



July 11, 2017

MEMORANDUM FOR STATE AGENCIES FOR SURPLUS PROPERTY AND
GSA PERSONAL PROPERTY MANAGEMENT ZONES

FROM:

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ACTING DIRECTOR
OFFICE OF PERSONAL PROPERTY MANAGEMENT

SUBJECT:

GSA's Role in Approval of Overseas Federal Excess Personal
Property (FEPP) for Donation

This memo supersedes the memorandum from Deidre Huber entitled, "Approval for Overseas Property Donation" dated September 3, 1997. This memo clarifies GSA's role in handling FEPP.

In accordance with 40 United States Code (USC) 701- 705, 40 USC 549, Federal Management Regulation (FMR) Subpart 102-36.395, and FMR Section 102-37.90(f), agencies have ultimate authority over the use and disposal of FEPP. Agencies may consult with GSA on disposal of FEPP (or assist in these transactions as described below) particularly to provide a perspective on the domestic demand for these assets, and to aid the holding agency in its decision to return the property to the United States (FMR Subpart 102-36.395). The agency can dispose of the property in any number of ways (40 USC 702 and 704) under its own authority, as long as the disposals comport to the foreign policy of the United States.

In support of the Federal Surplus Personal Property Donation Program, one of the activities of a State Agency for Surplus Property (SASP) is to obtain FEPP property to fulfill donee/requestor needs. Listed below are the three ways that SASPs may obtain FEPP and the role GSA plays in each scenario:

1. Without GSA Involvement: SASPs work with the holding agencies who have the FEPP. These transfers may be made directly from the holding agency to the eligible recipient under the provisions of FMR 102-36.390 without GSA involvement.
2. GSA Signs Standard Form (SF) 123, Transfer Order Surplus Personal Property, for FEPP: If the holding agency and GSA agree, property may be processed for transfer under the Federal Surplus Personal Property Donation Program while the property is

still located overseas, but planned for shipment back to the United States (40 USC 702(a)). Under this scenario, it has been determined that GSA may sign an SF-123 to assist the SASP in bringing FEPP into the United States for disposition. The SASP will continue having accountability and compliance responsibilities that are currently in place for all FEPP and donations (Attachment 1 - GSA's Handling of SF-123 for FEPP Shipped to the United States).

3. GSA Facilitates Transfer for Domestically-Generated Excess: Finally, the holding agency may return the property to the United States for disposal and report the property as excess under the normal process outlined in FMR Parts 102-36 and 102-37 for disposal of domestic excess and surplus (40 USC 702). Under this scenario, the FEPP is no longer treated differently than domestically-generated excess, and GSA follows its traditional role in facilitating these transfers and donation.

For additional guidance on this matter, please contact me at (703) 605-1829 or Matt Manger, Acting Director, Utilization and Donation Program Division, at 703-605-9146.

2 Attachments

Attachment 1 - GSA's Handling of SF-123 for FEPP Shipped to the United States

1. Requests for transfers (SF-123) will be processed by the GSA Zone responsible for approval based on the area of generation of the surplus personal property.
2. Approving Zone will process SF-123 and make appropriate distribution of the SF-123. (Overseas coordinator, SASP, host Region)
3. Copies of the Shipping documents will be furnished by the SASP to the approving Zone based on the property generation area.
4. Approving Zone will receive and enter data to the system as non-reportable property from the shipping document and forward copies of the documents to applicable SASP and host region.

Attachment 2 - References

40 U.S. Code § 701 - Administrative

(1) In general.—

The head of an executive agency that has foreign excess property is responsible for the disposal of the property.

(2) Conformance to policies.—In carrying out functions under this chapter, the head of an executive agency shall—

(A) use the policies prescribed by the President under subsection (a) for guidance; and

(B) dispose of foreign excess property in a manner that conforms to the foreign policy of the United States.

40 U.S. Code § 702 - Return of foreign excess property to United States

(a) In General.—

Under regulations prescribed pursuant to subsection (b), foreign excess property may be returned to the United States for handling as excess or surplus property under subchapter II of chapter 5 of this title or section 549 or 551 of this title when the head of the executive agency concerned, or the Administrator of General Services after consultation with the agency head, determines that return of the property to the United States for such handling is in the interest of the United States.

(b) Regulations.—

The Administrator shall prescribe regulations to carry out this section. The regulations must require that transportation costs for returning foreign excess property to the United States are paid by the federal agency, state agency, or donee receiving the property.

40 U.S. Code § 703 Donation of medical supplies for use in foreign country

(a) Application.—

This section applies to medical materials or supplies that are in a foreign country but that would, if situated within the United States, be available for donation under subchapter III of chapter 5 of this title.

40 U.S. Code § 704 - Other methods of disposal

(d) Transfer of Title.—

The head of an executive agency may execute documents to transfer title or other interests in, and take other action necessary or proper to dispose of, foreign excess property

40 U.S. Code § 705 - Handling of proceeds from disposal

(a) In General.—

This section applies to proceeds from the sale, lease, or other disposition of foreign excess property under this chapter

§102-36.395—How may GSA assist us in disposing of foreign excess personal property?

You may request GSA's assistance in the screening of foreign excess personal property for possible re-use by eligible recipients within the U.S. GSA may, after consultation with you, designate property for return to the United States for transfer or donation purposes.

§102-37.90—What are GSA's responsibilities in the donation of surplus property?

The General Services Administration (GSA) is responsible for supervising and directing the disposal of surplus personal property. In addition to issuing regulatory guidance for the donation of such property, GSA:

- (a) Determines when property is surplus to the needs of the Government;
- (b) Allocates and transfers surplus property on a fair and equitable basis to State agencies for surplus property (SASPs) for further distribution to eligible donees;
- (c) Oversees the care and handling of surplus property while it is in the custody of a SASP;
- (d) Approves all transfers of surplus property to public airports, pursuant to the appropriate determinations made by the Federal Aviation Administration (see subpart F of this part);
- (e) Donates to the American National Red Cross property (generally blood plasma and related medical materials) originally provided by the Red Cross to a Federal agency, but that has subsequently been determined surplus to Federal needs (see subpart G of this part);
- (f) Approves, after consultation with the holding agency, foreign excess personal property to be returned to the United States for donation purposes;
- (g) Coordinates and controls the level of SASP and donee screening at Federal installations;
- (h) Imposes appropriate conditions on the donation of surplus property having characteristics that require special handling or use limitations (see §102-37.455); and
- (i) Keeps track of and reports on Federal donation programs (see §102.37.105)

40 U.S.C. 549(e) (3)

3) Requirements.—

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

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

(ii) established procedures for accountability, internal and external audits, cooperative

agreements, compliance and use reviews, equitable distribution and property disposal, determination of eligibility, and assistance through consultation with advisory bodies and public and private groups.

(B) Equitable distribution.—

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

(C) Management control and accounting systems.—

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

(D) Return and redistribution for non-use.—

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

(E) Request by recipient.—

The state plan of operation shall require the state agency, to the extent practicable, to select property requested by a public agency or other eligible institution in the State and, if requested by the recipient, to arrange shipment of the property directly to the recipient.