessive, the museum should be asked to submit a statement explaining how the charges are determined, and whether the charges are based on providing its services to the public at the lowest feasible cost);
- (5) Means used to advertise the museum for public patronage;
- (6) Community and population served by the applicant; and
- (7) Membership in, affiliation with, or other recognition by a local, State, regional or national museum organization. (This provides evidence that the institution is operating as a museum. The FMR imposes no requirement of accreditation or approval on museums.)

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

c. A photocopy of a ruling or determination letter from the Internal Revenue Service recognizing that the applicant is exempt from Federal income taxation under section 501 of the Internal Revenue Code (26 C.F.R. 1.501).

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

801 – What if the building is not used primarily as a museum?

**Summary Answer:** A museum must demonstrate how its primary function is that of a museum displaying inanimate objects on a regular basis for educational purposes in order to be eligible.

**Eligibility Case Study:** Florida Wing of Yesterday's Air Force and Museum, Inc.

Among the documents submitted with the application were the Articles of Incorporation of the Florida Wing of Yesterday's Air Force and Museum, Inc. Article III sets forth the purpose of the organization as follows: "(a) The specific and primary purpose for which this corporation is organized is to provide social and recreational facilities for its members. "Subsection "c" states: "This corporation is organized and operated exclusively for pleasure, recreation..."

The application contains the necessary documentation showing that it is a nonprofit organization or institution which is exempt from taxation under section 501 of the Internal Revenue Code (26 C.F.R 1.501).

It is our opinion that it was not the intent of Congress, when it enacted Pub. L. 94-519, to provide eligibility for museums of this nature; or social clubs or similar organizations. It appears that display of property is only incidental to the primary function of this institution. Therefore, we determine this organization to be considered ineligible.

802 - What if the museum does not have regular business hours?

**Summary Answer:** In addition to all other eligibility requirements,

- The museum must accede to any request submitted for access during normal business hours, interpreted to be 9:00am to 4:00pm, Monday through Friday, with some reasonable variation.
- Verification of such access will be the applicant's completion of a Museum Access Agreement.

**Eligibility Case Study:** Valiant Flight Museum., Titusville, Florida

This organization was established as a nonprofit under the laws of Florida to acquire, restore, and preserve historic aircraft of all types flown by the armed forces of nations engaged in World Wars I and II and the Korean conflict, and to display and fly such aircraft for the education and enjoyment of people throughout this country and other countries.

The applicant has one full-time employee. Funding is provided through membership fees, contributions, and souvenir sales. The applicant did complete the required "access agreement" indicating its availability for public viewing requests during normal business hours.

The visit also revealed that there were no directional signs for the general public to follow. All planes currently involved with the applicant are privately owned by the members of the organization. As the membership grows, so does the inventory of planes for display. The Valiant Air Command performs aerial demonstrations throughout the Eastern United States. It would appear that the organization is primarily a hobby club rather than a museum. It was noted that the applicant has been determined eligible to acquire USAF historic property from the U.S. Air Force under the provisions of 10 USC 2572.

Qualified museums must meet all requirements in addition to attending air shows. Based on the available information for Valiant Flight Museum, it appears there are no objects marked and exhibited to the public for educational purposes on a regular basis. Therefore, we cannot assume the professional staff works full-time in the acquisition, care, or public exhibition of objects. The museum must accede to any request submitted for access during normal business hours, interpreted to be 9:00am to 4:00pm, Monday through Friday, with some reasonable variation. Verification of such access will be the applicant's completion of a Museum Access Agreement

Also, it appears the museum is only incidental to their primary function of participating in air shows. Their website says they are a "FLYING air museum that owns a Douglas AC-47 Gunship restored...."

For American Flight museum to be considered for program eligibility, it must demonstrate how its primary function is that of a museum displaying inanimate objects on a regular basis for educational purposes.

### PART III. PROGRAMS FOR OLDER INDIVIDUALS

**Program for older individuals:** a program conducted by a State or local government agency or nonprofit activity that receives funds appropriated for services or programs for older individuals under [42 U.S.C. 3020d](#), 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.*).

**Required Documentation:**

- IRS 501(c) ruling
- Proof of funding under:
  - [42 U.S.C. 3020d](#) (The Older Americans Act of 1965, as amended)
  - Title IV or Title XX of the Social Security Act
  - Title VIII or Title X of the Economic Opportunity Act of 1964
  - Community Services Block Grant Act
- Narrative on official letterhead that includes the following information:
  - Persons served
  - Type of services provided
  - Facilities
  - Background information about the organization
- Authorized representatives list
- Signed Nondiscrimination Assurance Statement
- Signed non-debarment statement

**Questions Addressed:**

- What if funds are allocated on an annual basis?

101 - What if funds are allocated on an annual basis?

**Summary Answer:**

- Eligibility must be reestablished each fiscal year with the SASP.
- The determination of eligibility continues only so long as the applicant is funded as provided under the Older Americans Act of 1965 (or other funding source listed above).

**Eligibility Case Study:** Legal Aid Association of Greene County, Springfield, Missouri

It is our determination that the applicant may qualify as an eligible nonprofit, tax-exempt organization supplying the needs of older individuals. However, let it be established that this organization is not a public agency.

The applicant has complied with the information prescribed in the Federal Management Regulations.

It has provided evidence of tax-exemption under section 501 of the Internal Revenue Code.

It has provided certification that it is receiving appropriated Federal funds for the operation of a program for older individuals from the State agency designated by the State to administer programs authorized under the Older Americans Act of 1965, as amended, with a limited period covered by the certification. Since funds allocated to the applicant are made available on an annual basis, the determination of eligibility continues only so long as the applicant is funded as provided under the Older Americans Act of 1965.

Eligibility must be reestablished each fiscal year with the State agency for surplus property by the applicant if it wishes to continue to participate in the Federal Surplus Personal Property Donation Program. The State agency shall apprise the applicant of this requirement and advise the applicant that if its eligibility is terminated, any surplus personal property which it received for a program for older individuals, which was not put into use within 1 year and used for 1 year after being put into use, must be returned to the State agency.

The applicant should also be apprised that the property acquired under this program may be used only in connection with programs funded in accordance with the Older Americans Act of 1965 and may not be used for any other purpose. This may be difficult for the Legal Aid Association to establish. We would accept as proper use of the acquired property if it can be established that more than 50 percent of the activities carried on by the applicant is devoted to programs funded as above prescribed.

It is recommended that the State agency determine this organization eligible to participate in the Donation Program, provided it can comply with the above conditions.



## **PART IV. PROVIDERS OF ASSISTANCE TO IMPOVERISHED FAMILIES AND INDIVIDUALS**

**Provider of assistance to impoverished families and individuals:** a public or nonprofit organization whose primary function is to provide money, goods, or services to families or individuals whose annual incomes are below the poverty line (as defined in section 673 of the Community Services Block Grant Act) (42 U.S.C. 9902).

Providers include:

- Food banks
- Self-help housing groups
- 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
  - Legal counsel

### **Required Documentation:**

- IRS 501(c) ruling
- Public recognition as provider to the impoverished
- Proof population served is below poverty level
- Narrative on official letterhead that includes the following information:
  - Persons served
  - Type of services provided
  - Facilities
  - Background information about the organization
- Articles of Incorporation/Bylaws
- Authorized representatives list
- Signed Nondiscrimination Assurance Statement
- Signed non-debarment statement

### **Questions Addressed:**

- What if the organization does not serve the impoverished directly?
- Are Community Action Agencies eligible to participate?
- What if the applicant has several organizational purposes?
- Would a community-based leisure organization qualify?
- What if the organization offers many services?

101 - What if the organization does not serve the impoverished directly?

**Summary Answer:** The organization would need to show that the primary service it provides benefits the impoverished as supported either by:

- A Letter of Certification from a public official having responsibility for the programs for the impoverished; or
- Verification of the applicant's membership or affiliation with a national organization or group that provides support to the impoverished.

**Eligibility Case Study:** Feed America First (FAF) – Murfreesboro, TN

This non-profit's sole mission is "the procurement and distribution of food to the agencies that feed the hungry, domestically and abroad," and has provided the required IRS documentation confirming its nonprofit status.

Although FAF is not a direct conduit of food to the impoverished but rather provides support to the agencies that do feed the impoverished directly, we have determined that the scope and intent of Pub. L. 105-50 is broad enough to include an organization who can show that the primary service it provides, and for which it will use the donated property, benefits the impoverished. Accordingly, per GSA's 1998 Guidance Memorandum on entities such as foodbanks that fall under the category of Providers of Assistance to the Impoverished, all such applicants must have an "approval" letter -- such approval being either: (1) A Letter of Certification from a public official having responsibility for the programs for the impoverished (the mayor, county supervisor or head of an agency that oversees such programs) that validates the applicant's clientele are primarily the impoverished; (2) Verification of the applicant's membership or affiliation with a national organization or group that provides support to the impoverished via its inclusion on one of the following web sites: [www.guidestar.org](http://www.guidestar.org) – [www.nonprofits.org](http://www.nonprofits.org) ---[www.give.org](http://www.give.org) ---[www.bbb.org](http://www.bbb.org).

In this particular instance, FAF has supplied a letter from the Director of the Tennessee State Division of Charitable Solicitations acknowledging FAF's registration with that State office. However, the content of this letter suggests this registration is simply a procedural matter for any organization affiliated with charitable contributions, and therefore does not represent a proper certification of the applicant's connection to the impoverished.

If FAF can provide a stronger approval of their services primarily benefiting the impoverished, then we would deem FAF as eligible for Federal Donation Program participation.

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\*Any foodbank established as a part of, and operated by a State or local government agency, would be eligible to participate in the Federal Surplus Personal Property Donation Program as a part of the State or local government's eligibility as a public agency. Eligibility would be established with the State agency in the same manner as any other public agency. Any nonprofit, tax-exempt foodbank which is an integral part of a nonprofit, tax-exempt educational or public health institution or organization whose eligibility has been established with the State agency under the eligibility criteria published in FMR 102-37 would also be eligible to participate.

102 - Are Community Action Agencies eligible to participate?

**Summary Answer:** Yes, Community Action Agencies can be eligible to participate if they meet all the criteria stated in the required documentation section of “Providers of assistance to the impoverished” heading.

**Eligibility Case Study:** North County Centro, Inc., San Marcos, California

The applicant is a nonprofit, tax-exempt, bilingual multi-service agency serving the communities within the fifth supervisorial district of Northern San Diego County in the area of social service activities.

The applicant provides residents of North County with such free service as counseling, translation/interpretation, legal assistance, notary public, community education, advocacy and referral information. The Centro Research and Development Unit was established under the umbrella of the Centro to plan and implement a public research library. The library would provide information resources and statistics on the socio-economic needs, potential and climate, within the communities that make up the North County. The unit also offers assistance to nonprofit agencies throughout the North County in compiling, interpreting, and utilizing statistical information.

This agency has a contract with the county of San Diego, Department of Human Services, a contract with the county of San Diego, Comprehensive Employment and Training Act (CETA), and the United Way memorandum of agreement. However, these contracts do not qualify the applicant for conducting educational or public health programs as defined in 41 CFR Part 102-37, Appendix C. The grant funding provided by these contracts is passed from the public agency to a nonprofit recipient which is not direct tax support for eligibility purposes. The contracts do not qualify North County Centro as an instrumentality of government since they provide social services to a targeted population and do not provide government services to all residents of the County.

This organization also provides counseling to individuals, families, and groups in the areas of available resources; jobs; and pre-marital, post-marital, and related supportive services to low-income persons residing in North San Diego County. These types of social services typically are included in programs offered by impoverished providers.

Therefore, if North County Centro, Inc., primarily serves the impoverished as defined in 41 CFR Part 102-37, Appendix C, they may qualify as a provider of assistance to the impoverished under Public Law 105-50.

103 - What if the applicant has several organizational purposes?

**Summary Answer:** The organization could potentially qualify as a provider of assistance to the impoverished if Pub. L. 105-50 guidelines are satisfied.

**Eligibility Case Study:** Puna Hui Ohana, Pohoia, Hawaii

The application and supporting documentation submitted by the applicant describes itself as a nonprofit, tax-exempt organization operating exclusively for charitable purposes.

The applicant's "Charter of Incorporation" states that the purposes of the organization are the relief, the advancement of education and job training, and the removal of barriers to the social, cultural, educational, occupational, economic, physical, emotional, and spiritual well-being of the poor, distressed, disadvantaged or underprivileged individuals, with preference given to individuals of Native Hawaiian ancestry ("Native Hawaiian" is defined as any descendent of the races inhabiting the Hawaiian Islands previous to the year 1778); the preservation and perpetuation of traditional native Hawaiian values and lifestyles; the defense of human, civil, and native rights secured by law; the lessening of neighborhood tensions; and the combating of community deterioration.

Our analysis of the application and supporting documentation shows that the applicant organization is social in nature and its primary objectives are (1) to create and provide opportunities which can assist the native people of Puna in becoming more socially and economically self-sufficient and (2) to preserve and perpetuate traditional Hawaiian culture, values, and aboriginal rights.

From our review of the facts, there appears to be no basis for qualifying the applicant as an educational organization. The applicant is determined to be ineligible to acquire donable Federal surplus personal property as an educational organization under Pub. L. 94-519. However, the applicant could potentially qualify as a provider of assistance to the impoverished if Pub. L. 105-50 guidelines are satisfied.

104 - Would a community-based leisure organization qualify?

**Summary Answer:** It might qualify as a provider of assistance to impoverished families or individuals under Pub. L. 105-50 if the clients were certified to be primarily impoverished and all other criteria were met.

**Eligibility Case Study:** Do-It-Leisure Co-operative Inc., Chico, California

The applicant provides leisure services to special populations in the Greater Chico area, provides transition adjustment opportunities for deinstitutionalized individuals, promotes normalization, and demonstrates that community-based recreation programs for special populations are feasible and essential.

The articles of incorporation state that the purpose of Do-It-Leisure, Inc., is to establish and maintain a community-based leisure service to meet the needs and interests of special populations of the Greater Chico area. Their articles defined special populations as individuals with physical or intellectual disabilities, juvenile delinquents, and elderly individuals with disabilities.

An analysis of the applicant's documentation reveals that the applicant is a nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

Title 22 of the California Code relates to health facilities and referral agencies whose activity programs include recreational activities, both indoor and outdoor. However, the applicant has noted that they are not a health facility or residential center, but a community-based recreation program.

The applicant further relates that the therapeutic recreation students are given 10 credits per internship, which are acceptable by any college.

The educational aspects of the program are not accredited by the State board of education.

The applicant has a contractual agreement with Butte County Mental Health for residential care homes. Leisure counseling is being conducted at the residential care homes and the individual's home. Other funding sources include city of Chico revenue sharing grants for partial funding of positions; Chico Area Park and Recreation; Easter Seals; Salvation Army; contributions; and fundraising events.

Essentially, the applicant's program consists of social service type activities. The applicant's contract with Butte County does not make it eligible, on its own merits, to participate in the Donation Program. This is the type of organization that would not qualify under the nonprofit areas of health and education as defined in Pub. L. 94-519 because of the largely recreational support services provided, but might qualify as a provider of assistance to impoverished families or individuals under Pub. L. 105-50 if the clients were certified to be primarily impoverished.

105 - What if the organization offers many services?

**Summary Answer:**

- Partial eligibility could be granted, so long as care is taken to ensure that property received under the donation program for the eligible program is not used in a program which is not eligible.
- The organization could qualify as a provider of assistance to impoverished families or individuals under Pub. L. 105-50 if the clients were certified to be primarily impoverished and all other criteria were met.

**Eligibility Case Study:** Volunteers of America in Baton Rouge

The services performed by the Volunteers of America (Volunteers) are indeed commendable, but we have concluded that the organization, per se, is not eligible to receive Federal surplus property under the Donation Program. The fact that the Volunteers of America, as such, is not eligible does not preclude portions of its program from eligibility.

The application filed by the Volunteers states that it is a nonprofit educational or public health institution and, accordingly, its programs must be judged against the criteria established by regulations as to whether or not they meet those qualifications. Many of Volunteers' offerings would more likely qualify if the clientele is determined to be at or below the poverty line. Evaluating Volunteers under the Impoverished category in lieu of a strict health or educational organization would grant increased inclusion of the broad spectrum of services. The following are our views as to the eligibility of the 11 different programs offered by the Volunteers as set forth in their application:

1. Community Living Centers - This service is purely domiciliary, providing group homes for adults with mild intellectual disabilities. This program does not qualify as either a health or educational program and is not eligible.
2. Emergency Home - Traveler's Aid - Again this program merely provides temporary emergency shelter and is not an approved educational or health program. This program is likewise ineligible for property.
3. Men's Rehabilitation Services - This is a residential sheltered workshop program and does not meet the criteria of an educational program. Workshops which offer training programs for the purpose of teaching a vocation and whose teaching program is approved or accredited as a vocational education program could be deemed eligible. However, a strictly sheltered workshop would be no more than a hobby shop, even though it may have some therapeutic value.
4. Adult Learning Center - This program may be considered as one with the potential of eligibility, provided the educational program is one which is accredited or approved by a proper accrediting or approving authority as providing acceptable educational courses for credits, and is taught by qualified personnel.
5. Adult Day Care Centers (Encore) - This program, if it provides medical services via the establishment of a medical clinic, may be deemed eligible. However, if this program

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is no more than a meeting place where the elderly may get together, it would not be eligible. An approved health service must be furnished.

6. General Assistance Program - As described, this program meets neither the criteria of a health or educational program and, accordingly, is ineligible under the Donation Program.

7. Social Service Clearance Bureau - This program, primarily a clearing house service for emergency assistance, would not qualify as either a qualified health or educational program.

8. School Clothing Center - This activity provides clothing for needy students and is not a program meeting the requirements as a health or educational program under the criteria of the regulations.

9. Air Ambulance Service - This service provides transportation for persons requiring medical treatment in other cities, but who cannot afford the expense of the transportation. Again, we point out that this is not a health or educational program, but is one only providing transportation service and is not eligible.

10. Home Repair Service - This service, which provides repairs to the homes of the elderly who cannot afford these repairs, is not a health or educational program as set forth in the regulations and could not qualify for eligibility.

11. Emergency Child Receiving Home - This program may meet the eligibility requirements, providing it would meet the criteria set forth for child care centers where educational, social health and nutritional services are provided to children through age 14, and which is approved or licensed by appropriate authority.

There is no clear-cut answer with respect to any given organization's eligibility, where such organization offers multiple services. We have no objection to a finding of partial eligibility as it relates to approved programs. However, we offer the caveat that when partial eligibility is granted, care must be taken to see that property taken for the approved program is not used in a program which is not eligible.

## **PART V. SERVICE EDUCATIONAL ACTIVITIES (SEAs)**

**Service educational activity (SEA):** 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.

### **Required Documentation:**

- Proof of Department of Defense approval as a service educational activity
- A copy of the official Service determination or appropriate documentation recognizing the activity as a member of a national recognized organization. Such documentation could include:
  - A copy of the activity's charter
  - Certification identifying the activity as a recognized entity of a national organization
  - The official Service approval documentation
- Authorized representatives list
- Signed Nondiscrimination Assurance Statement
- Signed non-debarment statement

### **Optional Documentation:**

- Narrative on official letterhead that includes the following information:
  - Persons served
  - Type of services provided
  - Facilities
  - Background information about the organization