

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #4

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**FILED**  
2014 SEP 16 P 2:57

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: Department of Administration, Purchasing Division TITLE NUMBER: 148

CITE AUTHORITY: Legislative

AMENDMENT TO AN EXISTING RULE: YES  NO

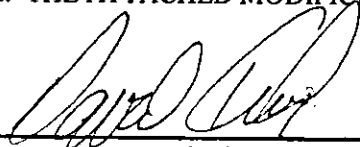
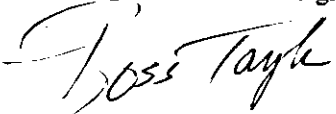
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: State Plan for the Operation of the WV State Agency for Surplus Property

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

  
\_\_\_\_\_  
Authorized Signature  


TITLE 148  
DEPARTMENT OF ADMINISTRATION  
PURCHASING DIVISION

FILED

2014 SEP 16 P 2:57

SERIES 4  
STATE PLAN FOR THE OPERATION OF THE WEST VIRGINIA  
STATE AGENCY FOR SURPLUS PROPERTY

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**§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 State Agency for Surplus Property ~~SASP~~. The 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.

**§148-4-3. Definitions.**

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

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

3.1.b. "Cannibalization" means the secondary utilization of property by dissembling and use of components.

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

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

3.1.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.

3.1.f. "GSA" means U.S. General Services Administration.

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

3.1.h. "Standard Form 123" means the form used to transfer federal surplus personal property

3.1.i. "State Plan" or "Plan" means the State Plan of Operations that governs various aspects of the federal surplus property program.

**§148-4-4. Functions of the SASP.**

—4.1. 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.

—4.2. 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.

—4.3. 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.

—4.4. The SASP maintains accurate financial records and prepares monthly financial reports.

—4.5. The SASP handles the warehousing, acquisition and distribution, and allocation.

4.5.a. 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.

4.5.b.. 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.

4.5.c. 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).

—4.6. **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.

#### **§148-4-5. SASP Operations.**

5.1. **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.

5.2. **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 loading 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 form 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.

5.3. **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.

5.4. **Screening.** Eligible donees may screen federal property electronically. To acquire federal property through this means, the donee must complete the transaction through the SASP.

#### **§148-4-6. Return of Donated Property.**

6.1. **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*.

6.2. 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:

6.2.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.

6.3. 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.

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

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

6.5. 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.

**§148-4-7. Financing and Service Charges.**

7.1. ~~Financing of 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*.

7.2. Service Charges ~~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 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.

7.3. 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.

7.4. Accumulation of Funds ~~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.

7.5. State Law Affirmation. West Virginia state law allows for service charges to be deposited.

7.6. 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.

7.7. Working Capital Reserve ~~Intention of SASP of maintaining working capital 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*.

7.8. Refunds ~~of service charges made to donees, when excess in SASP's working capital.~~ 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.

#### **§148-4-8. Terms and Conditions on Donated Property.**

8.1. Period of use restrictions. The following period of restrictions are established by the SASP.

8.1.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;

8.1.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;

8.1.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. The conditional transfer document is located in *Appendix C of the State Plan of Operation*.

8.1.d. 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. The conditional transfer document is located in *Appendix C of the State Plan of Operation*.

8.2. 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.

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

8.2.a.1i. 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.

8.2.a.2ii. 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.

8.2.a.3iii. 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.

8.2.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:

8.2.b.1i. 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.

8.2.b.2ii. 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.

8.2.b.3iii. 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.

8.2.b.4iv. The item being acquired has an estimated market value at least equal to the estimated market value of the item being traded in.

8.2.b.5v. The item acquired is made subject to the period of restriction remaining on the item trade-in.

8.2.b.6vi. Prior written approved of the GSA is required for property under federal restrictions or special handling conditions or use limitations imposed by GSA.

8.2.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.

8.2.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.

8.2.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 will be based on a finding made in writing by the SASP and, in accordance with 41 CFR 102-37, the SASP will ~~shall~~ prescribe the means and methods whereby the property is destroyed or abandoned.

8.3. 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:

8.3.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,

8.3.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,

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

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

8.4. 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.

8.5. 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.

8.6. 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*.

**§148-4-9. Unutilized or Undistributed Property.**

9.1. 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).

9.1.a. Transfer to another SASP or federal SASP. The SASP will offer the property for transfer to another state SASP.

9.1.b. Transfer to GSA sale center. The SASP will transfer the property to a GSA regional property sales center, if approved by GSA.

9.1.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.

9.1.d. Other arrangements. The SASP will dispose of property as prescribed by GSA.

9.2. 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:

9.2.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.

9.2.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.

9.2.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.

**§148-4-10. Fair and Equitable Distribution.**

10.1. 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.

10.2. 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:

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

10.2.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;

10.2.c. The comparative resources of the donee, i.e., the ability of the donees to acquire similar property through other means;

10.2.d. The ability of the donees to substitute other types of property;

10.2.e. The ability of the donees to replace, maintain and repair the equipment;

10.2.f. The ability of the donees to pick up property at either the federal installations or the SASP warehouse;

10.2.g. The ability of the donees to render prompt payment of service charges; and

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

10.3. 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 10.28-2 above will be implemented once the property is allocated by the GSA.

10.4. 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.

#### **§148-4-11. Eligibility.**

11.1. Determination of Eligibility. ~~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 "[A]ny 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* .

11.2. Donee eligibility records are to include at a minimum:

11.2.a. Completion of the application for eligibility showing legal name and address of donee

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

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

11.2.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.

11.2.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.

11.2.f. Provide means and methods of funding;

11.2.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;

11.2.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;

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

#### **§148-4-12. Compliance and Utilization.**

12.1. 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.

12.2. 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.

12.3. 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.

12.4. 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.

**§148-4-13. Consultation with Advisory Bodies and Public and Private Groups.**

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

13.2. 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.

**§148-4-14. Audit.**

14.1. 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.

14.2. 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:

14.2.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.

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

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

14.3. 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.

**§148-4-15. Cooperative Agreements.**

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

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

**§148-4-16. 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.

**§148-4-17. Forms.**

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

**§148-4-18. Records.**

18.1. Official records of SASP will be retained for minimum of three (3) years, except that:

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

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

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

18.2. 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.