

PROPERTY ACT
SELECTED PROVISIONS RELATED TO PERSONAL PROPERTY

This is a compilation of various sections of Title 40, United States Code, which address the management of personal property. For the complete text of Title 40, please see that file also linked at our webpage.

These provisions are in Public Law 107-217.

Only the most widely-applicable provisions of Title 40 are here for ease of use and for starting research on a topic. There may be other sections of this (or other) law which expand, restrict, or otherwise modify the provisions provided here. In addition, regulations issued by the Administrator of GSA as authorized by Section 121 address most of these provisions.

Sec. 101. Purpose

The purpose of this subtitle is to provide the Federal Government with an economical and efficient system for the following activities:

- (1) Procuring and supplying property and nonpersonal services, and performing related functions including contracting, inspection, storage, issue, setting specifications, identification and classification, transportation and traffic management, establishment of pools or systems for transportation of Government personnel and property by motor vehicle within specific areas, management of public utility services, repairing and converting, establishment of inventory levels, establishment of forms and procedures, and representation before federal and state regulatory bodies.
- (2) Using available property.
- (3) Disposing of surplus property.
- (4) Records management.

Sec. 102. Definitions

The following definitions apply in chapters 1 through 7 of this title and in title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.):

- (1) CARE AND HANDLING- The term `care and handling' includes--
 - (A) completing, repairing, converting, rehabilitating, operating, preserving, protecting, insuring, packing, storing, handling, conserving, and transporting excess and surplus property; and
 - (B) rendering innocuous, or destroying, property that is dangerous to public health or safety.
- (2) CONTRACTOR INVENTORY- The term `contractor inventory' means--
 - (A) property, in excess of amounts needed to complete full performance, that is acquired by and in possession of a contractor or subcontractor under a contract pursuant to which title is vested in the Federal Government; and
 - (B) property that the Government is obligated or has the option to take

over, under any type of contract, as a result of changes in specifications or plans under the contract, or as a result of termination of the contract (or a subcontract), prior to completion of the work, for the convenience or at the option of the Government.

(3) EXCESS PROPERTY- The term `excess property' means property under the control of a federal agency that the head of the agency determines is not required to meet the agency's needs or responsibilities.

(4) EXECUTIVE AGENCY- The term `executive agency' means--

(A) an executive department or independent establishment in the executive branch of the Government; and

(B) a wholly owned Government corporation.

(5) FEDERAL AGENCY- The term `federal agency' means an executive agency or an establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol, and any activities under the direction of the Architect of the Capitol).

(6) FOREIGN EXCESS PROPERTY- The term `foreign excess property' means excess property that is not located in the States of the United States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, Palau, and the Virgin Islands.

(7) MOTOR VEHICLE- The term `motor vehicle' means any vehicle, self-propelled or drawn by mechanical power, designed and operated principally for highway transportation of property or passengers, excluding--

(A) a vehicle designed or used for military field training, combat, or tactical purposes, or used principally within the confines of a regularly established military post, camp, or depot; and

(B) a vehicle regularly used by an agency to perform investigative, law enforcement, or intelligence duties, if the head of the agency determines that exclusive control of the vehicle is essential for effective performance of duties.

(8) NONPERSONAL SERVICES- The term `nonpersonal services' means contractual services designated by the Administrator of General Services, other than personal and professional services.

(9) PROPERTY- The term `property' means any interest in property except--

(A)(i) the public domain;

(ii) land reserved or dedicated for national forest or national park purposes;

(iii) minerals in land or portions of land withdrawn or reserved from the public domain which the Secretary of the Interior determines are suitable for disposition under the public land mining and mineral leasing laws; and

(iv) land withdrawn or reserved from the public domain except land or portions of land so withdrawn or reserved which the Secretary, with the concurrence of the Administrator, determines are not suitable for return to the public domain for disposition under the general public land laws

because the lands are substantially changed in character by improvements or otherwise;

(B) naval vessels that are battleships, cruisers, aircraft carriers, destroyers, or submarines; and

(C) records of the Government.

(10) SURPLUS PROPERTY- The term 'surplus property' means excess property that the Administrator determines is not required to meet the needs or responsibilities of all federal agencies.

Sec. 121. Administrative

(a) POLICIES PRESCRIBED BY THE PRESIDENT- The President may prescribe policies and directives that the President considers necessary to carry out this subtitle. The policies must be consistent with this subtitle.

(b) ACCOUNTING PRINCIPLES AND STANDARDS-

(1) PRESCRIPTION- The Comptroller General, after considering the needs and requirements of executive agencies, shall prescribe principles and standards of accounting for property.

(2) PROPERTY ACCOUNTING SYSTEMS- The Comptroller General shall cooperate with the Administrator of General Services and with executive agencies in the development of property accounting systems and approve the systems when they are adequate and in conformity with prescribed principles and standards.

(3) COMPLIANCE REVIEW- From time to time the Comptroller General shall examine the property accounting systems established by executive agencies to determine the extent of compliance with prescribed principles and standards and approved systems. The Comptroller General shall report to Congress any failure to comply with the principles and standards or to adequately account for property.

(c) REGULATIONS BY ADMINISTRATOR-

(1) GENERAL AUTHORITY- The Administrator may prescribe regulations to carry out this subtitle.

(2) REQUIRED REGULATIONS AND ORDERS- The Administrator shall prescribe regulations that the Administrator considers necessary to carry out the Administrator's functions under this subtitle and the head of each executive agency shall issue orders and directives that the agency head considers necessary to carry out the regulations.

(d) DELEGATION OF AUTHORITY BY ADMINISTRATOR-

(1) IN GENERAL- Except as provided in paragraph (2), the Administrator may delegate authority conferred on the Administrator by this subtitle to an official in the General Services Administration or to the head of another federal agency. The Administrator may authorize successive redelegation of authority conferred by this subtitle.

(2) EXCEPTIONS- The Administrator may not delegate--

(A) the authority to prescribe regulations on matters of policy applying to executive agencies;

(B) the authority to transfer functions and related allocated amounts from

one component of the Administration to another under paragraphs (1)(C) and (2)(A) of subsection (e); or

(C) other authority for which delegation is prohibited by this subtitle.

(3) RETENTION AND USE OF RENTAL PAYMENTS- A department or agency to which the Administrator has delegated authority to operate, maintain or repair a building or facility under this subsection shall retain the portion of the rental payment that the Administrator determines is available to operate, maintain or repair the building or facility. The department or agency shall directly expend the retained amounts to operate, maintain, or repair the building or facility. Any amounts retained under this paragraph shall remain available until expended for these purposes.

(e) ASSIGNMENT OF FUNCTIONS BY ADMINISTRATOR-

(1) IN GENERAL- The Administrator may provide for the performance of a function assigned under this subtitle by any of the following methods:

(A) The Administrator may direct the Administration to perform the function.

(B) The Administrator may designate or establish a component of the Administration and direct the component to perform the function.

(C) The Administrator may transfer the function from one component of the Administration to another.

(D) The Administrator may direct an executive agency to perform the function for itself, with the consent of the agency or by direction of the President.

(E) The Administrator may direct one executive agency to perform the function for another executive agency, with the consent of the agencies concerned or by direction of the President.

(F) The Administrator may provide for performance of a function by a combination of the methods described in this paragraph.

(2) TRANSFER OF RESOURCES-

(A) WITHIN ADMINISTRATION- If the Administrator transfers a function from one component of the Administration to another, the Administrator may also provide for the transfer of appropriate allocated amounts from the component that previously carried out the function to the component being directed to carry out the function. A transfer under this subparagraph must be reported to the Director of the Office of Management and Budget.

(B) BETWEEN AGENCIES- If the Administrator transfers a function from one executive agency to another (including a transfer to or from the Administration), the Administrator may also provide for the transfer of appropriate personnel, records, property, and allocated amounts from the executive agency that previously carried out the function to the executive agency being directed to carry out the function. A transfer under this subparagraph is subject to approval by the Director.

(f) ADVISORY COMMITTEES- The Administrator may establish advisory committees to provide advice on any function of the Administrator under this subtitle. Members of the advisory committees shall serve without compensation but are entitled to transportation and not more than \$25 a day instead of

expenses under section 5703 of title 5.

(g) CONSULTATION WITH FEDERAL AGENCIES- The Administrator shall advise and consult with interested federal agencies and seek their advice and assistance to accomplish the purposes of this subtitle.

(h) ADMINISTERING OATHS- In carrying out investigative duties, an officer or employee of the Administration, if authorized by the Administrator, may administer an oath to an individual.

Sec. 123. Civil remedies for fraud

(a) IN GENERAL- In connection with the procurement, transfer or disposition of property under this subtitle, a person that uses or causes to be used, or enters into an agreement, combination, or conspiracy to use or cause to be used, a fraudulent trick, scheme, or device for the purpose of obtaining or aiding to obtain, for any person, money, property, or other benefit from the Federal Government--

(1) shall pay to the Government an amount equal to the sum of--

(A) \$2,000 for each act;

(B) two times the amount of damages sustained by the Government because of each act; and

(C) the cost of suit;

(2) if the Government elects, shall pay to the Government, as liquidated damages, an amount equal to two times the consideration that the Government agreed to give to the person, or that the person agreed to give to the Government; or

(3) if the Government elects, shall restore to the Government the money or property fraudulently obtained, with the Government retaining as liquidated damages, the money, property, or other consideration given to the

Government.

(b) ADDITIONAL REMEDIES AND CRIMINAL PENALTIES- The civil remedies provided in this section are in addition to all other civil remedies and criminal penalties provided by law.

(c) IMMUNITY OF GOVERNMENT OFFICIALS- An officer or employee of the Government is not liable (except for an individual's own fraud) or accountable for collection of a purchase price that is determined to be uncollectible by the federal agency responsible for property if the property is transferred or disposed of in accordance with this subtitle and with regulations prescribed under this subtitle.

(d) JURISDICTION AND VENUE-

(1) DEFINITION- In this subsection, the term 'district court' means a district court of the United States or a district court of a territory or possession of the United States.

(2) IN GENERAL- A district court has original jurisdiction of an action arising under this section, and venue is proper, if at least one defendant resides or may be found in the court's judicial district. Jurisdiction and venue are determined without regard to the place where acts were committed.

(3) ADDITIONAL DEFENDANT OUTSIDE JUDICIAL DISTRICT- A defendant that does

not reside and may not be found in the court's judicial district may be brought in by order of the court, to be served personally, by publication, or in another reasonable manner directed by the court.

Sec. 503. Exchange or sale of similar items

(a) **AUTHORITY OF EXECUTIVE AGENCIES-** In acquiring personal property, an executive agency may exchange or sell similar items and may apply the exchange allowance or proceeds of sale in whole or in part payment for the property acquired.

(b) **APPLICABLE REGULATION AND LAW-**

(1) **REGULATIONS PRESCRIBED BY ADMINISTRATOR OF GENERAL SERVICES-** A transaction under subsection (a) must be carried out in accordance with regulations the Administrator of General Services prescribes, subject to regulations prescribed by the Administrator for Federal Procurement Policy under the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

(2) **IN WRITING-** A transaction under subsection (a) must be evidenced in writing.

(3) **SECTION 3709 OF REVISED STATUTES-** Section 3709 of the Revised Statutes (41 U.S.C. 5) applies to a sale of property under subsection (a), except that fixed price sales may be conducted in the same manner and subject to the same conditions as are applicable to the sale of property under section 545(d) of this title.

Sec. 524. Duties of executive agencies

(a) **REQUIRED-** Each executive agency shall--

(1) maintain adequate inventory controls and accountability systems for property under its control;

(2) continuously survey property under its control to identify excess property;

(3) promptly report excess property to the Administrator of General

Services;

(4) perform the care and handling of excess property; and

(5) transfer or dispose of excess property as promptly as possible in accordance with authority delegated and regulations prescribed by the Administrator.

(b) **REQUIRED AS FAR AS PRACTICABLE-** Each executive agency, as far as practicable, shall--

(1) reassign property to another activity within the agency when the property is no longer required for the purposes of the appropriation used to make the purchase;

(2) transfer excess property under its control to other federal agencies and to organizations specified in section 321(c)(2) of this title; and

(3) obtain excess property from other federal agencies.

Sec. 525. Excess personal property for federal agency grantees

(a) **GENERAL PROHIBITION-** A federal agency is prohibited from obtaining excess

personal property for the purpose of furnishing the property to a grantee of the agency, except as provided in this section.

(b) EXCEPTION FOR PUBLIC AGENCIES AND TAX-EXEMPT NONPROFIT ORGANIZATIONS-

(1) **IN GENERAL-** Under regulations the Administrator of General Services may prescribe, a federal agency may obtain excess personal property for the purpose of furnishing it to a public agency or an organization that is nonprofit and exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501), if--

(A) the agency or organization is conducting a federally sponsored project pursuant to a grant made for a specific purpose with a specific termination provision;

(B) the property is to be furnished for use in connection with the grant; and

(C)(i) the sponsoring federal agency pays an amount equal to 25 percent of the original acquisition cost (except for costs of care and handling) of the excess property; and

(ii) the amount is deposited in the Treasury as miscellaneous receipts.

(2) **TITLE-** Title to excess property obtained under this subsection vests in the grantee. The grantee shall account for and dispose of the property in accordance with procedures governing accountability for personal property acquired under grant agreements.

(c) EXCEPTION FOR CERTAIN PROPERTY FURNISHED BY SECRETARY OF AGRICULTURE-

(1) **DEFINITION-** In this subsection, the term `State' means a State of the United States, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, Palau, the Virgin Islands, and the District of Columbia.

(2) **IN GENERAL-** Under regulations and restrictions the Administrator may prescribe, subsection (a) does not apply to property furnished by the Secretary of Agriculture to--

(A) a state or county extension service engaged in cooperative agricultural extension work under the Smith-Lever Act (7 U.S.C. 341 et seq.);

(B) a state experiment station engaged in cooperative agricultural research work under the Hatch Act of 1887 (7 U.S.C. 361a et seq.); or

(C) an institution engaged in cooperative agricultural research or extension work under section 1433, 1434, 1444, or 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195, 3196, 3221, or 3222), or the Act of October 10, 1962 (16 U.S.C. 582a et seq.), if the Federal Government retains title.

(d) OTHER EXCEPTIONS- Under regulations and restrictions the Administrator may prescribe, subsection (a) does not apply to--

(1) property furnished under section 608 of the Foreign Assistance Act of 1961 (22 U.S.C. 2358), to the extent that the Administrator determines that the property is not needed for donation under section 549 of this title;

- (2) scientific equipment furnished under section 11(e) of the National Science Foundation Act of 1950 (42 U.S.C. 1870(e));
- (3) property furnished under section 203 of the Department of Agriculture Organic Act of 1944 (16 U.S.C. 580a), in connection with the Cooperative Forest Fire Control Program, if the Government retains title; or
- (4) property furnished in connection with a grant to a tribe, as defined in section 3(c) of the Indian Financing Act of 1974 (25 U.S.C. 1452(c)).

Sec. 527. Abandonment, destruction, or donation of property

The Administrator of General Services may authorize the abandonment or destruction of property, or the donation of property to a public body, if--

- (1) the property has no commercial value; or
- (2) the estimated cost of continued care and handling exceeds the estimated proceeds from sale.

Sec. 528. Utilization of excess furniture

A department or agency of the Federal Government may not use amounts provided by law to purchase furniture if the Administrator of General Services determines that requirements can reasonably be met by transferring excess furniture, including rehabilitated furniture, from other departments or agencies pursuant to this subtitle.

Sec. 529. Annual executive agency reports on excess personal property

(a) IN GENERAL- During the calendar quarter following the close of each fiscal year, each executive agency shall submit to the Administrator of General Services a report on personal property--

- (1) obtained as--
 - (A) excess property; or
 - (B) personal property determined to be no longer required for the purpose of the appropriation used to make the purchase; and
- (2) furnished within the United States to a recipient other than a federal agency.

(b) REQUIRED INFORMATION- The report must set out the categories of equipment and show--

- (1) the acquisition cost of the property;
- (2) the recipient of the property; and
- (3) other information the Administrator may require.

Sec. 545. Procedure for disposal

(a) PUBLIC ADVERTISING FOR BIDS-

(1) REQUIREMENT-

(A) IN GENERAL- Except as provided in subparagraph (B), the Administrator of General Services may make or authorize a disposal or a contract for disposal of surplus property only after public advertising for bids, under regulations the Administrator prescribes.

(B) EXCEPTIONS- This subsection does not apply to disposal or a contract

for disposal of surplus property--

(i) under subsection (b) or (d); or

(ii) by abandonment, destruction, or donation or through a contract broker.

(2) TIME, METHOD, AND TERMS- The time, method, and terms and conditions of advertisement must permit full and free competition consistent with the value and nature of the property involved.

(3) PUBLIC DISCLOSURE- Bids must be publicly disclosed at the time and place stated in the advertisement.

(4) AWARDS- An award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, is most advantageous to the Federal Government, price and other factors considered. However, all bids may be rejected if it is in the public interest to do so.

(b) NEGOTIATED DISPOSAL- Under regulations the Administrator prescribes, disposals and contracts for disposal may be negotiated without regard to subsection (a), but subject to obtaining competition that is feasible under the circumstances, if--

(1) necessary in the public interest--

(A) during the period of a national emergency declared by the President or Congress, with respect to a particular lot of personal property; or

(B) for a period not exceeding three months, with respect to a specifically described category of personal property as determined by the Administrator;

(2) the public health, safety, or national security will be promoted by a particular disposal of personal property;

(3) public exigency will not allow delay incident to advertising certain personal property;

(4) the nature and quantity of personal property involved are such that disposal under subsection (a) would impact an industry to an extent that would adversely affect the national economy, and the estimated fair market value of the property and other satisfactory terms of disposal can be obtained by negotiation;

(5) the estimated fair market value of the property involved does not exceed \$15,000;

(6) after advertising under subsection (a), the bid prices for the property, or part of the property, are not reasonable or have not been independently arrived at in open competition;

(7) with respect to real property, the character or condition of the property or unusual circumstances make it impractical to advertise publicly for competitive bids and the fair market value of the property and other satisfactory terms of disposal can be obtained by negotiation;

(8) the disposal will be to a State, territory, or possession of the United States, or to a political subdivision of, or a tax-supported agency in, a State, territory, or possession, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by

negotiation; or

(9) otherwise authorized by law.

(c) DISPOSAL THROUGH CONTRACT BROKERS- Disposals and contracts for disposal of surplus real and related personal property through contract realty brokers employed by the Administrator shall be made in the manner followed in similar commercial transactions under regulations the Administrator prescribes. The regulations must require that brokers give wide public notice of the availability of the property for disposal.

(d) NEGOTIATED SALE AT FIXED PRICE-

(1) AUTHORIZATION- The Administrator may make a negotiated sale of personal property at a fixed price, either directly or through the use of a disposal contractor, without regard to subsection (a). However, the sale must be publicized to an extent consistent with the value and nature of the property involved and the price established must reflect the estimated fair market value of the property. Sales under this subsection are limited to categories of personal property for which the Administrator determines that disposal under this subsection best serves the interests of the Government.

(2) FIRST OFFER- Under regulations and restrictions the Administrator prescribes, an opportunity to purchase property at a fixed price under this subsection may be offered first to an entity specified in subsection (b)(8) that has expressed an interest in the property.

(e) EXPLANATORY STATEMENTS FOR NEGOTIATED DISPOSALS-

(1) REQUIREMENT-

(A) IN GENERAL- Except as provided in subparagraph (B), an explanatory statement of the circumstances shall be prepared for each disposal by negotiation of--

(i) personal property that has an estimated fair market value in excess of \$15,000;

(ii) real property that has an estimated fair market value in excess of \$100,000, except that real property disposed of by lease or exchange is subject only to clauses (iii)-(v) of this subparagraph;

(iii) real property disposed of by lease for a term of not more than 5 years, if the estimated fair annual rent is more than \$100,000 for any year;

(iv) real property disposed of by lease for a term of more than 5 years, if the total estimated rent over the term of the lease is more than \$100,000; or

(v) real property or real and related personal property disposed of by exchange, regardless of value, or any property for which any part of the consideration is real property.

(B) EXCEPTION- An explanatory statement is not required for a disposal of personal property under subsection (d), or for a disposal of real or personal property authorized by any other law to be made without advertising.

(2) TRANSMITTAL TO CONGRESS- The explanatory statement shall be transmitted to the appropriate committees of Congress in advance of the disposal, and a

copy of the statement shall be preserved in the files of the executive agency making the disposal.

(3) LISTING IN REPORT- A report of the Administrator under section 126 of this title must include a listing and description of any negotiated disposals of surplus property having an estimated fair market value of more than \$15,000, in the case of real property, or \$5,000, in the case of any other property, other than disposals for which an explanatory statement has been transmitted under this subsection.

(f) APPLICABILITY OF OTHER LAW- Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply to a disposal or contract for disposal made under this section.

Sec. 546. Contractor inventories

Subject to regulations of the Administrator of General Services, an executive agency may authorize a contractor or subcontractor with the agency to retain or dispose of contractor inventory.

Sec. 549. Donation of personal property through state agencies

(a) DEFINITIONS- In this section, the following definitions apply:

(1) PUBLIC AGENCY- The term `public agency' means--

(A) a State;

(B) a political subdivision of a State (including a unit of local government or economic development district);

(C) a department, agency, or instrumentality of a State (including instrumentalities created by compact or other agreement between States or political subdivisions); or

(D) an Indian tribe, band, group, pueblo, or community located on a state reservation.

(2) STATE- The term `State' means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

(3) STATE AGENCY- The term `state agency' means an agency designated under state law as the agency responsible for fair and equitable distribution, through donation, of property transferred under this section.

(b) AUTHORIZATION-

(1) IN GENERAL- The Administrator of General Services, in the Administrator's discretion and under regulations the Administrator may prescribe, may transfer property described in paragraph (2) to a state agency.

(2) PROPERTY-

(A) IN GENERAL- Property referred to in paragraph (1) is any personal property that--

(i) is under the control of an executive agency; and

(ii) has been determined to be surplus property.

(B) SPECIAL RULE- In determining whether the property is to be transferred for donation under this section, no distinction may be made between

property capitalized in a working-capital fund established under section 2208 of title 10 (or similar fund) and any other property.

(3) NO COST- Transfer of property under this section is without cost, except for any costs of care and handling.

(c) ALLOCATION AND TRANSFER OF PROPERTY-

(1) IN GENERAL- The Administrator shall allocate and transfer property under this section in accordance with criteria that are based on need and use and that are established after consultation with state agencies to the extent feasible. The Administrator shall give fair consideration, consistent with the established criteria, to an expression of need and interest from a public agency or other eligible institution within a State. The Administrator shall give special consideration to an eligible recipient's request, transmitted through the state agency, for a specific item of property.

(2) ALLOCATION AMONG STATES- The Administrator shall allocate property among the States on a fair and equitable basis, taking into account the condition of the property as well as the original acquisition cost of the property.

(3) RECIPIENTS AND PURPOSES- The Administrator shall transfer to a state agency property the state agency selects for distribution through donation within the State--

(A) to a public agency for use in carrying out or promoting, for residents of a given political area, a public purpose, including conservation, economic development, education, parks and recreation, public health, and public safety; or

(B) for purposes of education or public health (including research), to a nonprofit educational or public health institution or organization that is exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501), including--

(i) a medical institution, hospital, clinic, health center, or drug abuse treatment center;

(ii) a provider of assistance to homeless individuals or to families or individuals whose annual incomes are below the poverty line (as that term is defined in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902));

(iii) a school, college, or university;

(iv) a school for the mentally retarded or physically handicapped;

(v) a child care center;

(vi) a radio or television station licensed by the Federal Communications Commission as an educational radio or educational television station;

(vii) a museum attended by the public; or

(viii) a library serving free all residents of a community, district, State, or region.

(4) EXCEPTION- This subsection does not apply to property transferred under subsection (d).

(d) DEPARTMENT OF DEFENSE PROPERTY-

(1) DETERMINATION- The Secretary of Defense shall determine whether surplus personal property under the control of the Department of Defense is usable and necessary for educational activities which are of special interest to the armed services, including maritime academies, or military, naval, Air Force, or Coast Guard preparatory schools.

(2) PROPERTY USABLE FOR SPECIAL INTEREST ACTIVITIES- If the Secretary of Defense determines that the property is usable and necessary for educational activities which are of special interest to the armed services, the Secretary shall allocate the property for transfer by the Administrator to the appropriate state agency for distribution through donation to the educational activities.

(3) PROPERTY NOT USABLE FOR SPECIAL INTEREST ACTIVITIES- If the Secretary of Defense determines that the property is not usable and necessary for educational activities which are of special interest to the armed services, the property may be disposed of in accordance with subsection (c).

(e) STATE PLAN OF OPERATION-

(1) IN GENERAL- Before property may be transferred to a state agency, the State shall develop a detailed state plan of operation, in accordance with this subsection and with state law.

(2) PROCEDURE-

(A) CONSIDERATION OF NEEDS AND RESOURCES- In developing and implementing the state plan of operation, the relative needs and resources of all public agencies and other eligible institutions in the State shall be taken into consideration. The Administrator may consult with interested federal agencies to obtain their views concerning the administration and operation of this section.

(B) PUBLICATION AND PERIOD FOR COMMENT- The state plan of operation, and any major amendment to the plan, may not be filed with the Administrator until 60 days after general notice of the proposed plan or amendment has been published and interested persons have been given at least 30 days to submit comments.

(C) CERTIFICATION- The chief executive officer of the State shall certify and submit the state plan of operation to the Administrator.

(3) REQUIREMENTS-

(A) STATE AGENCY- The state plan of operation shall include adequate assurance that the state agency has--

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

(ii) established procedures for accountability, internal and external audits, cooperative agreements, compliance and use reviews, equitable distribution and property disposal, determination of eligibility, and assistance through consultation with advisory bodies and public and private groups.

(B) EQUITABLE DISTRIBUTION- The state plan of operation shall provide for fair and equitable distribution of property in the State based on the

relative needs and resources of interested public agencies and other eligible institutions in the State and their abilities to use the property.

(C) MANAGEMENT CONTROL AND ACCOUNTING SYSTEMS- The state plan of operation

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

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

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

(F) SERVICE CHARGES- If the state agency is authorized to assess and collect service charges from participating recipients to cover direct and reasonable indirect costs of its activities, the method of establishing the charges shall be set out in the state plan of operation. The charges shall be fair and equitable and shall be based on services the state agency performs, including screening, packing, crating, removal, and transportation.

(G) TERMS, CONDITIONS, RESERVATIONS, AND RESTRICTIONS-

(i) IN GENERAL- The state plan of operation shall provide that the state agency--

(I) may impose reasonable terms, conditions, reservations, and restrictions on the use of property to be donated under subsection (c); and

(II) shall impose reasonable terms, conditions, reservations, and restrictions on the use of a passenger motor vehicle and any item of property having a unit acquisition cost of \$5,000 or more.

(ii) SPECIAL LIMITATIONS- If the Administrator finds that an item has characteristics that require special handling or use limitations, the Administrator may impose appropriate conditions on the donation of the property.

(H) UNUSABLE PROPERTY-

(i) DISPOSAL- The state plan of operation shall provide that surplus personal property which the state agency determines cannot be used by

eligible recipients shall be disposed of--

- (I) subject to the disapproval of the Administrator within 30 days after notice to the Administrator, through transfer by the state agency to another state agency or through abandonment or destruction if the property has no commercial value or if the estimated cost of continued care and handling exceeds estimated proceeds from sale; or
- (II) under this subtitle, on terms and conditions and in a manner the Administrator prescribes.

(ii) PROCEEDS FROM SALE- Notwithstanding subchapter IV of this chapter and section 702 of this title, the Administrator, from the proceeds of sale of property described in subsection (b), may reimburse the state agency for expenses that the Administrator considers appropriate for care and handling of the property.

(f) COOPERATIVE AGREEMENTS WITH STATE AGENCIES-

(1) PARTIES TO THE AGREEMENT- For purposes of carrying out this section, a cooperative agreement may be made between a state surplus property distribution agency designated under this section and--

- (A) the Administrator;
- (B) the Secretary of Education, for property transferred under section 550(c) of this title;
- (C) the Secretary of Health and Human Services, for property transferred under section 550(d) of this title; or
- (D) the head of a federal agency designated by the Administrator, the Secretary of Education, or the Secretary of Health and Human Services.

(2) SHARED RESOURCES- The cooperative agreement may provide that the property, facilities, personnel, or services of--

- (A) a state agency may be used by a federal agency; and
- (B) a federal agency may be made available to a state agency.

(3) REIMBURSEMENT- The cooperative agreement may require payment or reimbursement for the use or provision of property, facilities, personnel, or services. Payment or reimbursement received from a state agency shall be credited to the fund or appropriation against which charges would otherwise be made.

(4) SURPLUS PROPERTY TRANSFERRED TO STATE AGENCY-

(A) IN GENERAL- Under the cooperative agreement, surplus property transferred to a state agency for distribution pursuant to subsection (c) may be retained by the state agency for use in performing its functions. Unless otherwise directed by the Administrator, title to the retained property vests in the state agency.

(B) CONDITIONS- Retention of surplus property under this paragraph is subject to conditions that may be imposed by--

- (i) the Administrator;
- (ii) the Secretary of Education, for property transferred under section 550(c) of this title; or
- (iii) the Secretary of Health and Human Services, for property transferred under section 550(d) of this title.

Sec. 552. Abandoned or unclaimed property on Government premises

(a) **AUTHORITY TO TAKE PROPERTY** Administrator of General Services may take possession of abandoned or unclaimed property on premises owned or leased by the Federal Government and determine when title to the property vests in the Government. The Administrator may use, transfer, or otherwise dispose of the property.

(b) **CLAIM FILED BY FORMER OWNER**- If a former owner files a proper claim within three years from the date that title to the property vests in the Government, the former owner shall be paid an amount--

- (1) equal to the proceeds realized from the disposition of the property less costs incident to care and handling as determined by the Administrator; or
- (2) if the property has been used or transferred, equal to the fair value of the property as of the time title vested in the Government less costs incident to care and handling as determined by the Administrator.

Sec. 555. Donation of law enforcement canines to handlers

The head of a federal agency having control of a canine that has been used by a federal agency in the performance of law enforcement duties and that has been determined by the agency to be no longer needed for official purposes may donate the canine to an individual who has experience handling canines in the performance of those duties.

Sec. 571. General rules for deposit and use of proceeds

(a) **DEPOSIT IN TREASURY AS MISCELLANEOUS RECEIPTS**-

(1) **IN GENERAL**- Except as otherwise provided in this subchapter, proceeds described in paragraph (2) shall be deposited in the Treasury as miscellaneous receipts.

(2) **PROCEEDS**- The proceeds referred to in paragraph (1) are proceeds under this chapter from a--

- (A) transfer of excess property to a federal agency for agency use; or
- (B) sale, lease, or other disposition of surplus property.

(b) **PAYMENT OF EXPENSES OF SALE BEFORE DEPOSIT**- Subject to regulations under this subtitle, the expenses of the sale of old material, condemned stores, supplies, or other public property may be paid from the proceeds of sale so that only the net proceeds are deposited in the Treasury. This subsection applies whether proceeds are deposited as miscellaneous receipts or to the credit of an appropriation as authorized by law.

CHAPTER 7--FOREIGN EXCESS PROPERTY

Sec. 701. Administrative

(a) **POLICIES PRESCRIBED BY THE PRESIDENT**- The President may prescribe policies that the President considers necessary to carry out this chapter. The policies must be consistent with this chapter.

(b) **EXECUTIVE AGENCY RESPONSIBILITY**-

(1) IN GENERAL- The head of an executive agency that has foreign excess property is responsible for the disposal of the property.

(2) CONFORMANCE TO POLICIES- In carrying out functions under this chapter, the head of an executive agency shall--

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

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

(3) DELEGATION OF AUTHORITY- The head of an executive agency may--

(A) delegate authority conferred by this chapter to an official in the agency or to the head of another executive agency; and

(B) authorize successive redelegation of authority conferred by this chapter.

(4) EMPLOYMENT OF PERSONNEL- As necessary to carry out this chapter, the head of an executive agency may--

(A) appoint and fix the pay of personnel in the United States, subject to chapters 33 and 51 and subchapter III of chapter 53 of title 5; and

(B) appoint personnel outside the States of the United States and the District of Columbia, without regard to chapter 33 of title 5.

(c) SPECIAL RESPONSIBILITIES OF SECRETARY OF STATE-

(1) USE OF FOREIGN CURRENCIES AND CREDITS- The Secretary of State may use foreign currencies and credits acquired by the United States under section 704(b)(2) of this title--

(A) to carry out the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.);

(B) to carry out the Foreign Service Buildings Act, 1926 (22 U.S.C. 292 et seq.); and

(C) to pay other governmental expenses payable in local currencies.

(2) RENEWAL OF CERTAIN AGREEMENTS- Except as otherwise directed by the President, the Secretary of State shall continue to perform functions under agreements in effect on July 1, 1949, related to the disposal of foreign excess property. The Secretary of State may amend, modify, and renew the agreements. Foreign currencies or credits the Secretary of State acquires under the agreements shall be administered in accordance with procedures that the Secretary of the Treasury may establish. Foreign currencies or credits reduced to United States currency must be deposited in the Treasury as miscellaneous receipts.

(See succeeding sections of 40 USC for more provisions related to overseas disposal)

Sec. 1306. Disposition of abandoned or forfeited personal property

(a) DEFINITIONS- In this section--

(1) AGENCY- The term 'agency' includes any executive department, independent establishment, board, commission, bureau, service, or division of the Federal Government, and any corporation in which the Government owns at

least a majority of the stock.

(2) PROPERTY- The term `property' means all personal property, including vessels, vehicles, and aircraft.

(b) VOLUNTARILY ABANDONED PROPERTY- Property voluntarily abandoned to any agency in a way that vests title to the property in the Government may be retained by the agency and devoted to official use only. If the agency does not desire to retain the property, the head of the agency immediately shall notify the Administrator of General Services to that effect, and the Administrator, within a reasonable time, shall--

(1) order the agency to deliver the property to another agency that requests the property and that the Administrator believes should be given the property; or

(2) order disposal of the property as otherwise provided by law.

(c) FORFEITED PROPERTY-

(1) AGENCY RETAINS PROPERTY- An agency that seizes property that has been forfeited to the Government other than by court decree may retain the property and devote it only to official use instead of disposing of the property as otherwise provided by law if competent authority does not order the property returned to any claimant.

(2) AGENCY DOES NOT DESIRE TO RETAIN PROPERTY- If the agency does not desire to retain the property, the head of the agency immediately shall notify the Administrator to that effect, and the property--

(A) if not ordered by competent authority to be returned to any claimant, or disposed of as otherwise provided by law, shall be delivered by the agency, on order of the Administrator given within a reasonable time, to another agency that requests the property and that the Administrator believes should be given the property; or

(B) on order of the Administrator given within a reasonable time, shall be disposed of as otherwise provided by law.

(d) PROPERTY SUBJECT TO COURT PROCEEDING FOR FORFEITURE-

(1) NOTIFICATION OF ADMINISTRATOR- If a proceeding has begun for the forfeiture of any property by court decree, the agency that seized the property immediately shall notify the Administrator and at the same time may file with the Administrator a request for the property for its official use.

(2) APPLICATION FOR COURT ORDER TO DELIVER PROPERTY-

(A) IN GENERAL- Before entry of a decree, the Administrator shall apply to the court to order delivery of the property in accordance with this paragraph.

(B) DELIVERY TO SEIZING AGENCY- If the agency that seized the property files a request for the property under paragraph (1), the Administrator shall apply to the court to order delivery of the property to the agency that seized the property.

(C) DELIVERY TO OTHER REQUESTING AGENCY- If the agency that seized the property does not file a request for the property under paragraph (1) but another agency requests the property, the Administrator shall apply to the court to order delivery of the property to the requesting agency if the

Administrator believes that the requesting agency should be given the property.

(D) DELIVERY TO SEIZING AGENCY FOR TEMPORARY HOLDING- If application to the court cannot be made under subparagraph (B) or (C) and the Administrator believes the property may later become necessary to any agency for official use, the Administrator shall apply to the court to order delivery of the property to the agency that seized the property, to be retained in its custody. Within a reasonable time, the Administrator shall order the agency to--

(i) deliver the property to another agency that requests the property and that the Administrator believes should be given the property; or

(ii) dispose of the property as otherwise provided by law.

(3) FORFEITURE DECREED- If forfeiture is decreed and the property is not ordered by competent authority to be returned to any claimant, the court shall order delivery as provided in paragraph (2).

(4) WHEN NO APPLICATION MADE- The court shall dispose of property for which no application is made in accordance with law.

(e) RETENTION OR DELIVERY OF PROPERTY DEEMED SALE- Retention or delivery of forfeited or abandoned property under this section is deemed to be a sale of the property for the purpose of laws providing for informer's fees or remission or mitigation of a forfeiture. Property acquired under this section when no longer needed for official use shall be disposed of in the same manner as other surplus property.

(f) PAYMENT OF COSTS RELATED TO PROPERTY-

(1) AVAILABILITY OF APPROPRIATIONS- The appropriation available to an agency for the purchase, hire, operation, maintenance, and repair of any property is available for--

(A) the payment of expenses of operation, maintenance, and repair of property of the same kind the agency receives under this section for official use;

(B) the payment of a lien recognized and allowed under law;

(C) the payment of amounts found to be due a person on the authorized remission or mitigation of a forfeiture; and

(D) reimbursement of other agencies as provided in paragraph (2).

(2) PAYMENT AND REIMBURSEMENT OF CERTAIN COSTS- The agency that receives property under this section shall pay the cost of hauling, transporting, towing, and storing the property. If the property is later delivered to another agency for official use under this section, the agency to which the property is delivered shall make reimbursement for all of those costs incurred prior to the date the property is delivered.

(g) REPORT- With the approval of the Secretary of the Treasury, the Administrator may require an agency to make a report of all property abandoned to it or seized and the disposal of the property.

(h) ADMINISTRATIVE-

(1) REGULATIONS- With the approval of the Secretary, the Administrator may prescribe regulations necessary to carry out this section.

(2) OTHER LAWS NOT REPEALED- This section does not repeal any other laws relating to the disposition of forfeited or abandoned property, except provisions of those laws directly in conflict with this section which were enacted prior to August 27, 1935.

(3) PROPERTY NOT SUBJECT TO ALLOCATION UNDER THIS SECTION- The following classes of property are not subject to allocation under this section, but shall be disposed of in the manner otherwise provided by law:

(A) narcotic drugs, as defined in the Controlled Substances Act (21 U.S.C. 801 et seq.).

(B) firearms, as defined in section 5845 of the Internal Revenue Code of 1986 (26 U.S.C. 5845).

(C) other classes or kinds of property the disposal of which the Administrator, with the approval of the Secretary, may consider in the public interest, and may by regulation provide.