



Agency: Department of Admin., Purchasing Division  
Rule Type: Legislative

Title Number: 148  
Cite Authority: 5A-3-44

**STATEMENT OF CIRCUMSTANCE  
AND BRIEF SUMMARY**

The Purchasing Division proposes to modify the rules governing the administration of the federal surplus property donation program to ensure that the rules are in conformity with federal statutes, rules, and regulations for the acquisition and disposition of federal surplus property.

The federal law and rule requires that the State Agency for Surplus Property (a subunit of the Purchasing Division) maintain a state plan of operation governing the federal surplus property program and also requires that the state plan of operation be approved by the State Legislature. In order to be in compliance with this federal requirement, the Purchasing Division has historically submitted the state plan of operation to the Legislature for approval as a legislative rule. The last revision of the state plan of operations occurred in 1983, and since that time, federal officials responsible for the surplus property program have suggested that new revisions are in order.

In order to comply with the suggestion from federal officials and to ensure the continued availability of the federal surplus property program, the Purchasing Division has: (1) revised the West Virginia State Agency for Surplus Property's state plan of operation, (2) has obtained federal approval for the revised state plan of operation, and (3) is submitting those rules for the approval of the State Legislature through the legislative rule making process.

Agency: Department of Admin., Purchasing Division  
Rule Type: Legislative

Title Number: 148  
Cite Authority: 5A-3-44

**BRIEF SUMMARY OF COMMENTS RECEIVED;  
AGENCY RESPONSE; AND AMENDMENTS**

The Department of Administration, Purchasing Division received no official comment during the comment period in response to the proposed modifications to the legislative rules that comprise the State Plan of Operation of the WV State Agency for Surplus Property.

TITLE 148  
DEPARTMENT OF ADMINISTRATION  
PURCHASING DIVISION

FILED  
FILED  
2014 JUL 30 10:39  
2014 JUL 26 4:41:52  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE  
SECRETARY OF STATE

SERIES 4

STATE PLAN FOR THE OPERATION OF THE WEST VIRGINIA  
STATE AGENCY FOR SURPLUS PROPERTY

§148-4-1. General.

1.1. Scope. -- This State Plan of Operation establishes the guidelines by which the State Agency for Surplus Property must function.

1.2. Authority. -- W. Va. Code §5A-3-43, 44, and 45. See Appendix A of the State Plan of Operations.

1.3. Filing Date. -- XXXXXXXXXXXX

1.4. Effective Date. -- XXXXXXXXXXXX

1.5. Repeal of Former Rule. -- This rule repeals the Department of Finance and Administration, Surplus Property Division, West Virginia Code article eight, chapter five-a, Series I, State Plan of Operation, filed in 1983.

§148-4-2. Designation of a State Agency for Surplus Property; Definitions; Functions of the SASP; SASP Organizational Structure.

2.1. Designation of SASP. West Virginia State Agency for Surplus Property is the responsible entity for administering the State Plan of Operations that governs various aspects of the Federal Surplus Property Program.

2.2. Definitions. The terms listed in this section will have the meanings assigned to them herein.

2.2.a. "Agency" or "SASP" means West Virginia State Agency for Surplus Property.

2.2.b. "GSA" means U.S. General Services Administration.

2.2.c. "Standard Form 123" means the form used to transfer federal surplus personal property

2.2.d. "Donee" means organizations approved to acquire federal surplus property in accordance to Federal eligibility guidelines.

2.2.e. "Eligibility" means the criteria established by 40 U.S.C. section 549 to determine approval of organizations to participate in the Federal Surplus Property Program.

2.2.f. "Cannibalization" means the secondary utilization of property by dissembling and use of components.

2.2.g. "Compliance" means abiding by the terms and conditions regarding the utilization of federal surplus property.

2.2.h. "Service charge" means the monetary fee collected by the SASP from eligible recipients for direct and indirect costs of the SASP's operation.

2.2.i. "State Plan" or "Plan" means the State Plan of Operations that governs various aspects of the Federal Surplus Property Program.

2.3. Functions of the SASP.

2.3.a. The major functions of the SASP include acquiring, warehousing and distributing surplus property to eligible Donees, carrying out other requirements of the State Plan, and providing details concerning the organization of the SASP, including supervision, staffing, structure and physical facilities.

2.3.b. The SASP develops and implements policies, procedures and regulations for the overall program operation; establishes liaison relationships with Federal, state and local organizations for the equitable distribution of Federal surplus personal property; conducts investigations and studies for evaluation of service, considers long-range improvement and expansion of the Surplus Property Program; supervises SASP staff, assignment of duties and evaluation of personnel; determines Eligibility, in accordance with Federal requirements; determines the relative needs and resources of the Donees and their ability to use surplus personal property, and establishes a comprehensive system of identifying and reviewing all available property including arranging for inspection, screening and transporting of such property either by a direct Donee pickup or by the SASP.

2.3.c. The SASP audits for State Plan by checks and enforcement where violations may be determined. Federal surplus equipment with an acquisition cost of five thousand dollars (\$5,000) or greater is placed in the hands of the Donees with certain restrictions. The major restriction is that the property must be used for the purpose intended for at least eighteen (18) months. During this period, it is the responsibility of SASP to initiate State Plan checks at regular intervals.

2.3.d. The SASP maintains accurate financial records and prepares monthly financial reports.

2.3.e. The SASP handles the warehousing, acquisition and distribution, and allocation.

2.3.e.1. Warehousing is responsibility for moving property into and out of the warehouse, including unloading incoming shipments, placing the property in its proper location in the warehouse and removing it when it is donated. The SASP also is responsible for warehouse security.

2.3.e.2. Federal screening for federal surplus at the federal installations is a responsibility of the SASP as is arranging for picking up the property and delivering it to the SASP warehouse. It is necessary for the SASP to maintain operating equipment to perform this function.

2.3.e.3. Day-to-day federal sales to various Donees are a responsibility of the SASP as well as arranging for public sale, as approved by General Services Administration (GSA).

2.4. **SASP Organizational Structure.** The West Virginia State SASP for Surplus Property is under the jurisdiction of the Department of Administration and is designated as the SASP responsible for administering the Surplus Property Program in West Virginia. This property is owned by the State of West Virginia. The SASP has unit status under the Program Services Section of the Purchasing Division, Department of Administration. See *Appendix D of the State Plan of Operations*. The state official overseeing the SASP is Assistant Purchasing Director and Manager of the SASP. This official's direct supervisor is the State Purchasing Director.

**§148-4-3. SASP Operations.**

3.1. **Accounting.** Accounting services are provided to the SASP by the Finance Division, Department of Administration. These services include procurement; accounts payable; billing; accounts receivable; processing payroll; and general accounting. The procedures used by the Finance Division are based upon Generally Accepted Accounting Principles.

3.2. **Warehousing, Inventory, Distribution.** As soon as full identification is completed, all property received will be checked in promptly. The Standard Form 123 is used as the basis for checking property into the warehouse and also entering it into the SASP master file. To supplement Form 123, the SASP also verifies property received through shipping documents, invoices, trucking bills of lading and Donee's direct pickup reports. After processing the Standard Form 123, a Distribution Document is prepared and sent to the Donee for signature and payment. Both the Standard Form 123 and the Distribution Document can be found in *Appendix C of the State Plan of Operations*. Exceptions or differences in a line item on Form 123 are noted on a receiving report and a Shortage and Overage Report. A copy of this report is sent to GSA. After discrepancies are resolved, the data is entered into the system. Any line item overage with an estimated market value or acquisition cost of over five hundred dollars (\$500) will be noted on Form 123 and sent to the GSA for approval. Also, line item shortages greater than three hundred dollars (\$300) must be reported. All property issued to eligible Donees is recorded on a Distribution Document which has provisions for recording the name of the item, the item number, quantity, acquisition value and Service Charge. If and when Federal inventory is warehoused, a spot check of the property at the warehouse will be made and reconciled with the system data. Any necessary adjustments are reported to the Manager of the SASP for approval or additional follow up.

3.3. **Record Keeping.** The SASP maintains accurate records of all Federal surplus personal property received, warehoused, distributed or otherwise disposed. Separate files are maintained for all passenger motor vehicles or items with an acquisition cost of five thousand dollars (\$5,000) or greater. These files are maintained and updated during the restriction period. Federal property obtained by the SASP for its own use will be maintained on separate records from those of donable property.

3.4. **Screening.** Eligible Donees may screen Federal property electronically. To acquire Federal property through this means, the Donee must complete the transaction through the SASP.

**§148-4-4. Return of Donated Property.**

4.1. **Requirement of SASP to provide for return of donated property if property is still usable as determined by SASP, and Donee has not used property for purpose within one year.** When the SASP determines (1) that property is still usable, and (2) has not been put into use by a Donee within one (1) year from the date of receipt of the property or when the Donee has not used the property for period of

restricted use under the terms and conditions of the Application for Eligibility signed by the administrative officer as a condition of Eligibility, the Donee must return the property at its own expense to the SASP warehouse; transfer the property to another eligible Donee as directed by the SASP, or make such other disposal of the property as the SASP may direct. For the Application for Eligibility, see *Appendix C of the State Plan of Operations*.

4.2. Donee need ends but restriction period still in place. When a Donee no longer has a need or use for donated property which is currently under a period of State Plan restriction and no breach of these restrictions has occurred, the Donee may be reimbursed on a pro-rated basis for the following expenses when the property is transferred to another Donee or a Federal SASP, or sold for the benefit and account of either the State of West Virginia or the United States of America:

4.2.a. Reimbursable Expenses

- (1) Service Charges paid to the SASP;
- (2) Transportation charges paid by the Donee in initially acquiring the property;
- (3) Initial costs of repairs required to make the item usable.

The SASP will recommend for GSA approval the amount of reimbursement to which the Donee is entitled, taking into consideration the benefit the Donee has received from the use of the property and making appropriate deductions therefore. In the case of sale, reimbursement to a Donee for any item shall not exceed the proceeds of the sale of the item.

4.3. Communication of Return Requirements. The SASP will emphasize the requirements for the return of unused donated property at meetings and when issuing information to Donees, as well as when conducting surveys and State Plan visits.

4.4. Return of property. Return of surplus property may be accomplished by:

- 4.4.a. Physical return to SASP, if required;
- 4.4.b. Re-transfer to another Donee, SASP or Federal SASP, as designated by the SASP
- 4.4.c. Disposal by sale or other means, as directed by the SASP.

4.5. Return Request and Approval. When a Donee requests to return donated property it must be made in writing (written request). SASP determines the appropriate action and then will contact GSA for approval.

**§148-4-5. Financing and Service Charges.**

5.1. Means and methods for financing SASP. The SASP will assess and collect Service Charges from participating Donees to cover direct and reasonable indirect cost of SASP activities. The methodology of computing Service Charges can be found in *Appendix B of the State Plan of Operations*.

5.2. Affirmation of Service Charges being fair and equitable. All charges and fees collected shall be deposited in the State Treasury's revolving account for the SASP. These funds shall not become a part of the General Revenue Fund. All Service Charges will be fair and equitable and reasonable with respect to

#### 148CSR4

the value and condition of the property donated. In cases where the SASP services are minimal or are limited to document processing, the Service Charge will not exceed ten percent (10%) of acquisition cost of the property. Service Charge funds are deposited in a state account separate from the state surplus property.

5.3. Distribution to nonprofits for homeless assistance. Property made available to non-profit providers of assistance to homeless individuals shall be distributed at nominal cost for care and handling of property.

5.4. How funds accumulated from Service Charges or other sources. Funds accumulated from Service Charges or other sources are to be used for the operation of the SASP and for the benefit of participating Donees. These funds are used for administrative costs to operate the SASP.

5.5. State Law Affirmation. West Virginia state law allows for Service Charges to be deposited.

5.6. Authority for Facilities Improvement. *West Virginia Code §5A-3-45* provides the SASP the authority to acquire or improve SASP facilities. In the event a determination is made by state officials to liquidate the SASP, a liquidation plan will be prepared in accordance with 41 CFR 102-37.

5.7. Intention of SASP of maintaining working Capitol Reserve. The SASP will be financed primarily through collection of Service Charges that are fair and equitable based on services performed for property issued to eligible recipients. Service Charge funds will be used to cover direct and indirect costs of the SASP's operation, including but not limited to, screening, transportation, shipping and handling, the purchase and maintenance of necessary equipment and facilities, and maintaining a reasonable working capital reserve. This reserve will not exceed the total amount of operational expenses for a two-year period. The method of computing the Service Charge will be by percentage of the acquisition cost. See the attached Service Charge fee schedule in *Appendix B of the State Plan of Operation*.

5.8. Refunds of Service Charges Made to Donees, when Excess in SASP's Working Capitol. The SASP does not issue refunds; however, should there be an excess in working capital, refunds shall be made to Donees in the form of a reduction in Service Charges to maintain adequate limits.

#### §148-4-6. Terms and Conditions on Donated Property.

6.1. Period of Use Restrictions. The following period of restrictions are established by the SASP.

6.1.a. Property with the unit acquisition cost of five thousand dollars (\$5,000) or more is restricted from sale or disposal by the Donee for eighteen (18) months from the date the property is placed into use;

6.1.b. All passenger motor vehicles, regardless of acquisition cost, are restricted from sale or disposal by the Donee for eighteen (18) months from the date the property is placed into use;

6.1.c. Noncombat aircraft and vessels (fifty (50) feet or more in length) with a unit cost of five thousand dollars (\$5,000) or more are restricted from sale or disposal by the Donee for a period of five (5) years from the date the property is placed into use. Such donations will be subject to the Conditional Transfer Document requirements.

6.1.e. Combat aircraft are restricted from sale or disposal by the Donee in perpetuity. This type of aircraft is also subject to Conditional Transfer Document requirements

6.2. SASP may impose reasonable terms and conditions on use of other donated property

The SASP may place restrictions on items with a unit acquisition cost under five thousand dollars (\$5,000). If such restrictions are deemed necessary, they will be listed on the Distribution Document. The Distribution Document can be found in *Appendix C of the State Plan of Operation*. The SASP may amend, modify or grant release on any terms, conditions, reservations or restrictions it has imposed on donated property in accordance with the following standard provided that the conditions pertinent to each situation have been affirmatively demonstrated to the prior satisfaction of the SASP and made a matter of public record.

6.2.a. Secondary utilization or cannibalization may be accomplished provided that:

6.2.a.1. Disassembly of the item for use of its component parts for secondary use or repair and maintenance of a similar item has greater potential benefit than utilization of the item in its existing form.

6.2.a.2. Items approved for disassembly or cannibalization will remain under the period of restriction imposed by the transfer document pending completion of the proposed secondary use or cannibalization.

6.2.a.3. A written report of such action is made by the Donee to the SASP, listing all components resulting from the secondary utilization or cannibalization which have a single acquisition cost of five thousand dollars (\$5,000) or more. These components will remain under the restrictions imposed by the transfer document. Components with a single acquisition cost or less than five thousand dollars (\$5,000) will be released from the restrictions imposed by the transfer document. However, these components will continue to be used or be otherwise disposed of in accordance with applicable law and regulations.

6.2.b. Trade-in of an item on a similar replacement: An item of donated personal property may be traded in or used as whole or part payment for another like item of property provided that:

6.2.a.1. The item traded in is not, when the request is made, in non-State Plan status for violation of the terms, conditions, reservations or restrictions placed upon it.

6.2.b.2. The item traded in has been used by the Donee for eligible purposes for at least twelve (12) months from the date of being placed into use, and it has been demonstrated that the trade-in will result in increased utilization value to the Donee.

6.2.c.3. The trade-in is on a one-for-one basis only, i.e., one (1) donated item being traded for one (1) like item having similar use potential.

6.2.d.4. The item being acquired has an estimated market value at least equal to the estimated market value of the item being traded in.

6.2.e.5. The item acquired is made subject to the period of restriction remaining on the item trade-in.

6.2.f.6. Prior written approved of the GSA is required for property under Federal restrictions or special handling conditions or use limitations imposed by GSA.

6.2.c. Abrogation: Except in cases involving the failure to use or the misuse of donated property, abrogation of restrictions imposed by the SASP in the Transfer Document may be authorized upon payment to the SASP of an amount representing the fair market value at the time of donation less a credit for the time the property was used for the purpose for which donated, during the period of restriction. Provided that the SASP determines that such action will not result in excessive revenue to the Donee and provided further, that the property has been used for at least twelve (12) months from the date of being placed in use.

6.2.d. Revision of the acquisition cost. The acquisition cost of a donated item may be revised provided that the request is made in writing by the Donee, and it is determined by the SASP that the listed acquisition cost is unrealistic in view of its research and development costs, its incompleteness due to missing parts or its generally deteriorated condition. This revision will be coordinated with the GSA in order to affect fair adjustment of entitlement statistics.

6.2.e. Destruction and abandonment: A donated item of personal property may be destroyed or abandoned by a Donee when it is determined that the item has no commercial value or the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale. The determination shall be based on a finding made in writing by the SASP and, in accordance with 41 CFR 102-37, the SASP shall prescribe the means and methods whereby the property shall be destroyed or abandoned.

6.3. Enforcement of State Plan: The enforcement of the terms and conditions, reservations and restrictions imposed by the SASP of donated property, or the remedy of breaches of such terms and conditions, may be satisfied:

6.3.a. When payment is made to the SASP for any and all fair rental values due and payable for any unauthorized use of donated property; or,

6.3.b. When payment is made to the SASP for either the fair market value or gross proceeds of sale, whichever is in the best interest of the State, for the unauthorized disposal or destruction of donated property; or,

6.3.c. When donated property is recovered by the SASP, custody accountability and distribution of such reverted property are the responsibilities of the SASP; or,

6.3.d. When payment collected is remitted to the GSA for deposit in the U.S. Treasury, in accordance with 41 CFR 102-37.

6.4. Reduction in the Period of Restriction: Provided an item of donated property is not in State Plan status, a reduction in the period of restriction may be authorized when a revised standard covering the period of restriction is promulgated by the SASP. The reduction in the period of restriction only applies to those imposed by the State over those imposed by law and /or GSA.

6.5. The SASP will impose on the donation of any surplus item of property, regardless of acquisition cost, such conditions involving special handling or use limitations as GSA may determine necessary because of the characteristics of the property. The SASP will impose on all Donees the statutory

requirement that all items donated must be placed into use within one (1) year of donation and be used for one (1) year thereafter or otherwise returned to the SASP while the property is still usable.

6.6. SASP will impose on donation of property regardless of unit acquisition cost, such conditions involving special handling or use limitations as determined by GSA. The Application for Eligibility outlines the terms, conditions, reservations and restrictions under which all Federal surplus personal property will be donated. This form must be signed by the chief executive officer of the Donee agreeing to these requirements prior to the donation of any surplus property. The terms and conditions stated in the form will also be printed on the Distribution Document. For the Application for Eligibility, see *Appendix C*.

**§148-4-7. Unutilized or Undistributed Property.**

7.1. When determined by the SASP that donable surplus property in its possession cannot be used by any eligible Donees, the property will be disposed of by the following methods (subject to approval or disapproval by the GSA within thirty (30) days after written notification).

7.1.a. Transfer to another SASP or Federal SASP. The SASP will offer the property for transfer to another state SASP.

7.1.b. Transfer to GSA Sale Center. The SASP will transfer the property to a GSA regional property sales center, if approved by GSA.

7.1.c. Abandonment or destruction. The SASP will abandon and destroy property that has no commercial value or the estimated cost of its continued care and handling would exceed proceeds from a sale.

7.1.e. Other arrangements. The SASP will dispose of property as prescribed by GSA.

7.2. Reimbursement for the costs of care and handling incurred by the SASP, with respect to Federal reutilization or public sale of property in its possession will be requested from GSA. With respect to property which is sold as one of the options of disposal. Reimbursement requests will include:

7.2.a. Direct costs incurred by the original Federal holding SASP and subsequently billed to or paid by the SASP, including, but not limited to, packing, preparation for shipment and loading.

7.2.b. 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 SASP to the SASP distribution facility or other point of receipt designated by the SASP.

7.2.c. The reimbursement ratio as provided for in the cooperative agreement between GSA and the SASP relating to public sale.

Reimbursement request will be based on the requirements of 41 CFR 102-37.

**§148-4-8. Fair and Equitable Distribution.**

8.1. Distribution. All property located at the SASP warehouse will be distributed on a first-come first-serve basis, except where there are multiple numbers of Donees competing for the same property.

8.2. SASP to make fair and equitable distribution of property to eligible Donees based on relative needs and resources and ability to use property. If multiple Donees are competing for the same property, the Donees will be prioritized according to the following criteria which are based on relative needs, relative resources and the Donee's ability to utilize donated property:

8.2.a. The existence of a natural or man-made disaster in the Donee's locale.

8.2.b. The urgency of need, including the proposed type of application of the property and time required by the Donee to place the property to constructive use;

8.2.c. The comparative resources of the Donee, i.e., the ability of the Donees to acquire similar property through other means;

8.2.d. The ability of the Donees to substitute other types of property;

8.2.e. The ability of the Donees to replace, maintain and repair the equipment;

8.2.f. The ability of the Donees to pick up property at either the Federal installations or the SASP warehouse;

8.2.g. The ability of the Donees to render prompt payment of Service Charges; and

8.2.h. The financial needs of the Donee, including the ability to place the property in use for the purpose for which it was acquired.

8.3. Policies and detailed procedures for effecting a prompt, fair and equitable distribution:

The process includes Donees requesting items. Want lists will be maintained for specific property requested. In instances where multiple Donees are competing on the want list for the same property, the SASP will decide on the Donee based on its analysis of the situation and the criteria listed above in 8.1 above will be implemented once the property is allocated by the GSA.

8.4. Requirement that SASP select property requested by eligible Donees and, if requested, arrange for shipment of property directly to Donee.

To ensure all Donees have equal access to information pertaining to the quantity, quality and types of property, the SASP may periodically issue notices. The State, as far as practical, will select property requested by the Donee and arrange for shipment of property directly to the Donee. For direct donations, at the SASP's discretion, Donees may be responsible for picking up property or arranging for shipment of property directly to the Donee.

**§148-4-9. Eligibility.**

9.1. Procedures for SASP to determine the Eligibility of applicants for the donation of surplus personal property:

The Manager of the SASP will determine the Eligibility of applicants to participate in and receive surplus personal property through the program established by 40 U.S.C. section 549. Standards and Guidelines contained in 40 U.S.C. section 549 will be followed in making the determination of Eligibility for each applicant. As stated in these guidelines, property may be distributed to: "Any public SASP for use in carrying out or promoting for the residence of a given political area one (1) or more public purposes, such as conservation, economic development, education, parks and recreations, public health and public safety"; or "Any nonprofit educational or public health institution or organization, such as medical institutions, hospitals, clinics, health centers, schools, colleges, universities, providers of assistance to homeless or impoverished, programs for older individuals and sheltered workshops, schools for the handicapped, child care centers, radio and television stations, museums attended by the public, and libraries serving free all residents of a community, district, state or region which is exempt from taxation under Section 501-C-3 of the *Internal Revenue Code of 1986*, for purposes of education or public health (including research for any such purposes)." The SASP will provide surplus property information to potential eligible applicants through public information efforts. Applicants for Eligibility will be provided detailed instructions, application forms and assistance upon request. For the Application for Eligibility, see *Appendix C of the State Plan of Operation*.

9.2. Donee Eligibility records are to include at a minimum:

9.2.a. Completion of the Application for Eligibility showing legal name and address of Donee

9.2.b. Provide documentary evidence of status as a public SASP, a nonprofit educational institution or a public health institution or organization.;

9.2.c. Provide details concerning program activities to include specific public programs or specific nonprofit educational or medical facilities operated, their functions, locations, purposes, etc.;

9.2.d. Provide evidence of tax exemption under Section 501 of the *Internal Revenue Code of 1986* if the Donee is a nonprofit education or public health institution or organization.

9.2.e. Provide evidence that the applicant is approved, accredited or licensed, if required. Donee's Eligibility will be reviewed, updated and validated every three (3) years, with the exception of fire department applications, which will be validated annually, if the fire department is eligible to participate in the Federal property program.

9.2.f. Provide means and methods of funding;

9.2.g. Furnish an authorization signed by the chief administrative officer or executive head of the Donee designating one (1) or more representatives to act for the applicant to:

- (1) Acquire donable property from the SASP;
- (2) Obligate any necessary funds of the applicant for this purpose;
- (3) Execute the SASP Distribution Document, including terms, condition, reservations and restrictions that the SASP or GSA may establish on the use and disposal of the property;

9.2.h. Provide assurances of compliance with Title IV of the Civil Rights Act of 1964, as amended, 40 U.S.C. 549, and Section 504 of the Rehabilitation Act of 1973, as amended; Title IX of the Education Amendments Act of 1972, as amended, and Section 303 of the Age Discrimination Act of 1975;

9.2.i. Provide a list of types of property needed.

§148-4-10. Compliance and Utilization.

10.1. The SASP will conduct utilization reviews for Donee State Plan with terms, conditions, reservations, and restrictions imposed by GSA and WVSASP on property having unit acquisition costs of \$5,000 or more and any passenger motor vehicle.

10.2. All SASP reviews of Donee State Plan with the terms, conditions, reservations and restrictions imposed on donated property with extended periods of restriction will include a survey to determine that the Donee is complying with the statutory requirement that all items of donated property acquired by the Donee be placed into use for the required period of restriction.

10.3. The SASP will visit Donees receiving property with Federal and/or State restrictions on the use of property at least once a year during the period of restriction. In the event that a visit is not possible, the SASP will require written reports on utilization from the Donee's administrative officer or designee. In addition to ensuring all the terms and conditions placed upon the donated property are being adhered to, the SASP will evaluate the general utilization of property; any evidence of stockpiling or over supply; the need for other property by the Donee; the evidence of alleged fraud or misuse will be reported immediately to the GSA, in accordance with 41 CFR 102-37. Furthermore, the SASP will assist the GSA in any subsequent investigations. Noncompliance cases, such as fraud, sale of items under restriction, misuse, misrepresentation and stockpiling, shall constitute grounds for temporary deferment of participation in the Surplus Property Program.

10.4. SASP will prepare required reports on utilization reviews and State Plan actions. Should any incidences of alleged fraud in the acquisition of donated property or misuse of such property occur, SASP will initiate appropriate investigations.

**§148-4-11. Consultation with Advisory Bodies and Public and Private Groups.**

11.1. SASP will consult when necessary with advisory bodies and public and private groups.

11.2. When SASP determines it is necessary to consult advisory bodies and public and private groups, it will contact the appropriate entity to gain insight regarding relative needs and resources needed for Donees.

**§148-4-12. Audit.**

12.1. An internal audit of the SASP's operation (including the Surplus Property inventory), procedural activities and financial affairs will be conducted at the close of each fiscal year or at other such times as directed by Secretary of the Department of Administration or requested by the GSA. When completed, detailed reports, including findings and corrective measures, will be submitted to the GSA.

12.2. SASP must comply with external audit requirements of Office of Management and Budget Circular No. A-133, "Audits of State, Local Governments, and Non-Profit Organizations" and make provisions for SASP to furnish GSA with:

12.2.a. Two copies of any audit report made pursuant to the Circular, or with two copies of those sections that pertain to the Federal donation program.

12.2.b. Outline of all corrective actions and scheduled completion dates for actions

12.2.c. Cooperation in GSA or Comptroller General conducted audits

12.3. An external audit of the SASP's operation will be conducted in accordance with the requirements of the Office of Management and Budget Circular No. A-128 "Audits of State and Local Governments." The GSA will be provided with any such audit reports, including findings and corrective measures. Upon request, the financial records and inventory records will be made available for inspection by representatives of GSA, the General Accounting Office or other authorized Federal officials. GSA will notify the Governor's Office before auditing the SASP.

**§148-4-13. Cooperative Agreements.**

13.1. The SASP has statutory authority and will enter into cooperative agreements with Federal agencies or other states as may be necessary.

13.2. *West Virginia Code* §5A-3-19 and §5A-3-44(d) serves as the authority for entering into cooperative agreements.

**§148-4-14. Liquidation.**

In the event a determination is made by state officials to liquidate the SASP, a liquidation plan will be prepared in accordance with 41 CFR 102-37.

The plan will include the reasons for liquidation, a schedule and estimated date of termination, method of disposal of surplus property on hand, method of disposal of SASP fiscal and financial assets, retention of books and records for a two (2) year period following the liquidation.

Such a plan will be submitted to the GSA and approval secured prior to the beginning of liquidation.

**§148-4-15. Forms.**

Copies of documents used by SASP are attached as *Appendix C to the State Plan of Operation*.

**§148-4-16. Records.**

16.1. Official records of SASP will be retained for minimum of 3 years, except that:

16.1.a. Records involving property subject to restrictions for more than 2 years must be kept one year beyond the specified period of restriction;

16.1.b. Records involving property with perpetual restriction must be retained in perpetuity;

16.1.c. Records involving property in noncompliance status must be retained for at least 1 year after the noncompliance case is closed.

148CSR4

16.2. In cases of transfer of property with restrictions on use for more than two (2) years or in cases involving noncompliance, the records will be maintained at least one (1) year beyond the specific period of restriction or one (1) year after any noncompliance case is closed.

# APPENDICES

**APPENDIX A:** West Virginia Code Citation

**APPENDIX B:** Methodology of Computing Service Charges

**APPENDIX C:** Forms

- Application for Eligibility
- Invoice Document
- Standard Form 123
- Report of Overage or Shortage of Surplus Property
- Non-Combat-Type Aircraft Conditional Transfer Document
- Combat-Type Aircraft Conditional Transfer Document
- Federal Property Utilization Compliance Report

**APPENDIX D:** West Virginia Surplus Property Organization Charts

# Appendix A

**WEST VIRGINIA CODE**

**§5A-3-43. State agency for surplus property created.**

There is hereby established within the purchasing division and under the supervision of the director of the purchasing division the state agency for surplus property.

**§5A-3-44. Authority and duties of state agency for surplus property.**

- (a) The state agency for surplus property is hereby authorized and empowered (1) to acquire from the United States of America such property, including equipment, materials, books or other supplies under the control of any department or agency of the United States of America as may be usable and necessary for educational, fire protection and prevention, rescue, or public health purposes, including research; (2) to warehouse property acquired; and (3) to distribute the property to tax-supported medical institutions, hospitals, clinics, fire departments, rescue squads, health centers, school systems, schools, colleges and universities within the state, and to other nonprofit medical institutions, hospitals, clinics, volunteer fire departments, volunteer rescue squads, health centers, schools, colleges and universities within the state which have been held exempt from taxation under the Internal Revenue Code of 1986, as amended.
- (b) For the purpose of executing its authority under this article, the state agency for surplus property is authorized and empowered to adopt, amend or rescind rules and regulations as may be deemed necessary, and take other action necessary and suitable in the administration of this article, including the enactment and promulgation of rules and regulations necessary to bring this article and its administration into conformity with any federal statutes or rules and regulations promulgated under federal statutes for the acquisition and disposition of surplus property.
- (c) The state agency for surplus property is authorized and empowered to appoint advisory boards or committees necessary to the end that this article and the rules and regulations promulgated hereunder conform with federal statutes and rules and regulations promulgated under federal statutes for the acquisition and disposition of surplus property.
- (d) The state agency for surplus property is authorized and empowered to take action, make expenditures and enter into contracts, agreements and undertakings for and in the name of the state, require reports, and make investigations as may be required by law or regulation of the United States of America in connection with the receipt, warehousing and distribution of property received by the state agency for surplus property from the United States of America.
- (e) The state agency for surplus property is authorized and empowered to act as a clearinghouse of information for the public and private nonprofit institutions and agencies referred to in subsection (a) of this section, to locate property available for acquisition from the United States of America, to ascertain the terms and conditions under which the property may be obtained, to receive requests from the above-mentioned institutions and agencies and to transmit to them all available information in reference to the property, and to aid and assist the institutions and agencies in every way possible in the consummation or acquisition of transactions hereunder.
- (f) The state agency for surplus property shall cooperate to the fullest extent consistent with the provisions of this article, with the departments or agencies of the United States of America and

shall make reports in the form and containing the information the United States of America or any of its departments or agencies may from time to time require, and it shall comply with the laws of the United States of America and the rules and regulations of any of the departments or agencies of the United States of America governing the allocation, transfer, use or accounting for property donable or donated to the state.

**§5A-3-46. Disposition of surplus state property; semiannual report; application of proceeds from sale.**

- (a) The state agency for surplus property has the exclusive power and authority to make disposition of commodities or expendable commodities now owned or in the future acquired by the state when the commodities are or become obsolete or unusable or are not being used or should be replaced.
- (b) The agency shall determine what commodities or expendable commodities should be disposed of and make disposition in the manner which will be most advantageous to the state. The disposition may include:
- (1) Transferring the particular commodities or expendable commodities between departments;
  - (2) Selling the commodities to county commissions, county boards of education, municipalities, public service districts, county building commissions, airport authorities, parks and recreation commissions, nonprofit domestic corporations qualified as tax exempt under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or volunteer fire departments in this state when the volunteer fire departments have been held exempt from taxation under Section 501(c) of the Internal Revenue Code;
  - (3) Trading in the commodities as a part payment on the purchase of new commodities;
  - (4) Cannibalizing the commodities pursuant to procedures established under subsection (g) of this section;
  - (5) Properly disposing of the commodities as waste;
  - (6) Selling the commodities to the general public at the posted price or to the highest bidder by means of public auctions or sealed bids, after having first advertised the time, terms and place of the sale as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code. The publication area for the publication is the county in which the sale is to be conducted. The sale may also be advertised in other advertising media that the agency considers advisable. The agency may sell to the highest bidder or to any one or more of the highest bidders, if there is more than one, or, if the best interest of the state will be served, reject all bids; or
  - (7) Selling the commodities to the highest bidder by means of an Internet auction site approved by the director, as set forth in an emergency rule pursuant to the provisions of chapter twenty-nine-a of this code.
- (c) Upon the sale to the general public or transfer of commodities or expendable commodities between departments, or upon the sale of commodities or expendable commodities to an

eligible organization, the agency shall set the price to be paid by the receiving eligible organization, with due consideration given to current market prices.

(d) The agency may sell expendable, obsolete or unused motor vehicles owned by the state to an eligible organization, other than volunteer fire departments. In addition, the agency may sell expendable, obsolete or unused motor vehicles owned by the state with a gross weight in excess of four thousand pounds to an eligible volunteer fire department. The agency, with due consideration given to current market prices, shall set the price to be paid by the receiving eligible organization for motor vehicles sold pursuant to this provision: *Provided*, That the sale price of any motor vehicle sold to an eligible organization may not be less than the "average loan" value, as published in the most recent available eastern edition of the National Automobile Dealer's Association (N.A.D.A.) Official Used Car Guide, if the value is available, unless the fair market value of the vehicle is less than the N.A.D.A. "average loan" value, in which case the vehicle may be sold for less than the "average loan" value. The fair market value shall be based on a thorough inspection of the vehicle by an employee of the agency who shall consider the mileage of the vehicle and the condition of the body, engine and tires as indicators of its fair market value. If no fair market value is available, the agency shall set the price to be paid by the receiving eligible organization with due consideration given to current market prices. The duty authorized representative of the eligible organization, for whom the motor vehicle or other similar surplus equipment is purchased or otherwise obtained, shall cause ownership and proper title to the motor vehicle to be vested only in the official name of the authorized governing body for whom the purchase or transfer was made. The ownership or title, or both, shall remain in the possession of that governing body and be nontransferable for a period of not less than one year from the date of the purchase or transfer. Resale or transfer of ownership of the motor vehicle or equipment prior to an elapsed period of one year may be made only by reason of certified unserviceability.

(e) The agency shall report to the Legislative Auditor, semiannually, all sales of commodities or expendable commodities made during the preceding six months to eligible organizations. The report shall include a description of the commodities sold, the price paid by the eligible organization which received the commodities and to whom each commodity was sold.

(f) The proceeds of the sales or transfers shall be deposited in the State Treasury to the credit on a pro rata basis of the fund or funds out of which the purchase of the particular commodities or expendable commodities was made: *Provided*, That the agency may charge and assess fees reasonably related to the costs of care and handling with respect to the transfer, warehousing, sale and distribution of state property disposed of or sold pursuant to the provisions of this section.

(g)(1) For purposes of this section, "cannibalization" means the removal of parts from one commodity to use in the creation or repair of another commodity.

(2) The director of the Purchasing Division shall propose for promulgation legislative rules to establish procedures that permit the cannibalization of a commodity when it is in the best interests of the state. The procedures shall require the approval of the director prior to the cannibalization of the commodity under such circumstances as the procedures may prescribe.

(3) (A) Under circumstances prescribed by the procedures, state agencies shall be required to submit a form, in writing or electronically, that, at a minimum, elicits the following information for the commodity the agency is requesting to cannibalize:

(I) The commodity identification number; (ii) the commodity's acquisition date; (iii) the commodity's acquisition cost; (iv) a description of the commodity; (v) whether the commodity is operable and, if so, how well it operates; (vi) how the agency will dispose of the remaining parts of the commodity; and (vii) who will cannibalize the commodity and how the person is qualified to remove and reinstall the parts.

(B) If the agency has immediate plans to use the cannibalized parts, the form shall elicit the following information for the commodity or commodities that will receive the cannibalized part or parts: (i) The commodity identification number; (ii) the commodity's acquisition date; (iii) the commodity's acquisition cost; (iv) a description of the commodity; (v) whether the commodity is operable; (vi) whether the part restores the commodity to an operable condition; and (vii) the cost of the parts and labor to restore the commodity to an operable condition without cannibalization.

(C) If the agency intends to retain the cannibalized parts for future use, it shall provide information justifying its request.

(D) The procedures shall provide for the disposal of the residual components of cannibalized property.

(h) (1) The director of the Purchasing Division shall propose for promulgation legislative rules to establish procedures that allow state agencies to dispose of commodities in a landfill, or by other lawful means of waste disposal, if the value of the commodity is less than the benefit that may be realized by the state by disposing of the commodity using another method authorized in this section. The procedures shall specify circumstances where the state agency for surplus property shall inspect the condition of the commodity prior to authorizing the disposal and those circumstances when the inspection is not necessary prior to the authorization.

(2) Whenever a state agency requests permission to dispose of a commodity in a landfill, or by other lawful means of waste disposal, the state agency for surplus property has the right to take possession of the commodity and to dispose of the commodity using any other method authorized in this section.

(3) If the state agency for surplus property determines, within fifteen days of receiving a commodity, that disposing of the commodity in a landfill or by other lawful means of waste disposal would be more beneficial to the state than disposing of the commodity using any other method authorized in this section, the cost of the disposal is the responsibility of the agency from which it received the commodity.

#### **§5A-3-46. Warehousing, transfer, etc., charges.**

Any charges made or fees assessed by the state agency for surplus property for the acquisition, warehousing, distribution or transfer of any property acquired by donation from the United States of America for educational purposes or public health purposes, including research, shall be limited to those reasonably related to the costs of care and handling in respect to its acquisition, receipts, warehousing, distribution or transfer by the state agency for surplus property. All charges designated herein shall be used by the state agency for surplus property to defray the general operating expenses of the state agency for surplus property.

# Appendix B

## Methodology of Computing Service Charges

Original Acquisition

Cost of Property

Service Charge

Under \$200

Zero to 55% of Original Acquisition Cost

\$201 to \$2,500

Zero to 50% of Original Acquisition Cost

\$2,501 to \$10,000

Zero to 40% of Original Acquisition Cost

\$10,001 to \$25,000

Zero to 30% of Original Acquisition Cost

\$25,001 and Over

Zero to 20% of Original Acquisition Cost

The total of the service charges for all property donated by the agency during any given fiscal year shall not exceed 20 percent of the original government cost of the property.

Exceptions: Special or extraordinary cost may be added to the service charge as follows:

- Rehabilitation Property: Direct costs for rehabilitating property will be added to the service charge.
- Overseas Property: Additional direct costs for returning the property *may* be added.
- Long-Haul Property: Charges for major items with unusual costs *may* be added. Any such costs which are anticipated will be discussed with the donee prior to shipment.
- Special Handling: An additional charge *may* be made for dismantling, packing, crating, shipping, delivery, and other extraordinary handling charges.
- Screening: Extraordinary costs incurred in screening property *may* be added.

# Appendix C

# Application for Eligibility

**S** West Virginia State Agency  
**OP** for Surplus Property

## APPLICATION FOR ELIGIBILITY

*To Receive Federal Surplus Property (41CFR 101-44.207) and/or State Surplus Property (West Virginia Code §56-3)*

**I. Legal name and mailing address of applicant or organization:**

\_\_\_\_\_  
*Name of Organization*

\_\_\_\_\_  
*Name of Treasurer/Officer of Organization*      \_\_\_\_\_  
*Telephone Number*

\_\_\_\_\_  
*Organization's Mailing Address (P.O. Box Number, Street, City & State)      County      Zip Code*

\_\_\_\_\_  
*Street Address/Location (if different from Mailing Address)*

\_\_\_\_\_  
*Is-different Address for Receipt of Communications for Organization*

**II. Applicant status (Check One):**

- Public Agency, including Public School *(evidence must be provided)*
- Non-profit, tax-exempt organization

**III. Type or purpose of organization:**

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> State              | <input type="checkbox"/> Programs for Older Individuals                         | <input type="checkbox"/> Medical Institution |
| <input type="checkbox"/> County             | <input type="checkbox"/> Child Care Centers                                     | <input type="checkbox"/> Hospital            |
| <input type="checkbox"/> City               | <input type="checkbox"/> School for the Handicapped                             | <input type="checkbox"/> Health Center       |
| <input type="checkbox"/> School District    | <input type="checkbox"/> Museum   | <input type="checkbox"/> Clinic              |
| <input type="checkbox"/> College/University | <input type="checkbox"/> Training Center  | <input type="checkbox"/> Sheltered Workshop  |
| <input type="checkbox"/> Secondary School   | <input type="checkbox"/> Radio/TV Station                                       | <input type="checkbox"/> Library             |
| <input type="checkbox"/> Elementary School  | <input type="checkbox"/> Provider of Assistance to the Homeless or Impoverished |  |
| <input type="checkbox"/> Preschool          |   |  |

**IV. Provide a written description of programs or services offered, including a description of facilities operated. (This information is required for application approval)**

**V. Source of Funding (Attach supporting documentation; Required for application approval):**  
 Tax-Supported     Grant     Contributions     Other (specify): \_\_\_\_\_

**VI. Has the organization been determined to be tax-exempt under 501 of the Internal Revenue Code of 1986?**  
 Yes (copy required)       No

**VII. Has the organization been approved, accredited, or licensed?**  
 Yes (copy required)       No

**VIII. Certification regarding debarment, suspension, ineligibility and voluntary exclusion - lower tier covered transactions: By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 41 CFR 101-60, certifies to the best of its knowledge and belief that it and its principals:**  
**(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency;**  
**(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.**

**IX. Provide a list of types of property needed. (Attach separately).**

\_\_\_\_\_  
*Signature of Executive Officer*      \_\_\_\_\_  
*Date*

**STATE AGENCY FOR SURPLUS PROPERTY USE ONLY**

The (New \_\_\_\_\_/Renewed \_\_\_\_\_) applicant has been determined as follows:  
 eligible       ineligible       conditionally eligible  
as a...  public agency     non-profit education     non-profit health     other non-profit  
Eligibility Expires: \_\_\_\_\_      Status: \_\_\_\_\_      License Expires: \_\_\_\_\_

\_\_\_\_\_  
*Account Number*      \_\_\_\_\_  
*Date*      \_\_\_\_\_  
*Signature of Eligible Property Manager*

Submit Applications for Eligibility to West Virginia State Agency for Surplus Property, 2700 Charles Avenue, Dunbar, West Virginia 26064; Telephone: (804) 766-2626; Toll-Free (800) 576-7557; FAX: (804) 766-2631

**CERTIFICATIONS AND AGREEMENTS  
(INCLUDING TERMS, CONDITIONS, RESERVATIONS AND RESTRICTIONS)  
TO BE INCLUDED ON THE STATE AGENCY INVOICE OR DISTRIBUTION DOCUMENT**

**FEDERAL PROPERTY REQUIREMENTS**

**(A) THE APPLICANT CERTIFIES THAT:**

(1) It is a public agency or a nonprofit educational or public health institution or organization, exempt from taxation under Section 501 (c) of the Internal Revenue Code of 1954, within the meaning of Section 203 (2) of the Federal Property and Administrative Services Act of 1949, as amended, and the regulations of the Administrator of General Services. (2) If a public agency, the property is needed and will be used by the recipient for carrying out or promoting for the conduct of a given public or quasi-public purpose, or, if a nonprofit institution, for carrying out or promoting for the conduct of a given public or quasi-public purpose, and including research for such purposes. The property is not being acquired for any other use or purpose, or for sale or other disposition or for retention outside the State, except with prior approval of the State Agency for Surplus Property. (3) Funds are available to pay all costs and charges incident to donation. (4) This acquisition shall be subject to the constitutional provisions governing the donation of surplus personal property listed under Title VI of the Civil Rights Act of 1964, Title VI, Section 606 of the Federal Property and Administrative Services Act of 1949, as amended, and Section 504 of the Vocational Rehabilitation Act of 1973, as amended.

**(B) THE APPLICANT AGREES TO THE FOLLOWING GENERAL CONDITIONS:**

(1) All items of property shall be placed in use for the purposes for which acquired within one year of receipt and shall be continued in use for such purposes for one year from the date the property was placed in use. In the event the property is not so placed in use, or abandoned in use, the Applicant shall immediately notify the State Agency for Surplus Property, and at the Applicant's request, return such property to the State Agency for Surplus Property, or otherwise make the property available for transfer or other disposal by the State Agency for Surplus Property, provided the property is still usable as determined by the State Agency for Surplus Property. (2) Such special handling or use restrictions as are imposed by General Services Administration (GSA) on any item(s) of property listed herein. (3) In the event the property is not so used or handled as required by (1) and (2), title and right to the possession of such property shall be the option of GSA over the United States of America and upon demand the Applicant shall return such property in such form as GSA or its designee shall direct.

**(C) THE APPLICANT AGREES TO THE FOLLOWING FEDERAL CONDITIONS, APPLICABLE TO ITEMS WITH A UNIT ACQUISITION COST OF FIFTEEN OR MORE AND PASSENGER MOTOR VEHICLES, REGARDLESS OF ACQUISITION COST, EXCEPT VESSELS 18 FEET OR MORE IN LENGTH AND AIRCRAFT:**

(1) The property shall be used only for the purpose(s) for which acquired and for no other purpose(s). (2) There shall be a period of restriction which will expire after such property has been used for the purpose(s) for which acquired for a period of 18 months from the date the property is placed in use. (3) In the event the property is not so used as required by (1) and (2) and Federal restrictions (2) (1) and (2) have expired the title and right to the possession of such property shall be the option of the General Services Administration over to the State of West Virginia and the Applicant shall return such property to such person as the State Agency for Surplus Property shall direct.

**(D) THE APPLICANT AGREES TO THE FOLLOWING TERMS, RESERVATION AND RESTRICTIONS:**

(1) From the date it acquires the property listed herein and through the period(s) of time the conditions imposed by (B) and (C) above remain in effect, the Applicant shall not sell, lease, lease, loan, bail, encumber, encumber, or otherwise dispose of such property or remove it permanently, for use outside the State, without the prior approval of GSA under (1) or the State Agency for Surplus Property under (2). The proceeds from any sale, lease, loan, bail, encumber, encumber, or other disposal of the property, when such action is authorized by GSA or by the State Agency for Surplus Property, shall be received promptly by the Applicant to GSA or the State Agency for Surplus Property, as the case may be. (2) In the event any of the property listed herein is sold, leased, loaned, bailed, encumbered, encumbered, or otherwise disposed of by the Applicant from the date it receives the property through the period(s) of time the conditions imposed by (B) and (C) remain in effect, without the prior approval of GSA or the State Agency for Surplus Property, the Applicant, at the option of GSA or the State Agency for Surplus Property shall pay to GSA or the State Agency for Surplus Property, as the case may be, the proceeds of the disposal or for the full market value of the full retail value of the property at the time of such disposal, as determined by GSA or the State Agency for Surplus Property. (3) If at any time, from the date it acquires the property through the period(s) of time the conditions imposed by (B) and (C) remain in effect, any of the property listed herein is no longer usable, usable, or further needed by the Applicant for the purpose(s) for which acquired, the Applicant shall promptly notify the State Agency for Surplus Property, and shall, as directed by the State Agency for Surplus Property, return the property to the State Agency for Surplus Property, where the property is another Applicant or another State Agency for Surplus Property, a department or agency of the United States, or otherwise dispose of the property. The proceeds from any sale shall be received promptly by the Applicant by the State Agency for Surplus Property. (4) The Applicant shall make repairs to the State Agency for Surplus Property on the use, condition, and location of the property listed herein, and on other pertinent matters as may be required from time to time by the State Agency for Surplus Property. (5) At the option of the State Agency for Surplus Property, the Applicant may accept the conditions set forth in (2) and the terms, reservation and restriction and conditions set forth in (2) by payment of no amount as determined by the State Agency for Surplus Property.

**(E) THE APPLICANT AGREES TO THE FOLLOWING CONDITIONS, APPLICABLE TO ALL ITEMS OF PROPERTY LISTED HEREIN:**

(1) The property acquired by the Applicant is an "as is, where is" basis, without warranty of any kind. (2) Where an Applicant causes loss or damage to or loss of property due to fire or other hazards and where loss of or damage to donated property with completed terms, conditions, reservations, and restrictions, occurs, the State Agency for Surplus Property will be entitled to reimbursement from Applicant out of the insurance proceeds, of an amount equal to the unrecovered portion of the full value of the damaged or damaged donated items.

**(F) TERMS AND CONDITIONS APPLICABLE TO THE DONATION OF AIRCRAFT AND VESSELS (18 FEET OR MORE IN LENGTH) HAVING AN ACQUISITION COST OF FIFTEEN OR MORE, REGARDLESS OF THE PURPOSE FOR WHICH ACQUIRED:**

(1) The donation shall be subject to the terms, conditions, reservations, and restrictions set forth in the Conditional Transfer Document executed by the Authorized Applicant representative.

**STATE PROPERTY REQUIREMENTS**

**(A) ELIGIBILITY:**

(1) Section 2A, Article 8, Chapter 5A of the West Virginia Code states that county commissions, county boards of education, municipalities, public service districts, senior housing commissions, airport authorities, parks and recreation commissions, nonprofit domestic corporations qualified as tax-exempt under Section 501 (c) (3) of the Internal Revenue Code of 1954, or succeeded, and volunteer fire departments in this State, whose such volunteer fire departments have been held exempt from taxation under Section 501 (c) of the United States Internal Revenue Code are eligible to participate in the State Surplus Property Program.

**(B) COMPLIANCE:**

(1) Section 2A, Article 8, Chapter 5A of the West Virginia Code states that the duly authorized representative of such eligible organization, for whose such motor vehicle or other similar surplus equipment is purchased or otherwise obtained, shall cause ownership and property title thereof to be vested only in the official name of the individual governing body for whose purchase or transfer was made. Such ownership or title, or both, shall remain in the possession of the governing body and be non-transferable for a period of not less than one year from the date of such purchase or transfer of ownership of such motor vehicle or equipment prior to no elapsed period of one year may be made only by means of official non-transferability.

I hereby state that I have read and understood the conditions and agreements by which I am obliged to abide.

\_\_\_\_\_  
Signature of Executive Officer

\_\_\_\_\_  
Date



# AUTHORIZED REPRESENTATIVES

**I. Legal name and address of applicant or organization:**

\_\_\_\_\_  
Name of Applicant

\_\_\_\_\_  
Name of Executive Officer of Organization Telephone Number

\_\_\_\_\_  
Mailing Address - P.O. Box Number, Street, City & State County Zip Code

\_\_\_\_\_  
Street Address/Location if different from Mailing Address

**II. The following representatives are designated to:**

- A. Acquire Federal Surplus Property;
- B. Obligate necessary funds for this purpose; and,
- C. Execute Distribution Documents agreeing to terms, conditions, reservations, and restrictions applying to property obtained through the agency.

**III.  New Designations**  Additional Designations Only  
(Date of previous authorization) (Add to previous authorization)

**IV. Representatives:**

Name	Title	E-Mail Address	Signature

**V. Certification**

\_\_\_\_\_  
Signature of Executive Officer and Title Date

*Submit Application for Eligibility to: West Virginia State Agency for Surplus Property;  
 2700 Charles Avenue, Dunbar, WV 25064; Telephone: (304) 766-2626; Toll-free (800) 576-7387; FAX: (304) 766-2631.*



West Virginia State Agency  
for Surplus Property

## LIST OF INTERESTED PROPERTY TYPES

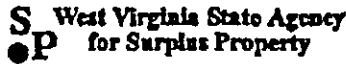
Below is a list of property types that may be available through the West Virginia State Agency for Surplus Property (WVSASP).

Please check all types of property that your organization may be interested in obtaining from WVSASP. Note that checking a property type does not obligate your organization in any way to purchasing that type of item nor does it limit the types of items that you may request throughout the year.

*(Please check all boxes that apply)*

- |   |   |
|---|---|
| <input type="checkbox"/> Vehicles           | <input type="checkbox"/> Heavy Equipment            |
| <input type="checkbox"/> Office Furniture   | <input type="checkbox"/> Kitchen Equipment          |
| <input type="checkbox"/> Computer Equipment | <input type="checkbox"/> Travel Trailers            |
| <input type="checkbox"/> Mobile Homes       | <input type="checkbox"/> Boats                      |
| <input type="checkbox"/> Weapons            | <input type="checkbox"/> Hand Tools                 |
| <input type="checkbox"/> Generators         | <input type="checkbox"/> Other (Please List Below): |

Submit Application for Eligibility to: West Virginia State Agency for Surplus Property;  
2700 Charles Avenue, Dunbar, WV 25064; Telephone: (304) 766-2626; Toll-free (800) 576-7587; FAX: (304) 766-2631.



## NONDISCRIMINATION ASSURANCE

### Legal Name and Mailing Address of Applicant Organization

<i>Name of Organization</i>		
<i>Name of Executive Officer of Organization</i>		<i>Telephone Number</i>
<i>Building Address (No. One, Street, Room, City &amp; State)</i>	<i>County</i>	<i>Zip Code</i>
<i>Street Address (if different from Building Address)</i>		

The Donors listed above agree that the program for or in connection with which any property is donated to the donee will be conducted in compliance with, and the donee will comply with and will require any other person (any legal entity) who through contractual or other arrangements with the donee is authorized to provide services or benefits under said program to comply with all requirements imposed by or pursuant to the regulations of the General Services Administration (41 CFR 101-4.3 and 101-8) issued under the provisions of Title VI of the Civil Rights Act of 1964, as amended, Section 504 of Title VI of the Federal Property and Administrative Services Act of 1949, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, Title IX of the Education Amendments of 1972, as amended, Section 303 of the Age Discrimination Act of 1975, and the Civil Rights Restoration Act of 1987, to the end that no person in the United States shall on the ground of race, color, national origin, sex, or age, or that no otherwise qualified handicapped person shall solely by reason of the handicap, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity for which the donee received Federal assistance from the General Services Administration; and hereby gives assurance that it will immediately take any measures necessary to effectuate this agreement.

The donee further agrees (1) that this agreement shall be subject in all respects to the provisions of said Federal statutes and regulations (2) that this agreement obligates the donee for the period during which it retains ownership or possession of the property, (3) that the United States shall have the right to seek judicial enforcement of this agreement, and (4) that this agreement shall be binding upon any successor in interest of the donee and the word "donee" as used herein includes any such successor in interest.

<i>Signature of Executive Officer and Title</i>	<i>Date</i>
---	-------------

**Submit Application for Eligibility to: West Virginia State Agency for Surplus Property,  
2700 Charles Avenue, Dunbar, WV 25064; Telephone: (304) 766-3626; Toll-Free (800) 576-7587; FAX: (304) 766-3631.**

## INSTRUCTIONS FOR COMPLETING THE APPLICATION FOR ELIGIBILITY FORM

*(Please print or type in this or black ink only)*

**SECTION I:** Provide the full legal name of your organization on the first line of this section. Provide the name of the executive officer of the organization and a telephone number at which he/she may be reached. Complete the mailing address of your organization as recognized by the US Postal Service, including the zip code. Provide the street address if different from the mailing address or provide directions if located on a rural route or other remote area. List the county in which the organization is actually located and a business telephone number with area code.

**SECTION II:** Check the appropriate box which describes your organization. *(If you are unable to determine which status to check, please contact the office for assistance).*

**SECTION III:** Check the appropriate box(es) *(check as many as apply)* which indicate the type or purpose of your organization. *(Definitions have been provided on the reverse side of this application to assist in making this determination).*

**SECTION IV:** A comprehensive written description of all programs or services provided is required. A description of the operational facilities should also be included. Be sure to include information on staff and staff qualifications, hours of operation, services and programs offered, population or enrollment, fees charged, etc. Include samples of pamphlets, catalogs, brochures or posters. If incorporated, include complete copy of Articles of Incorporation with all filing certificates and amendments, and a copy of your current By-Laws.

**SECTION V:** Check the appropriate box which indicates the organization's sources of funding. Supporting documentation indicating the types and amounts of funding must be submitted with the completed application.

**SECTION VI:** All applicants making applications as "nonprofit, tax-exempt organizations" must provide a copy of the IRS determination letter indicating tax exemption under Section 501 of the IRS Code of 1954. The name of the organization on this IRS letter must match the name provided in Section I of this application. If not, include sufficient evidence such as amendments to Articles of Incorporation, or Assumed Name filing certificates to establish an "audit trail" of names showing the legal corrections.

**SECTION VII:** Applicants seeking application for Federal Surplus Property as "nonprofit, tax-exempt organizations" are required to submit evidence that the applicants is currently approved, accredited, or licensed. Programs for older individuals must include evidence of funding under the Older Americans Act of 1965; Titles IV of XX of the Social Security Act; Titles VIII of X of the Economic Development Act of 1964; or the Community Service Block Grant Act. Providers of Assistance to homeless individuals must include a letter from the Mayor, County Judge, City or County Health Officer or comparable authority which certifies that applicants is a "provider of assistance to the homeless". The certification must identify the service or assistance being provided and the number of individuals receiving such assistance.

**AUTHORIZED REPRESENTATIVES:** The executive official must designate selected individuals within the organization to be responsible to acquire Federal Surplus Property; obligate necessary funds for this purpose; and execute Distribution Documents agreeing to terms, conditions, reservation, and restrictions applying to property obtained through the agency. The names and titles of authorized representatives must be completed with each individual's signature.

**SIGNATURE/DATE:** Annotate date and provide the signature of applicant's Authorized Official (President, Chairman of the Board, County Judge, Mayor, City Manager, Executive Director, Administrator, Fire Chief, or other comparable authorized official).

**NOTE: INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED. USE THIS INSTRUCTION SHEET AS YOUR CHECK LIST TO ASSURE THAT ALL REQUIRED INFORMATION AND DOCUMENTATION IS PROVIDED. IF YOU HAVE A QUESTION OR NEED ASSISTANCE CONTACT:**

WEST VIRGINIA STATE AGENCY FOR SURPLUS PROPERTY  
2709 CHARLES AVENUE  
DUNBAR, WV 26044

Telephone: (304) 766-2626  
Toll-free: (800) 876-7667  
FAX: (304) 766-2631

# Invoice Document



**Standard Form 123**

<b>TRANSFER ORDER SURPLUS PERSONAL PROPERTY</b>		1. ORDER NUMBER(S) a. _____ b. _____		FORM APPROVED OAS NUMBER 3000-0014 Expires 03/02/2012		PAGE _____ OF _____ PAGES	
2. TYPE OF ORDER <input type="checkbox"/> STATE AGENCY <input type="checkbox"/> DOD/SEA <input type="checkbox"/> FAA		3. SURPLUS RELEASE DATE		4. SET ASIDE DATE		5. TOTAL ACQUISITION COST	
7. TO <b>GENERAL SERVICES ADMINISTRATION*</b>						6. LOCATION TO PROPERTY	
8. HOLDING AGENCY (Name and address)*						10. FOR OSA USE ONLY	
						SOURCE CODE <input type="checkbox"/>	
						STATE <input type="checkbox"/>	
						CITY <input type="checkbox"/>	
						TYPE OF DONATION <input type="checkbox"/>	
						ADJUSTED ALLOCATION CODE <input type="checkbox"/>	
11. PICKUP OR SHIPPING INSTRUCTIONS*							

12. SURPLUS PROPERTY LIST							
LI NO. (1)	IDENTIFICATION NUMBER(S) (2)	DESCRIPTION (3)	DEML CODE (4)	COND. CODE (5)	QUANTITY AND UNIT (6)	ACQUISITION COST	
						UNIT (7)	TOTAL (8)
13. TRANSFEREE ACTION		a. TRANSFEREE (Name and address of State Agency, SEA, or public airport)*		b. SIGNATURE AND TITLE OF STATE AGENCY OR DONOR REPRESENTATIVE		c. DATE	
Transferee certifies and agrees that transfers and donations are made in accordance with 41 CFR 101-44, and to do the same, conditions, and assurances as specified on this document.				d. SIGNATURE OF HEAD OF THE SEA (School or National Headquarters)		e. DATE	
14. ADMINISTRATIVE ACTION		a. DETERMINING OFFICER (DOD OR FAA)*		b. SIGNATURE OF DETERMINING OFFICER		c. DATE	
I certify that the administrative actions pertinent to this order are in accordance with 41 CFR 101-44 and as specified on this document have been and are being taken.							
		d. GSA APPROVING OFFICER		e. SIGNATURE OF APPROVING OFFICER		f. DATE	

\*Please include "ZIP codes" in all address blocks.  
N301 7340-00-005-9418  
Previous Editions not usable

WHITE

STANDARD FORM 123 (Rev. 8-82)  
Prescribed by GSA FPMR (41 CFR) 101-44.110

## CERTIFICATIONS, AGREEMENTS, AND ASSURANCES

The transferee specified in block 13a on the reverse of this transfer order, in consideration of and for the purpose of obtaining any of all property for donation covered by such transfer order, recognizes and agrees that any such transfer will be made by the United States in reliance on the following certifications, agreements, and assurances:

**1. OFFICIAL SIGNING IN BLOCK 13b AS REPRESENTATIVE OF A STATE AGENCY.** (1) As a condition of the allocation of property listed in block 12, the State agency, for itself, and with respect to any such property to be distributed to an adjacent State, pursuant to an approved Inter State Distribution Agreement as agent for an authorized representative of the adjacent State, hereby certifies:

(a) It is the agency of the State designated under State law and as such has legal authority within the meaning of section 203(j) of the Federal Property and Administrative Services Act of 1949, 63 Stat. 903, as amended (hereinafter referred to as the Act), and the regulations of the General Services Administration to receive surplus property for distribution within the State to eligible donees within the meaning of the Act and regulations.

(b) The property listed on this document or attachments hereto is usable and needed by a public agency for one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, public safety, and programs for older individuals, by an eligible nonprofit organization or institution which is exempt from taxation in the State under section 501 of the Internal Revenue Code of 1954 for the purpose of education or public health (including research for any such purpose), or by an eligible nonprofit tax-exempt activity for programs for older individuals.

(c) When the property is picked up by or shipped to a State agency, the State certifies that it has available adequate funds, facilities, and personnel to effect acceptability, warehousing, proper maintenance, and distribution of the property.

(d) When the property is distributed by a State agency to a donee, or when delivery is made direct from a holding agency to a donee, that the donee who is acquiring the property is eligible within the meaning of the Act and the regulations of the General Services Administration, and that such property is usable and needed by the donee.

(e) With respect to donable property picked up by or shipped to a State agency, the State agency agrees to the following:

(a) The right to possession only is granted and the State agrees to make prompt statewide distribution of the same, on a fair and equitable basis, to donees eligible to acquire property under section 203(j) of the Act and regulations of the General Services Administration, after such eligible donees have properly executed the appropriate certifications and agreements established by the State agency and/or the General Services Administration.

(b) Title to such property shall remain in the United States of America although the State shall have taken possession thereof. Conditional title to the property shall pass to the eligible donee when it executes the certifications and appropriate agreements required by the State agency and has taken possession of the property.

(c) The State agency further agrees that it will pay promptly the cost of care, handling, and shipping incident to taking possession of such property and that during the time the title remains in the United States of America, it will be responsible, as a bailee for mutual benefit, for such property from the time it is released to the State agency or to the transportation agent designated by the State agency; and that in the event of any loss of or damage to any or all of the property, it will file such claim and/or institute and prosecute to conclusion such proceedings as may be necessary to recover for the amount of the United States of America the fair value of any such property lost or damaged.

(d) No surplus property hereafter approved for transfer by the General Services Administration shall be retained by the State agency for use in performing its functions unless such property use is authorized by the General Services Administration in accordance with the provisions of a cooperative agreement entered into between the State agency and the General Services Administration.

(e) Where an applicant State agency is acting under an interstate distribution agreement approved by the General Services Administration as an agent and authorized representative of an adjacent State with which it shares a common boundary, the certifications and agreements required above shall also be made by the applicant State agency respecting the donees in such adjacent State to which distribution will be made and the property to be distributed in the adjacent State, and such certifications and agreements shall constitute the certifications and agreements to the adjacent State on whose behalf and as whose authorized representative the applicant State agency is acting.

**2. SERVICE EDUCATIONAL ACTIVITY.** Pursuant to section 203(j) of the Act and regulations promulgated thereunder, and a designation of

personal property listed in block 12 is requested, it is hereby certified that (1) the signer is appropriately authorized; (2) the property is usable and necessary to carry out the educational purposes of the transferee, is required for use to fill an existing need, and will be used for such purposes within 1 year after it is obtained; and (3) funds are available and will be paid, when requested, to cover cost of care and handling incident to the donation, including packing preparation for shipment, loading, and transporting such property.

**3. PUBLIC AIRPORT.** Pursuant to the Act and section 136(a) of the Surplus Property Act of 1944, 58 Stat. 770, as amended, and regulations promulgated thereunder, request is hereby made for the property listed in block 12. The transferee agrees that (1) funds are available to pay the costs of care and handling incident to donation, including packing, preparation for shipping, loading, and transporting such property; and (2) if such property is donated to the transferee it will (a) not be used, sold, retransferred, or disposed of for other than airport purposes without the consent of the Federal Aviation Administration; (b) be kept in good repair; (c) be used for airport purposes; (d) be appropriately marked as Federal surplus property and will be made available for inspection upon request; and (e) at the option of the United States, meet in the United States in its then existing condition, 2 of the aforesaid conditions are not met, observed, or complied with.

**4. STATE AGENCY SERVICE EDUCATIONAL ACTIVITY, PUBLIC AIRPORT OR DONEE.**

(1) Assurance of Compliance, with GSA regulations, under Title VI of the Civil Rights Act of 1964, section 806 of Title VI of the Federal Property and Administrative Services Act of 1949, as amended, section 804 of the Rehabilitation Act of 1973, as amended, Title X of the Education Amendments of 1972, as amended, and section 803 of the Age Discrimination Act of 1975.

The transferee agrees that (a) the program, for or in connection with which any property covered by this transfer order is acquired by the transferee, will be conducted in compliance with, and the transferee will comply with and will require any other person (any legal entity), who through contractual or other arrangements with the transferee is authorized to provide services or benefits under said program, to comply with all requirements imposed by or pursuant to the regulations of the General Services Administration (41 CFR 101-6.2 or 101.6) issued under the provisions of Title VI of the Civil Rights Act of 1964, section 806 of Title VI of the Federal Property and Administrative Services Act of 1949, as amended, section 804 of the Rehabilitation Act of 1973, and amended, 806 of the Age Discrimination Act of 1975 to the end that no person in the United States shall, on the ground of race, color, national origin, sex, or age, or that no otherwise qualified handicapped person shall solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the transferee receives Federal assistance from the General Services Administration; (b) this agreement shall be subject in all respects to the provisions of said regulations; (c) this agreement shall obligate the transferee and any other person (any legal entity), who authorized to provide services or benefits under said program, for the period during which it retains ownership or possession of any such property; (d) the transferee will promptly take, and continue to take, such action as may be necessary to effectuate the agreement; (e) the United States shall have the right to seek judicial enforcement of this agreement; and (f) this agreement shall be binding upon any successor in interest.

(2) The transferee agrees that the Government assumes no liability for any damages to the property of the State or donee, any person, or public property, or for the personal injuries, illness, disabilities or death to employees of the State or donee, any other person subject to their control or any other person including members of the general public, arising from or incident to the property use, processing, disposition, or any subsequent operation performed upon, exposure to or contact with any component, part, constituent or ingredient of this item, or substance, or material, hazardous and inherently the Government for any and all costs, judgment, action, debt, liability costs and attorney's fees or any other request for remedy or any type of relief arising from or incident to the transfer, duration, use, processing, disposition, or any subsequent operation performed upon, exposure to or contact with any component, part, constituent or ingredient of this item, material or substance, whether intentional or accidental.

## STATEMENT OF ADMINISTRATIVE ACTIONS

**1. OFFICIAL SIGNING IN BLOCK 14b AS REPRESENTATIVE OF A DEPARTMENT OF DEFENSE.** The Department of Defense (DIA or Sponsoring Military Service) has determined that the personal property listed in block 12 is authorized and approved for donation to the service educational activity in block 13a (subject to any limitation request by a Federal agency).

**2. FEDERAL AVIATION ADMINISTRATION.** The Administrator of the Federal Aviation Administration has determined that the surplus personal property listed in block 12 is essential, suitable, or desirable for the development, improvement, operation, or maintenance of a public airport, or reasonably necessary to fulfill the immediate and/or

state future requirements of the grantee for the development, improvement, operation, or maintenance of a public airport.

**3. OFFICIAL SIGNING IN BLOCK 14c AS REPRESENTATIVE OF GENERAL SERVICES ADMINISTRATION.** The surplus personal property listed in block 12, except any disapproved items, is approved for transfer for donation purposes. Property listed herein requested for transfer by a State agency is hereby allocated to that State. Such property will be held by the holding agency for a period no to exceed 42 calendar days from the surplus release date pending receipt of pickup or shipping instructions, whereupon it will be released to the donee.

STANDARD FORM 123 (Rev. 4-67) BACK

# **Report of Overage or Shortage of Surplus Property**



**Non-Combat-Type Aircraft  
Conditional Transfer Document**

## NON-COMBAT-TYPE AIRCRAFT CONDITIONAL TRANSFER DOCUMENT

KNOW ALL MEN BY THESE PRESENTS: That the United States of America (hereinafter called the General Services Administration (GSA)) acting by and through the State of West Virginia, State Agency for Surplus Property (hereinafter called the SASP), pursuant to the powers and authority contained in the Federal Property and Administrative Services Act of 1949 (53 Stat. 377), as amended, for and in consideration of and in reliance upon the representations of \_\_\_\_\_ whose address is \_\_\_\_\_

\_\_\_\_\_ (hereinafter called the Donee) that the Property hereinafter described is required in the furtherance of the Donee's program and that such Property will be used solely in connection with such programs and more specifically for all the following purpose(s):

in accordance with the proposed program and plan as set forth in the Donee's "Letter of Intent" dated \_\_\_\_\_, as amended \_\_\_\_\_, which Expression of Interest is hereby incorporated herein and made a part thereof, and for no other purpose, does hereby deliver, sell, assign, and transfer all of its rights, title, and interest in and to the following described non-combat-type aircraft, aircraft engines, and propellers,

together with all engines, appurtenances, and accessories attached thereto or installed therein (all of which are hereinafter referred to as the Property), which has been determined by GSA to have a fair market value of \$ \_\_\_\_\_, unto the Donee to have and to hold the Property, all singular forever, this donation being made on an "as is, where is" basis without warranty of any kind, and delivery made at present location of the Property regardless of where the same may be situated or the condition thereof.

SUBJECT, HOWEVER, to the following conditions and restrictions:

1. The Donee agrees to apply to the Federal Aviation Administration (FAA) for registration of the Property which is intended for flight purposes within 30 days of the receipt of a fully executed copy of this instrument. The Donee's application for registration shall include a fully executed copy of this instrument.
2. The Property shall be placed in use for the purpose stated above no later than 12 months after acquisition thereof, and used for that same purpose for a 12-month period thereafter.
3. There shall be a further period of restriction beginning on the date the Property has been used for the period prescribed in (2), above. This additional period will expire after the Property has been used for the purpose stated for an additional period of 48 months. During this additional period of restriction, the Property shall be used only for the purpose(s) stated above.

4. In the event the Donee does not apply to the FAA for registration of the Property which is intended for flight operations (or other uses unless registration is waived by GSA) or in the event the aircraft is not placed in use within 12 months of receipt, and used for a 12 month period thereafter, within 30 days after the Property has ceased to be used, the Donee shall provide notice thereof in writing to the SASP, and at the Donee's expense, return such Property to the SASP or otherwise make the Property available for transfer, provided the Property is still usable as determined by the SASP or otherwise dispose of the Property, through the SASP, as may be directed by GSA.

5. In the event the Property is not so used or handled as required by (1), (2), (3), and (4), above, title and right to the possession of the Property shall at the option of GSA revert to the United States Government. Upon demand the Donee shall, as directed by GSA through the SASP, release the Property to such person or agency as may be designated, sell the Property, or otherwise dispose of the Property. Any sale shall be for the benefit and account of the United States Government.

6. During the periods of restriction prescribed in (2) and (3), above, the Donee shall make reports to the SASP on the use, condition, and location of the Property and on other pertinent matters as may be required from time to time by the SASP or GSA.

7. At the expiration of the period of restriction prescribed in (3), above, a release document shall be executed by the State Agency for Surplus Property and forwarded to the Donee.

8. During the periods of restriction prescribed in (2) and (3), above, the Donee shall not sell, trade, lease, lend, bail, cannibalize, encumber, or otherwise dispose of the Property, or remove it permanently for use outside the State, without the prior written approval of GSA. The proceeds from any sale, trade, lease, loan, bailment, encumbrance, or other disposal of the Property during the period of restriction set forth in (2) and (3), above, when such action is authorized by GSA, shall be for the benefit and account of the United States Government.

9. In the event, during the periods of restriction prescribed in (2) and (3), above, the Property is sold, traded, leased, loaned, bailed, encumbered, or otherwise disposed of without prior written approval of GSA, the Donee, at the option of GSA, shall be liable for the proceeds of the disposal, the fair market value, or the fair rental value of the Property at the time of such unauthorized transaction or use, as determined by GSA.

10. If at any time, from the date the Donee receives the Property through the periods of restriction prescribed in (2) and (3), above, the Property is no longer

suitable, usable, or further needed by the Donee for the purpose for which acquired, the Donee shall promptly notify the SASP and shall as directed by GSA through the SASP:

- (a) Release the Property to another donee or State agency;
- (b) Release the Property to a department or agency of the United States;
- (c) Release the Property to such other institution or agency as may be determined to have need therefor;
- (d) Sell the Property for the benefit and account of the United States of America with the proceeds remitted promptly from the Donee to GSA;
- (e) Render the Property completely unfit and useless for any purpose except for the recovery of its basic material content, the same to be performed in a manner satisfactory to GSA and the material content to be disposed of in accordance with instructions of GSA; or
- (f) Otherwise dispose of the Property as directed by GSA.

11. At the option of GSA, the Donee may obtain abrogation of the terms and conditions set forth in (3) and (6) through (10), above, by payment of an amount determined by GSA.

12. GSA may waive any or may terminate all of the terms and conditions set forth in (3) and (6) through (10), above, and give unrestricted title to the Property in favor of the Donee whenever such action is determined in writing by GSA to be appropriate.

13. The Donee agrees to hold harmless and indemnify the Government for any and all costs, judgment, action, debt, liability costs and attorney's fees or any other request for monies of any type of relief arising from or incident to the transfer, donation, use processing, disposition, or any subsequent operation performed upon, exposure to or contact with any component, part, constituent or ingredient of the item, material or substance, whether intentional or accidental.

IN WITNESS WHEREOF, the Donor and the Donee have duly executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

United States of America Acting by  
and through the West Virginia  
State Agency for Surplus Property

By \_\_\_\_\_  
Title \_\_\_\_\_

DONEE:

By \_\_\_\_\_  
Title \_\_\_\_\_

Institution or Organization  
\_\_\_\_\_

CITY of \_\_\_\_\_ )  
COUNTY of \_\_\_\_\_ )  
STATE of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me appeared

\_\_\_\_\_ to me personally known, who, being by me duly sworn, says that she/he is the person who executed the foregoing instrument and that such instrument was executed under duty delegated authority on behalf of the State Agency for Surplus Property, and acknowledged the foregoing instrument to be the free act and deed of the State of West Virginia.

Given under my hand and official seal the day and year above written.

\_\_\_\_\_  
Notary Public in and for the  
CITY of \_\_\_\_\_  
COUNTY of \_\_\_\_\_  
STATE of \_\_\_\_\_

(SEAL)

My Commission Expires: \_\_\_\_\_

CITY of \_\_\_\_\_ )  
COUNTY of \_\_\_\_\_ )  
STATE of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, says that she/he is the person who executed the foregoing instrument on behalf of said \_\_\_\_\_, and acknowledges to me that she/he was duly authorized to execute the foregoing instrument and that she/he executed the same as a free act and deed of said \_\_\_\_\_.

Given under my hand and official seal of the day and year above written.

Notary Public in and for the  
CITY of \_\_\_\_\_  
COUNTY of \_\_\_\_\_  
STATE of \_\_\_\_\_

(SEAL)

My Commission Expires: \_\_\_\_\_

**Combat-Type Aircraft  
Conditional Transfer Document**

## COMBAT-TYPE AIRCRAFT CONDITIONAL TRANSFER DOCUMENT

KNOW ALL MEN BY THESE PRESENTS: That the United States of America (hereinafter called the General Services Administration (GSA)) acting by and through the State of West Virginia, State Agency for Surplus Property (hereinafter called the SASP), pursuant the powers and authority contained in the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, for and in consideration of and in reliance upon the representations of \_\_\_\_\_ whose address is

\_\_\_\_\_ (hereinafter called the Donee) that the Property hereafter described is required in the furtherance of the Donee's program and that such Property will be used solely in connection with such programs and more specifically for all the following purpose(s):

in accordance with the proposed program and plan as set forth in the Donee's "letter of intent" dated \_\_\_\_\_, as amended \_\_\_\_\_, which Expression of Interest is hereby incorporated herein and made a part thereof, and for no other purpose, does hereby deliver, sell, assign, and transfer all of its rights, title, and interest in and to the following described combat-type aircraft, aircraft engines, and propellers,

together with all engines, appurtenances, and accessories attached thereto or installed therein (all of which are hereinafter referred to as the Property), which has been determined by GSA to have a fair market value of \$ \_\_\_\_\_, unto the Donee to have and to hold the Property, all singular forever, this donation being made on an "as is, where is" basis without warranty of any kind, and delivery made at present location of the Property regardless of where the same may be situated or the condition thereof:

**SUBJECT, HOWEVER,** to the following conditions and restrictions:

1. The Donee agrees that the aircraft shall not be used for flight purposes.
2. The Property shall be placed in use by the Donee for the purpose stated above no later than 12 months after acquisition thereof and shall be used thereafter for such purpose in perpetuity.
3. In the event the aircraft is not placed in use by the donee within 12 months of receipt and used thereafter in perpetuity, within 30 days after the Property has ceased to be used, the Donee shall provide notice thereof in writing to the SASP, and at the Donee's expense, return such Property to the SASP or otherwise make the Property available for transfer, provided the Property is still usable as determined by the SASP or otherwise dispose of the Property through the SASP, as may be directed by GSA.

4. In the event the Property is not so used or handled as required by (1), (2), and (3), above, title and right to the possession of the Property shall at the option of GSA revert to the United States Government. Upon demand the Donee shall, as directed by GSA through the SASP, release the Property to such person or agency as may be designated, sell the Property with the proceeds remitted promptly by the Donee to GSA, or otherwise dispose of the Property. Any sale shall be for the benefit and account of the United States Government.

5. During the period of restriction prescribed in (2) and (3), above, the Donee shall make reports to the SASP on the use, condition, and location of the Property and on other pertinent matters as may be required from time to time by the SASP or GSA.

6. During the periods of restriction prescribed in (2) and (3) above, the Donee shall not sell, trade, lease, lend, bail, cannibalize, encumber, or otherwise dispose of the Property, or remove it permanently for use outside the State, without the prior written approval of GSA. The proceeds from any sale, trade, lease, loan, bailment, encumbrance, cannibalization, or other disposal of the Property during the periods of restriction set forth in (2) and (3), above, when such action is authorized by GSA, shall be for the benefit and account of the United States Government.

7. If at any time, from the date the Donee receives the Property through the periods of restriction prescribed in (2) and (3), above, the Property is no longer suitable, usable, or further needed by the Donee for the purpose for which acquired, the Donee shall promptly notify the SASP and shall as directed by GSA through the SASP:

(a) Release the Property to another donee or State agency;

(b) Release the Property to a department or agency of the United States;

(c) Release the Property to such other institution or agency as may be determined to have need therefor;

(d) Sell the Property for the benefit and account of the United States of America with the proceeds remitted promptly from the Donee to GSA;

(e) Render the Property completely unfit and useless for any purpose except for the recovery of its basic material content, the same to be performed in a manner satisfactory to GSA and the material content to be disposed of in accordance with instructions of GSA; or

(f) Otherwise dispose of the Property as directed by GSA.

8. In the event, during the periods of restriction prescribed in (2) and (3), above,

the Property is sold, traded, leased, loaned, bailed, encumbered, or otherwise disposed of without prior written approval of GSA, the Donee, at the option of GSA, shall be liable for the proceeds of the disposal, the fair market value, or the fair rental value of the Property at the time of the unauthorized transaction or use, as determined by GSA.

9. In the event of a breach by the Donee, or its successor in function, of any of the above conditions, whether caused by the legal inability of the Donee or its successor in function, interest in and to the Property shall, at the option of GSA, forthwith revert to and become the property of the United States Government, and the Donee, or its successors or assigns, shall forfeit all of its or their rights, title, and interest in and to the Property.

10. The SASP shall not grant waivers, amendments, releases, or terminate any of the terms and conditions enumerated in (1) through (8), above, concerning the use or disposal of the Property, or issue disposal instructions to the Donee for the Property without the prior written concurrence of GSA or its successor in function.

11. The Donee agrees to hold harmless and indemnify the Government for any and all costs, judgment, action, debt, liability costs and attorney's fees or any other request for monies of any type of relief arising from or incident to the transfer, donation, use processing, disposition, or any subsequent operation performed upon, exposure to or contact with any component, part, constituent or ingredient of the item, material or substance, whether intentional or accidental.

IN WITNESS WHEREOF, the Donor and Donee have duly executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

United States of America Acting by  
and through the West Virginia  
State Agency for Surplus Property

By \_\_\_\_\_  
Title \_\_\_\_\_

DONEE:

By \_\_\_\_\_  
Title \_\_\_\_\_  
Institution or Organization \_\_\_\_\_

CITY of \_\_\_\_\_ )  
COUNTY of \_\_\_\_\_ )  
STATE of \_\_\_\_\_ )

On this day of \_\_\_\_\_, 20\_\_\_\_, before me appeared

\_\_\_\_\_ to me personally known, who, being by me duly sworn, says that she/he is the person who executed the foregoing instrument and that such instrument was executed under duly delegated authority on behalf of the \_\_\_\_\_ State Agency for Surplus Property, and acknowledged the foregoing instrument to be the free act and deed of the State of \_\_\_\_\_.

Given under my hand and official seal the day and year above written.

\_\_\_\_\_  
Notary Public in and for the  
CITY of \_\_\_\_\_  
COUNTY of \_\_\_\_\_  
STATE of \_\_\_\_\_

(SEAL)

My Commission Expires: \_\_\_\_\_

CITY of \_\_\_\_\_ )  
STATE of \_\_\_\_\_ )  
COUNTY of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me appeared \_\_\_\_\_, to me personally known, who, being by me duly sworn, says that she/he is the person who executed the foregoing instrument on behalf of said \_\_\_\_\_, and acknowledged to me that she/he was duly authorized to execute the foregoing instrument and that she/he executed the same as a free act and deed of said \_\_\_\_\_.

Given under my hand and official seal the day and year above written.

\_\_\_\_\_  
Notary Public in and for the  
CITY of \_\_\_\_\_  
COUNTY of \_\_\_\_\_  
STATE of \_\_\_\_\_

(SEAL)

My Commission Expires: \_\_\_\_\_

# Federal Property Utilization Compliance Report

WV State Agency for Surplus Property  
2700 Charles Avenue  
Dunbar, WV 25064

**FEDERAL PROPERTY UTILIZATION COMPLIANCE REPORT**

Organization: \_\_\_\_\_  
Address: \_\_\_\_\_  
Invoice No: \_\_\_\_\_ Dated: \_\_\_\_\_  
WV#: \_\_\_\_\_ VIN/Serial#: \_\_\_\_\_  
Item: \_\_\_\_\_

Special terms and conditions apply to property having a single item federal acquisition cost of \$5,000 or more, and passenger motor vehicles regardless of acquisition cost. Items must be placed in service within one (1) year of acquisition and used by the organization, only for its public purpose, for a period of eighteen (18) months thereafter. Items are subject to physical inspection during this period. Additional terms and conditions are included on the back. Please read carefully and sign this form on both sides.

Date Placed Into Use: \_\_\_\_\_

Type of Use/Purpose: \_\_\_\_\_

Location of Item (address and directions): \_\_\_\_\_

**PERSON RESPONSIBLE FOR THE CUSTODY OF THIS ITEM;**

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Alternate Contact Name(s): \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

I certify that the information listed hereon is true and correct and that I will notify WVSASP of any changes to this information.

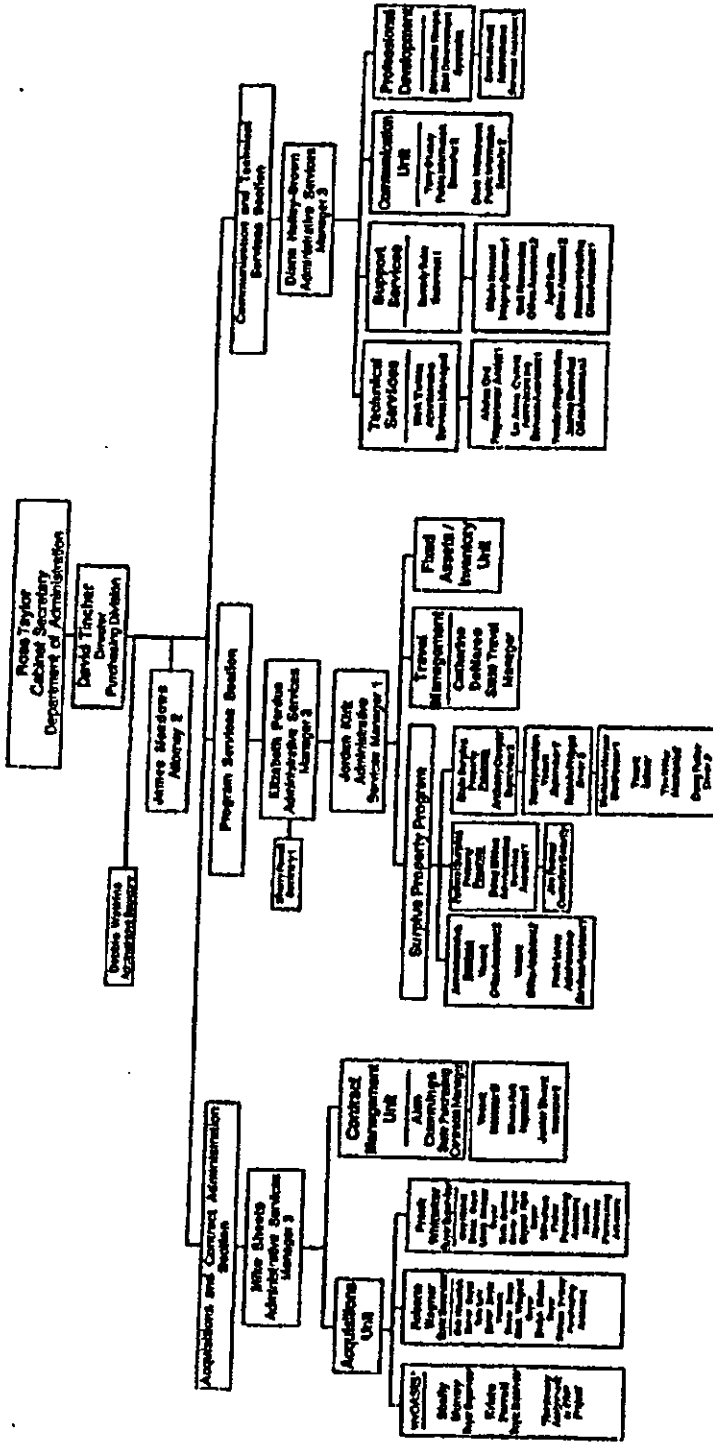
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**NOTE: RETURN ORIGINAL DOCUMENTS. PHOTOCOPIES ARE NOT ACCEPTABLE.**

SURPLUS USE ONLY
Date Visited/Mailed:
Date Received:
Compliance Officer:
Notes:

# Appendix D

**DEPARTMENT OF ADMINISTRATION  
PURCHASING DIVISION**



Purchasing Division - January 5, 2014



## APPENDIX B

### FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 148, Department of Administration, Purchasing Division  
Type of Rule: X Legislative \_\_\_\_\_ Interpretive \_\_\_\_\_ Procedural \_\_\_\_\_  
Agency: Purchasing Division, West Virginia State Agency for Surplus Property  
Address: 2700 Charles Avenue  
Dunbar, WV 25064

#### 1. Effect of Proposed Rule:

	ANNUAL			FISCAL YEAR	
	Increase	Decrease	Current	Next	Thereafter
ESTIMATED TOTAL COST	0	0	0	0	0
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

#### 2. Explanation of Above Estimates

There will be no fiscal impact on this modification to the *Code of State Rules* Title 148, Series 4

#### 3. Objective of these Rules

The objective of this rule is to propose modifications to the existing rule for Title 148, Series 4 of the *West Virginia Code of State Rules* that govern the administration of the federal surplus property donation program in order to comply with federal statutes, rules, and regulations for the acquisition and disposition of federal surplus property.

The federal law and rule requires that the State Agency for Surplus Property (a subunit of the Purchasing Division) maintain a state plan of operation governing the federal surplus property program and also requires that the state plan of operation be approved by the State Legislature. In order to be in compliance with this federal requirement, the Purchasing Division has historically submitted the state plan of operation to the Legislature for approval as a legislative rule.

Rule Title: Title 148, Department of Administration, Purchasing Division

**4. Objective of these Rules, Continued**

In order to comply with the suggestion from federal officials and to ensure the continued availability of the federal surplus property program, the Purchasing Division has: (1) revised the West Virginia State Agency for Surplus Property's state plan of operation, (2) has obtained federal approval for the revised state plan of operation, and (3) is submitting those rules for the approval of the State Legislature through the legislative rule making process.

**5. Explanation of Overall Economic Impact of Proposed Rule:**

A. Economic Impact on State Government

a. No impact

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens

a. No Impact

C. Economic Impact on Citizens/Public at Large

a. No impact

Date: 7/30/14

Signature of Agency Head or Authorized Representative

## QUESTIONNAIRE

**DATE:** July 30, 2014

**TO:** Legislative Rule-Making Review Committee

**FROM:** Donna Lipscomb, Executive Coordinator  
Department of Administration  
1900 Kanawha Boulevard, East  
Room E-119  
Charleston, WV 25305  
304-558-3392

**LEGISLATIVE RULE TITLE:** 148, Series 4, Purchasing Division

1. Authorizing statute(s) citation 5A-3-44

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

June 26, 2014

b. What other notice, including advertising, did you give of the hearing?

E-mailing to all Procurement Officers for all State Agencies and related entities, and posting the proposed rules on the Purchasing web site.

c. Date of Public Hearing(s) or Public Comment Period Ended:

July 28, 2014

---

- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached \_\_\_\_\_ No comments received  X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

\_\_\_\_\_

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (please type)

Donna Lipscomb, Executive Coordinator

Department of Administration

1900 Kanawha Boulevard, East

State Capitol, Room E-119

Charleston, WV 25305

304-558-3392

g. IF DIFFERENT FROM ITEM "f", please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (please type)

David Tincher, Director of Purchasing

2019 Washington Street, East

Charleston, WV 25301

304-558- 2538

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

June 26, 2014 through July 28, 2014

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached     N/A