

Federal Management Regulation

§ 102-37.220

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.

(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:

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- (a) Aircraft and vessels covered by § 102-37.455;
- (b) Items requested specifically for cannibalization;
- (c) Foreign gifts and decorations (see part 102-42 of this chapter);
- (d) Items containing 50 parts per million or greater of polychlorinated biphenyl (see part 101-42 of this title);
- (e) Firearms as described in part 101-42 of this title; and
- (f) Any item on which written justification will assist GSA in making allocation to States with the greatest need.

§ 102-37.225 What information or documentation must a SASP provide when requesting a surplus aircraft or vessel?

- (a) For each SF 123 that you submit to GSA for transfer of a surplus aircraft or vessel covered by § 102-37.455 include:
 - (1) A letter of intent, signed and dated by the authorized representative of the proposed donee setting forth a detailed plan of utilization for the property (see § 102-37.230 for information a donee has to include in the letter of intent); and
 - (2) A letter, signed and dated by you, confirming and certifying the applicant's eligibility and containing an evaluation of the applicant's ability to use the aircraft or vessel for the purpose stated in its letter of intent and any other supplemental information concerning the needs of the donee which supports making the allocation.
- (b) For each SF 123 that GSA approves, you must include:
 - (1) Your distribution document, signed and dated by the authorized donee representative; and
 - (2) A conditional transfer document, signed by you and the intended donee, and containing the special terms and conditions prescribed by GSA.

§ 102-37.230 What must a letter of intent for obtaining surplus aircraft or vessels include?

- A letter of intent for obtaining surplus aircraft or vessels must provide:
- (a) A description of the aircraft or vessel requested. If the item is an aircraft, the description must include the manufacturer, date of manufacture, model, and serial number. If the item is

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a vessel, it must include the type, name, class, size, displacement, length, beam, draft, lift capacity, and the hull or registry number, if known;

- (b) A detailed description of the donee's program and the number and types of aircraft or vessels it currently owns;

- (c) A detailed description of how the aircraft or vessel will be used, its purpose, how often and for how long. If an aircraft is requested for flight purposes, the donee must specify a source of pilot(s) and where the aircraft will be housed. If an aircraft is requested for cannibalization, the donee must provide details of the cannibalization process (time to complete the cannibalization process, how recovered parts are to be used, method of accounting for usable parts, disposition of unsalvageable parts, etc.) If a vessel is requested for waterway purposes, the donee must specify a source of pilot(s) and where the vessel will be docked. If a vessel is requested for permanent docking on water or land, the donee must provide details of the process, including the time to complete the process; and

- (d) Any supplemental information (such as geographical area and population served, number of students enrolled in educational programs, etc.) supporting the donee's need for the aircraft or vessel.

§ 102-37.235 What type of information must a SASP provide when requesting surplus property for cannibalization?

When a donee wants surplus property to cannibalize, include the following statement on the SF 123: "Line Item Number(s) _____ requested for cannibalization." In addition to including this statement, provide a detailed justification concerning the need for the components or accessories and an explanation of the effect removal will have on the item. GSA will approve requests for cannibalization only when it is clear from the justification that disassembly of the item for use of its component parts will provide greater potential benefit than use of the item in its existing form.