

**§ 102-37.190**

**41 CFR Ch. 102 (7-1-03 Edition)**

(1) State the prospective screener's name and the name and address of the organization he or she represents;

(2) Specify the period of time and location(s) in which screening will be conducted; and

(3) Certify that the applicant is qualified to screen property.

(b) If the request is approved, GSA will complete the Optional Form 92 and return it to the SASP for issuance to the screener.

**§ 102-37.190 What records must a SASP maintain on authorized screeners?**

You must maintain a current record of all individuals authorized to screen for your SASP, including their names, addresses, telephone numbers, qualifications to screen, and any additional identifying information such as driver's license or social security numbers. In the case of donee screeners, you should place such records in the donee's eligibility file and review for currency each time a periodic review of the donee's file is undertaken.

**§ 102-37.195 Does a SASP have to have a donee in mind to request surplus property?**

Generally yes, you should have a firm requirement or an anticipated demand for any property that you request.

**§ 102-37.200 What certifications must a SASP make when requesting surplus property for donation?**

When requesting or applying for property, you must certify that:

(a) You are the agency of the State designated under State law that has legal authority under subsection 203(j) of the Property Act (40 U.S.C. 484(j)) and GSA regulations, to receive property for distribution within the State to eligible donees as defined in this part.

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

(c) The property is usable and needed within the State by:

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

(2) An eligible nonprofit organization or institution which is exempt from taxation under section 501 of the Internal Revenue Code (26 U.S.C. 501), for the purpose of education or public health (including research for any such purpose).

(3) An eligible nonprofit activity for programs for older individuals.

(4) A service educational activity (SEA), for DOD-generated property only.

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

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

**§ 102-37.205 What agreements must a SASP make?**

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

(a) You will make prompt statewide distribution of such property, on a fair and equitable basis, to donees eligible to acquire property under section 203(j) of the Property Act (40 U.S.C. 484(j)) and GSA regulations. You will distribute property only after such eligible donees have properly executed the appropriate certifications and agreements established by your SASP and/or GSA.

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

(c) You will:

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

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

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

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

(e) When acting under an interstate cooperative distribution agreement (see § 102-37.335) as an agent and authorized representative of an adjacent State, you will:

(1) Make the certifications and agreements required in § 102-37.200 and this section on behalf of the adjacent SASP.

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

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

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

(g) You will not seek to hold the United States Government liable for consequential or incidental damages or the personal injuries, disabilities, or death to any person arising from the transfer, donation, use, processing, or final disposition of this property. The Government's liability in any event is limited in scope to that provided for by the Federal Tort Claims Act (28 U.S.C. 2671, *et seq.*).

### **§ 102-37.210 Must a SASP make a drug-free workplace certification when requesting surplus property for donation?**

No, you must certify that you will provide a drug-free workplace only as a condition for retaining surplus property for SASP use. Drug-free workplace certification requirements are found at part 105-68, subpart 105-68.6, of this title.

### **§ 102-37.215 When must a SASP make a certification regarding lobbying?**

You are subject to the anti-lobbying certification and disclosure requirements in part 105-69 of this title when all of the following conditions apply:

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

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

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

#### JUSTIFYING SPECIAL TRANSFER REQUESTS

### **§ 102-37.220 Are there special types of surplus property that require written justification when submitting a transfer request?**

Yes, a SASP must obtain written justification from the intended donee, and submit it to GSA along with the transfer request, prior to allocation of:

(a) Aircraft and vessels covered by § 102-37.455;

(b) Items requested specifically for cannibalization;

(c) Foreign gifts and decorations (see part 102-42 of this chapter);

(d) Items containing 50 parts per million or greater of polychlorinated biphenyl (see part 101-42 of this title);

(e) Firearms as described in part 101-42 of this title; and

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