

MEMORANDUM OF AGREEMENT BETWEEN
THE U.S. SMALL BUSINESS ADMINISTRATION,
THE U.S. GENERAL SERVICES ADMINISTRATION
AND
THE STATE AGENCY FOR SURPLUS PROPERTY
FOR THE STATE OF WASHINGTON

I. PURPOSE:

This Memorandum of Agreement (MOA) is entered into between the U.S. Small Business Administration (SBA), the U.S. General Services Administration (GSA), and the State Agency for Surplus Property (SASP) for the State of Washington, to set forth the terms and conditions with respect to Federal surplus property which is transferred to Veteran Owned Small Businesses (VOSBs).

II. AUTHORITY:

- a. The Veterans Small Business Enhancement Act provides that eligible Veteran Owned Small Businesses may receive Federal surplus property in accordance with 15 U.S.C. § 657b (g) and 13 CFR § 125.100.
- b. The U.S. Department of Veterans Affairs (VA) maintains a database of small business concerns owned and controlled by veterans in accordance with 48 U.S.C. § 8127 (f).
- c. SASPs may enter into cooperative agreements with Federal agencies designated by GSA in accordance with 40 U.S.C § 549(f)(1)(D).
- d. At any time there is a dispute regarding the terms of this MOA, the provisions of 40 U.S.C §549 and 41 CFR Chapter 102 shall prevail.

III. CONDITIONS:

a. USE: VOSBs may obtain Federal surplus property from the SASP in the State where the property will be primarily located and placed in use, provided the VOSB represents and agrees in writing:

- (1) That the VOSB is located and operated within the State;
- (2) That the small business is unconditionally owned and controlled by one or more eligible veterans, service-disabled veterans, or surviving spouses;
- (3) Has registered and is in "verified" status in the VA's VETS First Verification Program database under the procedures found in 38 C.F.R. § 74.
- (4) That it will use the acquired surplus personal property in the normal conduct of its business activities. Personal or non-business use is prohibited.
- (5) That it will not sell, transfer, loan, lease, encumber or otherwise dispose of the property during the period of restriction unless it has received express written authorization from the SASP, GSA, and SBA pursuant to 41 CFR §102-37.
- (6) That it will obtain permission from the donating SASP before permanently removing the property from the State (41 CFR §102-37.450).

(7) That it will use the property as intended within one year of receipt;

(8) That it will maintain its eligibility with the VA under the procedures found in 38 C.F.R. § 74 and with the SASP for the duration of the applicable Federal period of restriction fo donated property (41 CFR §102-37.410)

(9) That it will give SBA, GSA, and/or the SASP access to inspect the property and all records pertaining to it; and

(10) That should the VOSB violate any of the paragraphs above, the VOSB will return the property to the donating SASP at the VOSB's expense, or if the VOSB has sold, transferred, or otherwise disposed of the acquired surplus property in violation of the agreement covering sale and disposal, the VOSB will be liable to the Federal Government for the Fair Market Value (as determined by GSA or the donating SASP) or the sale price of the property, whichever is greater.

b. TITLE: Conditional title to the property will pass to the eligible donee when the donee executes the required certifications and agreements and takes possession of the property. Donated property carries a Federally-imposed period of restriction that varies by property type. Additionally, certain items have a subsequent State-imposed period of restriction. Full title will pass to the donee only after the donee has completed the applicable period(s) of restriction and met the conditions of 41 CFR §102-37.450.

c. AIRCRAFT AND VESSELS:

(1) Terms and conditions of donations of aircraft and vessels over 50 feet in length, specified at 41 CFR 102-37.460 apply to donations of such items to VOSBs as well.

(2) Aircraft and Vessel donations have a mandatory five year period of restriction that begins when the aircraft or vessel is placed in use for the purpose stated in the letter of intent.

(3) The aircraft or vessel must be placed in "USE" for the purpose for which it was acquired no later than one year after acquisition.

(4) Conditional title to a surplus aircraft or vessel, as defined in 41 CFR 102, acquired from a SASP will pass to the VOSB when the VOSB executes the applicable SASP distribution documents and takes possession of the property. Full title for an aircraft (other than combat configured aircraft) or vessel, will not pass until the VOSB has placed the property in "USE" for five years and all other conditions of transfer have been met. (Title for combat configured aircraft never passes; therefore SBA, GSA, and the SASP will not approve any request for combat configured aircraft.)

d. FOREIGN EXCESS PROPERTY: VOSBs are eligible to receive foreign excess property returned to a State for handling as surplus property pursuant to 41 CFR § 102-36.380.

e. FOREIGN GIFTS: SBA, GSA, and the SASP will not approve any request for Foreign Gifts.

f. FAIR MARKET VALUE: GSA or the donating SASP shall determine fair market value in accordance with commercially recognized means of (1) appraisal conducted by an appraisal firm or trade organization or (2) retail value valuation ascertained by reviewing current and reliable non-discounted retail catalogs, retail price lists, or retail Website valuations.

IV. THE SBA SHALL:

a. EDUCATION: Lead in educating VOSBs on the availability of Federal surplus property and the terms, conditions, and limitations of use.

V. THE SASP SHALL:

a. RELEASE OF PROPERTY: Be responsible for releasing property to VOSBs.

b. VERIFICATION OF ELIGIBILITY: Prior to allocating any property to a VOSB, the SASP shall have in its possession a copy of the VOSB's VA's VETS First Verification Program at <https://www.vip.vetbiz.va.gov/> (or its successor). A SASP may not release property to a VOSB without this verification. The copy of the VETS First verification should be retained in the donee's eligibility file. When the SASP updates the VOSB eligibility records, it must also ensure the VOSB is still in "verified" status in the VETS First Verification Program. When property is requested that appears outside of the VOSB's business scope, the SASP should document the property's intended use by the VOSB.

c. COMPLIANCE: The SASP will be responsible for compliance actions, conducting utilization reviews in accordance with its State Plan of Operation and 41 CFR § 102-37.480 *et seq.* The SASP will be responsive to requests from GSA, VA or SBA regarding compliance actions.

d. SERVICE CHARGES: Charge VOSBs service charges in the same manner that they are assessed for other donees under the Federal surplus personal property program in accordance with 40 U.S.C. § 549.

e. RECORDS: Maintain accurate records on all property transferred to VOSBs, including the acquisition value, fees, and the number of VOSBs registered with the SASPs and provide such information to GSA or SBA upon request.

VI. POINTS OF CONTACT

a. SBA:

Carol J. Hulme
Attorney Advisor
Office of Government Contracting
and Business Development
U.S. Small Business Administration
(202) 205-6347

b. GSA

Matthew Manger
Director, Utilization and Donation Programs
Office of Personal Property Management
U.S. General Services Administration
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703-605-9146

I. TERM:

This MOA will take effect as soon as SBA, GSA, and the SASP for the State of Washington have signed it. It will remain in effect indefinitely until superseded by a modified MOA, cancelled, or terminated pursuant to Section VIII of this document.

II. AMENDMENT AND TERMINATION:

The parties may modify this MOA by written mutual consent. An administrative change, such as change in the named POC, may be made by notification to all parties without a formal modification. Any party may terminate this MOA by providing the other parties with thirty (30) calendar days written notice, or as otherwise stipulated by law.

III. GENERAL CONDITIONS:

a. This MOA is neither a fiscal nor a funds obligation document. Nothing in this Agreement authorizes or is intended to obligate the parties to expend, exchange, or reimburse funds, services, or supplies, or transfer or receive anything of value.

b. This MOA in no way restricts any of the parties from participating in any activity with other public or private agencies, organizations, or individuals.

c. This MOA is strictly for internal management purposes for each of the parties. This Agreement shall not be construed to provide a private right or cause of action for or by any person or entity.

d. Nothing in this Agreement is intended to conflict with current law(s), regulation(s), or the directives of the parties. If a provision in this Agreement is found to be inconsistent with such authority, then that provision shall be reviewed and modified or annulled as agreed to by SBA, GSA, and the SASP for the State of Washington in writing, but the remaining provisions of this Agreement shall remain in force and effect unless otherwise noted.

IV. SIGNATURE

This MOA may be executed in counterparts, which when signed by all parties shall constitute a single binding agreement. The following individuals are authorized to sign this MOA on behalf of their respective organizations: This MOA will be deemed to be executed and shall become effective when it has been signed by the representatives of the parties set forth below.

DocuSigned by:

Robert Noonan

71E5658EB7344CA

Robert Noonan
Assistant Commissioner
Office of General Supplies and Services
Federal Acquisition Service
U.S. General Services Administration

DocuSigned by:

David Loines

21CBB1712F07446

David W. Loines
Director for Government
Contracting, Office of
Government Contracting and
Business Development
U. S. Small Business Administration

DocuSigned by:

Mimi Limmeroth

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Mimi Limmeroth
Director
State Agency for Surplus
Property
State of Washington

