

**RULES
OF
THE TENNESSEE DEPARTMENT OF GENERAL SERVICES**

**CHAPTER 0690-01-01
DISTRIBUTION OF FEDERAL SURPLUS PROPERTY
WITHIN THE STATE OF TENNESSEE**

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0690-01-01-.01 PURPOSE AND SCOPE. The Department of General Services, Federal Property Utilization Division, is designated as the State Agency responsible for administering the federal surplus property program in Tennessee. The State Agency shall administer a program of acquisition, transportation, warehousing, distribution and utilization of federal surplus property.

Authority: T.C.A. §§ 4-330(15), 12-333(5)(A), and 49-808 through 49-810. See also Public Law No. 94-519. **Administrative History:** Original rule filed August 31, 1977; effective September 30, 1977.

0690-01-01-.02 DEFINITIONS.

- (1) The following terms shall have the meanings set forth in this rule:
- (a) “Accredited” means approved by a recognized accrediting board or association on a regional, state, or national level, such as a State Board of Education or Health, the American Hospital Association, a regional or national accrediting association for universities, colleges or secondary schools or other recognized accrediting association.
 - (b) “Approved” means recognition and approval by the State Department of Education, State Department of Health or other appropriate authority. With respect to an education institution, approval must relate to academic or instructional standards. An educational institution may be considered as approved if its credits are accepted by accredited or state approved institutions, or if it meets the academic or instructional standards prescribed for public schools in the State.
 - (c) “Child care center” means a public or nonprofit facility where day care services, such as educational, social, health and nutritional services, are provided to children through age 14, and which is approved or licensed by the State or other appropriate authority.
 - (d) “Clinic” means an approved public or nonprofit facility organized and operated for the primary purpose of providing outpatient public health services and includes customary related services such as laboratories and treatment rooms.
 - (e) “College” means an approved or accredited public or nonprofit institution of higher learning offering organized study course and credits leading to a baccalaureate or higher degree.
 - (f) “Conservation” means a program or programs carried out or promoted by a public agency for public purposes involving directly or indirectly the protection, maintenance,

(Rule 0690-01-01-.02, continued)

development, and restoration of the natural resources of a given political area. Such resources include but are not limited to the air, land, forests, water, rivers, streams, lakes and ponds, minerals, and animals, fish, and other wildlife.

- (g) "Economic development" means a program or programs carried out or promoted by a public agency for public purposes which involve directly or indirectly efforts to improve the opportunities of a given political area for the successful establishment or expansion of industrial, commercial, or agricultural plants or facilities, and which otherwise assist in the creation of long term employment opportunities in the area, or primarily benefit the unemployed or those with low incomes.
- (h) "Education" means a program or programs to develop and promote the training, general knowledge or academic, technical and vocational skills, and cultural attainments of individuals in a community or other given political area. Such programs may be conducted by schools, including pre-school activities and child care centers, colleges, universities, schools for the mentally retarded or physically handicapped, educational radio and television stations, libraries and museums. Public educational programs may include public school systems and such supportive facilities as centralized administrative or service facilities.
- (i) "Educational institutions" means an otherwise eligible public or nonprofit institution, facility, entity, or organization conducting educational programs, including research for any such programs, such as a child care center, school, college, university, school for the mentally retarded, school for the physically handicapped, educational radio or television station, museum or library.
- (j) "Educational radio station" means a radio station licensed by the Federal Communication Commission and operated exclusively for non-commercial educational purposes and which is public or nonprofit and tax exempt under Section 501 of the Internal Revenue Code of 1954.
- (k) "Educational television station" means a television station licensed by the Federal Communication Commission and operated exclusively for non-commercial educational purposes and which is public or nonprofit and tax exempt under Section 501 of the Internal Revenue Code of 1954.
- (l) "Health center" means an approved public or nonprofit facility utilized by a health unit for the provision of public health services, including related facilities such as diagnostic and laboratory facilities and clinics.
- (m) "Hospital" means an approved or accredited public nonprofit institution providing public health services primarily for inpatient medical or surgical care of the sick and injured and includes related facilities such as laboratories, out-patient departments, training facilities and staff offices.
- (n) "Library" means a public or nonprofit facility providing library services free to all residents of a community, district, State or region.
- (o) "Medical institution" means an otherwise eligible public or nonprofit institution, facility, entity, or organization which has for its primary function the furnishing of public health and medical services to the public at large or the promotion of public health through the conduct of research for any such purposes, experiments, training or demonstrations relating to causes, prevention, and methods of diagnosis and treatment of diseases and injuries. The term includes but is not limited to hospitals, clinics, alcoholic and drug abuse treatment centers, public health or treatment centers, research and health

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centers, geriatric center laboratories, medical schools, dental schools, nursing schools and similar institutions. The term does not include those institutions primarily engaged in domiciliary care although a separable medical facility within such a domiciliary institution may qualify as a "medical institution."

- (p) "Museum" means a public or nonprofit facility which is attended by the public free or at a nominal charge, and which provides museum services including the preservation and exhibition of artistic, cultural, historical, or scientific objects.
- (q) "Nonprofit" institution means an educational or public health institution or organization, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, and which has been held to be tax exempt under the provisions of Section 501 of the Internal Revenue Code of 1954.
- (r) "Park and recreation" means a program or programs carried out or promoted by a public agency for public purposes which involves directly or indirectly the acquisition, development, improvement, maintenance and protection of park and recreational facilities for the residents of a given political area. Such facilities include but are not limited to parks, play grounds and athletic fields, swimming pools, golf courses, nature facilities and nature trails.
- (s) "Public health" means a program or programs to promote, maintain and conserve the public's health by providing health services to individuals and by the conduct of research, investigations, examination, training and demonstrations. Public health services may include but are not limited to the control of communicable diseases, immunization, maternal and child care health programs, sanitary engineering, sewage treatment and disposal, and sanitation inspection and supervision, water purification and distribution, air pollution control, garbage and trash disposal, and the control of and elimination of disease-carrying animals and insects.
- (t) "Public health institution" means an otherwise eligible public or nonprofit institution, facility, entity or organization conducting a public health program or programs such as a hospital, clinic, health center, or medical institution, including research for any such program, and whose services are available to the public at large.
- (u) "Public safety" means a program or programs carried out or promoted by a public agency for public purposes involving, directly or indirectly, the protection, safety, law enforcement activities, and criminal justice system of a given political area. Public safety programs may include but are not limited to those carried out by public police departments, sheriffs' offices, the courts, penal and correctional institutions including juvenile facilities, State and civil defense organizations, fire departments and rescue squads, including volunteer fire departments and rescue squads supported in whole or in part with public funds.
- (v) "Public purpose" means a program or programs carried out by a public agency which are legally authorized in accordance with the laws of the State or political subdivision thereof and for which public funds may be expended. Public purposes include but are not limited to programs such as conservation, economic development, education, parks and recreation, public health and safety.
- (w) "School" (excepting schools for the mentally retarded and schools for the physically handicapped) means a public or nonprofit approved or accredited organizational entity devoted primarily to approved academic, vocational, or professional study and instruction, which operates primarily for educational purposes on a full-time basis for a minimum school year, and employs a full-time staff of qualified instructors.

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- (x) "School for the mentally retarded" means a facility or institution operated primarily to provide specialized instruction to students of limited mental capacity. It must be public or nonprofit and must operate on a full-time basis for the equivalent of a minimum school year prescribed for public school instruction of the mentally retarded, with a staff of qualified instructors, and demonstrate that the facility meets the health and safety standards of the State or local government body.
- (y) "School for the physically handicapped" means a school organized primarily to provide specialized instruction to students whose physical handicaps necessitate individual or group instruction. The school must be public or nonprofit and such a school must operate on a full-time basis for the equivalent of a minimum school year prescribed for public school instruction for the physically handicapped, with a staff of qualified instructors, and demonstrate that the facility meets the health and safety standards of the State or local governmental body.
- (z) "State agency" means the Department of General Services, Federal Property Utilization Division.
- (aa) "University" means a public or nonprofit approved or accredited institution for the instruction and study in the higher branches of learning and which is empowered to confer degrees in special departments or colleges.

Authority: T.C.A. §§ 4-330(15), 12-333(5)(A), and 49-808 through 49-810. See also Public Law No. 94-519. **Administrative History:** Original rule filed August 31, 1977; effective September 30, 1977.

0690-01-01-.03 ELIGIBILITY.

- (1) The State Agency shall determine the eligibility of donees to participate in and receive surplus personal property in accordance with standards and guidelines set forth in FPMR 101-44.207. The State Agency will also provide surplus personal property information to potential eligible applicants. The State Agency will utilize public information media, direct mail-outs, and information releases to public agencies and to nonprofit health and educational organizations. The applicants will also be provided with eligibility applications. Federal personal surplus property will be made available, after certification by the State Agency, to eligible donees certifying that such property is useful and needed when they are:
 - (a) Public agencies carrying out or promoting for the residents of a given area one or more public purposes such as conservation, economic development, education, parks and recreation, public health and public safety.
 - (b) Nonprofit educational or public health institutions such as medical institutions, hospitals, clinics, health centers, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, child care centers, educational radio and television stations licensed by the Federal Communications Commission, museums attended by the public, libraries serving free all residents of a community, district, state, or region, which are exempt from taxation under Section 501 of the Internal Revenue Code of 1954, for purposes of education or public health, including research for such purpose.
- (2) The State Agency shall maintain a complete and current eligibility file on each donee which shall include the following properly executed documents:
 - (a) Application for Eligibility showing:

(Rule 0690-01-01-.03, continued)

1. Legal name and address.
 2. Reasons for eligibility.
 3. Details on applicant's activities.
 4. Public or nonprofit.
 5. Statement of financial condition.
- (b) Donee Resolution showing:
1. An act of the governing body.
 2. Designating individuals to act, obligate and sign for the governing body in acquiring federal surplus property in accordance with terms and conditions of transfer.
- (c) Evidence of approval, accreditation or licensing.
- (d) Evidence of public agency or tax exemption under Section 501 of the Internal Revenue Code of 1954.
- (e) Evidence that the applicant has complied with the GSA's regulation under Title VI of the Civil Rights Act of 1964 and nondiscrimination on the basis of sex as set forth in Code of Federal Regulations, Part 101-44.118 of Title 41.
- (f) Details of program activities and needs and resources and ability to utilize federal property.
- (3) In certain cases conditional eligibility will be granted newly organized activities which may not have commenced operations, completed construction of its facilities, or not yet been approved, accredited, or licensed as may be required to qualify as an eligible donee. In other cases, there may be no specific authority which can approve, accredit or license the applicant as required for qualification. In such cases, the State Agency may accept letters from public authorities, either local or State, which the State Agency deems competent, such as a Board of Health or Board of Education, that the applicant otherwise meets the standards prescribed for approved, accredited or licensed institutions and organizations.
- (4) The State Agency shall update a donee's eligibility records on a periodic basis, but not less than once every three years, to insure continuing eligibility. When a eligible donee ceases to operate, or when it loses its status by not making prompt payment of service and handling charges or fees, compliance violations or other good reasons, the State Agency shall terminate its distribution of property to such activity.

Authority: T.C.A. §§ 4-330(15), 12-333(5)(A), and 49-808 through 49-810. See also Public Law No. 94-519. **Administrative History:** Original rule filed August 31, 1977; effective September 30, 1977.

0690-01-01-.04 FAIR AND EQUITABLE DISTRIBUTION. The Stage Agency will make property available to the eligible units in the State on a fair and equitable basis. When eligible units indicate an interest in property, it will be distributed on a fair and equitable basis based on their relative needs, resources and ability to utilize the property.

- (1) Factors considered in the distribution of property based on relative needs, resources and ability to utilize the property.

(Rule 0690-01-01-.04, continued)

- (a) Relative needs - In considering requests of potential recipients, the criteria for determining the relative needs will be:
 - 1. Size and types of programs conducted.
 - 2. Contemplated use and frequency of use.
 - 3. Economic condition of agency, activity or institution.
 - 4. Critical or urgent need.
 - 5. Geographical location (urban, suburban or rural).
 - 6. Interest and expression of need on the part of the donee in the property available.
- (b) Relative resources - In considering the request of potential recipients, the criteria for determining relative resources will be:
 - 1. Funding sources and availability (grants, donations, taxes, etc.).
 - 2. Equipment availability.
- (c) Ability to utilize - In considering requests of potential recipients, the criteria for evaluating ability to utilize property will be:
 - 1. Length of time in contemplated usage.
 - 2. When item can be put in use.
 - 3. Availability of funds to repair or maintain property in use.
 - 4. Ability of the donee to select and remove property from the distribution center of a Federal activity on a timely basis.
 - 5. Type and quantity of property received by the donee to date.
- (2) The State Agency operates a distribution center to serve the eligible donees in the distribution of available property. To insure that eligible donees located a greater distance from the distribution center will receive equity in the distribution of desirable items, the donees are invited to submit a listing of major items needed such as vehicles, construction equipment, materials handling equipment, machine tools, generators, air compressors, business machines, boats, aircraft, large electronics and scientific type items, etc. The agency employees will be guided by these requests in their search and selection of property. This equipment (major items) will be distributed on the basis of need, resources, and ability to utilize the property as outlined in Section (1) above. The distribution center is open for donees to visit eight hours per day, five days a week. Small miscellaneous items will be available on a supermarket plant, with quantity limited to any one donee depending upon the total quantity on hand.
- (3) The State Agency will recommend to General Services Administration the certification of donee screeners, as are qualified and needed in accordance with FPMR 101-44.116. The State Agency will, insofar as practical, economical, and considering equitable distribution among its donees, select that property requested by the donees, and the agency will arrange for direct pickup or shipment of the property to the donee if requested to do so.

(Rule 0690-01-01-.04, continued)

- (4) Donees which suffer or experience a local disaster and/or loss of property due to fire, flood, tornado, etc., will be given a temporary priority for all requested items of property. Special efforts will be made to locate and distribute needed property to them.
- (5) Where competing requests are received for property items, the State Agency will make a determination as to the donee based on the evaluation of the criteria in paragraph (1) above.

Authority: T.C.A. §§ 4-330(15), 12-333(5)(A), and 49-808 through 49-810. See also Public Law No. 94-519. **Administrative History:** Original rule filed August 31, 1977; effective September 30, 1977.

0690-01-01-.05 FINANCING AND SERVICE CHARGES.

- (1) The State Agency is a service organization whose function is to acquire and distribute all available Federal surplus property needed for the eligible recipients in the State. The State Agency does not receive any appropriated funds from either Federal or State sources for operation of the Agency. The total costs for operation must be absorbed by receipts from service charges assessed on items distributed and sales and compliance proceeds. Such charges will be fair and equitable in relation to the service performed and the direct and indirect costs for operation. If any appropriated funds are made available at a later date, they will become part of the capital reserve fund. In general, the assessment of service charges are related to the following factors:
 - (a) Expenses of operation.
 - 1. Administrative costs including salaries and fixed charges.
 - 2. Warehouse operating expenses.
 - 3. Transportation expenses.
 - 4. Property screening expenses.
 - 5. Compliance and utilization review expenses.
 - 6. Costs for facility construction, maintenance, and repair.
 - (b) Original government acquisition costs.
 - (c) Condition and potential of property.
 - (d) Costs for repair and rehabilitation of property as needed.
- (2) Due to the infinite variety of available property, varying condition, obsolescent factors, and potential use as an item or for parts or material content, the following chart has been developed to assure fair and reasonable service charges:

CHART FOR COMPUTING SERVICE AND HANDLING CHARGES

a PERCENT OF A/C	b ACQUISITION COST	c SERVICE CHARGE RANGE
0 - 25%	Up to - \$200	Up to - \$50
0 - 15%	\$200 - \$1,000	Up to - \$150
0 - 10%	\$1,000 - \$5,000	Up to - \$500
0 - 5%	\$5,000 - \$20,000	Up to - \$1,000
0 - 3%	\$20,000 - \$35,000	Up to - \$1,000

(Rule 0690-01-01-.05, continued)

0 - 1%	\$35,000 - \$100,000	Up to - \$1,000
Open	Over \$100,000	Negotiable

Direct Pick-Up - Charges on property transferred direct from Holding Agency to a donee will be approximately ½ of the percentage of column a.

Exceptions:

- (a) Rehabilitated property - Direct costs for rehabilitating property will be added to the charge.
 - (b) Overseas property - Additional costs for screening and returning property will be added.
 - (c) Extraordinary and/or unusual transportation charges - Charges on property with “out-of-the-ordinary” or “unusual transportation cost” will be added.
 - (d) Special handling - An additional charge may be made for dismantling, packing, crating, shipping, delivery and other extraordinary charges.
 - (e) Adjustment in acquisition cost - When the acquisition cost of an item is unrealistic, an adjustment will be requested from the GSA Region Office prior to assessment of service charge.
 - (f) Lotted property - Property issued by pound, in accordance with State Agency inventory system, will be exempt from the above schedule. Service charges will be assessed on price per pound basis.
- (3) The above schedule will be re-evaluated periodically for comparison of operating expenses with income receipts. When it is evident that operating costs exceed operating income, the percentage of A/C (Col. a) will be adjusted accordingly.
- (4) In recognition of reduced agency expenses relating to such factors as loading, unloading, transportation, and screening, recipients making direct pick-up of surplus property from the holding agency will be assessed service charges at a lower rate than property transferred from the State Agency distribution centers. Normally, as a general rule, the rates for direct pick-up will be reduced by 50 percent or more when compared to similar items transferred from the Agency distribution centers. Since the screening process is inextricably involved in the basic function of the State Agency—to make fair and equitable distribution of all available property—the savings on screener expenses would not be in as direct proportion as other factors such as transportation, loading, and unloading. A further reduction may be made for direct donee screening.
- (5) The funds accumulated from service charges, appropriated funds, sales and compliance proceeds, or any other source, including funds acquired prior to October 17, 1977, will be deposited with the State Treasury in a specific fund designated for the State Agency, and are to be used solely to cover direct and indirect costs of the State Agency’s operation, to purchase necessary equipment, to construct and maintain facilities as required, to rehabilitate donable property items, to purchase replacement parts for donable property items, and to maintain a reasonable working capital reserve, not to exceed \$100,000 over the operating cost of the preceding year. The service charges can be spent in acquiring or improving office space or distribution facilities. The State Agency has the authority subject to the approval of the Commissioner of the Department of General Services and real property regulations of the State of Tennessee. When such facilities are sold or otherwise disposed of, funds will revert to the capital reserve fund subject to the approval of the Commissioner of the Department of

(Rule 0690-01-01-.05, continued)

General Services and real property regulations of the State of Tennessee. Any excess in working capital reserve will be reduced by reducing service charges to donees. The State of Tennessee does not permit the State Agency to invest funds.

Authority: T.C.A. §§ 4-330(15), 12-333(5)(A), and 49-808 through 49-810. See also Public Law No. 94-519. **Administrative History:** Original rule filed August 31, 1977; effective September 30, 1977.

0690-01-01-.06 TERMS AND CONDITIONS ON DONABLE PROPERTY.

- (1) The State Agency imposes the following terms, conditions, reservations, and restrictions on the donees obtaining Federal surplus property:
 - (a) All property shall be placed in use for the purpose for which acquired within one year from date of receipt and shall be continued in use for such purpose for one year. In the event the property is not so placed in use, or continued in use, the donee shall immediately notify the State Agency, and at the donee's expense, return such property to the Agency, or otherwise make the property available for transfer to another donee.
 - (b) Property having a unit acquisition cost of \$3,000 or more, and any passenger motor vehicle, carry a restriction of eighteen months from the date the property was placed in use.
 - (c) The State Agency may impose additional restrictions on any items, regardless of unit acquisition cost, as it may deem appropriate. It may further impose special restrictions on property involving special handling or use limitations as the Administrator of General Services may determine necessary because of the characteristics of the property pursuant to FPMR Par. 101-44.108, "Donation of Special Categories of Property," which follows:

"The Administrator of General Services is authorized, as circumstances warrant, to impose appropriate conditions on the donation of property having characteristics that require special handling or use limitations. In exercising his discretion the Administrator may, on a case-by-case basis, prescribe additional restrictions covering the handling or use of such property."
- (2) Section 101-44.108-1 - Drugs, biologicals, and reagents other than controlled substances; and certain shelf-life items.
 - (a) Surplus drugs, biologicals, and reagents which are in Federal Supply Class 6505 and which are not required to be destroyed as provided in Section 101-45.505 may be donated to public agencies for authorized public purposes and to non-profit health and educational institutions. If the report of excess or other communication from the holding activity listing the drugs, biologicals, and reagents indicates any items which are unfit for human use, GSA will not offer such items for donation. Controlled substances (as defined in Section 101-43.001-4) shall not be donated.
 - (b) Whenever surplus drugs, biologicals, and reagents are considered for donation, a letter of clearance shall be obtained by the State Agency or designated donee from the Food and Drug Administration (FDA) indicating which items may be safely donated. The State Agency or designated donee shall obtain the letter of clearance and ensure that the letter accompanies Standard Form 123, Application for Donation of Surplus Personal Property. (See Section 101-44.4901-123). Items which do not fall within the purview of FDA, on which FDA indicates are unsuitable, will not be considered by GSA for donation.

(Rule 0690-01-01-.06, continued)

- (c) For purposes of obtaining the letter of clearance from FDA, the State Agency or designated donee shall be responsible for obtaining and providing samples of any item that is required. Any payment of costs for laboratory examinations for quality assurance of samples shall be arranged by the State Agency. Before laboratory examinations are undertaken by FDA, an estimate of the expected cost of the quality assurance shall be furnished by FDA to the State Agency.
 - (d) In addition, in the case of property requested by a State Agency, the application shall contain also a statement that (1) for any quantity of items approved for donation which is to be stored in a State Agency warehouse prior to distribution, the State Agency certifies that adequate facilities are available to effect full accountability and property storage of the items in accordance with Federal, State, and local statutes governing the acquisition, storage, and accountability of the items requested; (2) the facilities will be used for the protection of the items, including protection against theft and pilferage; (3) the items will be distributed only to institutions licensed and authorized to administer and dispense items or to organizations authorized to store items; and (4) in addition to the normal certifications required by responsible officials of donee institutions or organizations when property is acquired by donation, the State Agency shall obtain a certification from the donee indicating that (i) the items transferred to the donee institution or organization will be safeguarded, dispensed, and administered under competent supervision; (ii) adequate facilities are available to effect full accountability and proper storage of the property in accordance with Federal, State, and local statutes governing the acquisition, storage, and accountability; and (iii) the administration or use of the property will comply with the provisions of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 301-392).
 - (e) Shelf-life items determined to be surplus in accordance with Section 101-43.313-9(l) shall be made available for donation screening for authorized public purposes, for nonprofit health and educational institutions, and for public airport purposes, pursuant to the provisions of Section 101-44.109. Prior to donation, drugs, biologicals, and reagents other than controlled substances, except those requiring refrigeration or deep freeze and those which are excepted from the provisions of Section 101-43.313-9, shall be processed as provided in this Section 101-44.108-1.
 - (f) Medical materials and medical supplies held for national emergency purposes and determined to be surplus in accordance with Section 101-43.313.10(g) shall be made available for donation screening for authorized public purposes, for nonprofit health and educational institutions, and for public airport purposes, pursuant to the provisions of Section 101-44.109. Prior to donation, drugs, biologicals and reagents which are not required to be destroyed as provided in Section 101-45.505 shall be processed as provided in this Section 101-44.108-1.
- (3) Section 101-44.108-2 - Donation of Aircraft - This section provides procedures and conditions for the donation of aircraft which are not classified for reasons of national security and which have been demilitarized where required. The requirements of this paragraph apply to the donation of any fixed- or rotary-wing aircraft with a unit acquisition cost of \$3,000 or more but do not apply to any components, accessories, parts, or appurtenances thereof.
- (a) Plan of utilization - To assist GSA in the allocation and transfer of available surplus aircraft, each SF 123 submitted to GSA for donation of an aircraft covered by this Section 101-44.108.2 shall include a letter of intent, signed and dated by the authorized representative of the proposed donee, setting forth a detailed plan of utilization for the property. The letter of intent shall provide the following information:

(Rule 0690-01-01-.06, continued)

1. Description of the aircraft requested, including the type, model or size, and the serial number, if it is known;
 2. Description of the donee's program and the number of aircraft currently owned; and
 3. Whether the aircraft is to be used for flight purposes or non-flight purposes (including ground instruction, simulation or static display), and details of the planned utilization of the property. When the aircraft is requested for cannibalization (recovery of parts and components), the letter of intent should provide details.
- (b) Donation of aircraft to public agencies and nonprofit educational and public health activities.
1. For the donation of an aircraft to a donee eligible in accordance with the provisions of Subpart 101-44.2, the SF 123 and the donee's letter of intent shall be processed by and through the State Agency for the State in which the donee is located, and submitted to GSA for approval.
 2. The State Agency shall require the following use conditions on the donation of aircraft to be used for flight purposes.
 - (i) The aircraft shall be used solely in accordance with the plan of utilization set forth in the donee's letter of intent unless the State Agency, in writing, authorizes a change in the donee's plan of utilization.
 - (ii) The donee shall agree to apply to the Federal Aviation Administration for registration of an aircraft intended for flight use within 30 days of receipt of the aircraft.
 3. In the case of combat-type aircraft, as designated by GSA:
 - (i) The State Agency shall impose a period of restriction on the use of the property which shall be perpetuity and shall not be released by the State Agency without the prior approval of GSA.
 - (ii) During the period of restriction, the donee shall not sell, trade, lease, lend, bail, encumber, or cannibalize for parts unless provided for in the donee's plan of utilization, or otherwise dispose of the aircraft or parts thereof without the written approval of GSA.
 4. If a combat-type aircraft is no longer usable or further needed by the donee, the donee shall promptly notify the State Agency and:
 - (i) Release the aircraft to another donee as determined by the State Agency. (The transfer shall be subject to the same use conditions as required herein.);
 - (ii) Release the aircraft to a department or agency of the United States as determined by GSA;
 - (iii) Sell the aircraft as determined by GSA; or

(Rule 0690-01-01-.06, continued)

- (iv) Render the aircraft completely unfit for any purpose except for the recovery of its basic material content as determined by GSA, the same to be performed in a manner satisfactory to the State Agency, and the material content to be disposed of in accordance with the instructions of the State Agency.
 - 5. If a combat-type aircraft is disposed of by the donee without the prior written approval of GSA or is used for a purpose other than the purpose stated, the donee, at the option of GSA, shall be liable to the United States of America for the proceeds of the disposal, the fair market value, or the fair rental value of the aircraft at the time of authorized transaction or use, as determined by GSA.
 - 6. In the event of a breach by the donee of any of the above conditions pertaining to a combat-type aircraft, whether caused by the legal inability of the donee or its successor in function to perform said conditions or otherwise, all rights, title, and interest in and to the aircraft shall, at the option of GSA, revert to and become the property of the United States of America and the donee, or its successors or assigns, shall forfeit all of its or their rights, title, and interest in and to the aircraft.
 - 7. In the case of any aircraft donated for non-flight use, including cannibalization, the State Agency shall acquire and destroy the aircraft historical modification records and the manufacturer's data plant, and shall by letter so certify to the Federal Aviation Administration at the following address: Chief, Quality Standard Service, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591.
 - 8. The State Agency may impose other terms, conditions, reservations, or restrictions on the use of aircraft donated under this Section 101-44.108-2 which are not inconsistent with the conditions set forth in Sections 101-44.108-2(c)(2) and 101-44.208.
 - 9. In the case of combat-type aircraft, the State Agency shall not grant waivers, amendments, modifications, or releases to the conditions required to be imposed by GSA of the use of the property nor issue disposal instructions to the donee for the aircraft without the prior written concurrence of GSA.
 - 10. Any breach by the donee of any conditions imposed by GSA on the donation of any aircraft shall be reported immediately by the State Agency to GSA.
- (c) Donations of aircraft to service educational activities.
- 1. For the donation of a surplus Department of Defense (DOD) aircraft to a donee eligible in accordance with the provisions of Subpart 101-44.4, the Standard Form 123 and the donee's letter of intent shall be processed by and through the Defense Logistics Agency (DLA), Cameron Station, Alexandria, VA 22314, and submitted to GSA for approval.
 - 2. Surplus DOD aircraft which have been demilitarized may be approved for donation by GSA to service educational activities for non-flight use, for static display, or for ground instruction and simulation purposes.
 - 3. Surplus DOD non-combat and commercial-type aircraft may be approved for donation by GSA at the request of DLA for flight purposes by service educational activities subject to the following use conditions and agreements which DLA shall require of the donee:

(Rule 0690-01-01-.06, continued)

- (i) The aircraft shall be used solely in connection with the plan of utilization set forth in the donee's letter of intent unless DLA authorizes a change in writing to the donee's plan of utilization.
 - (ii) The donee shall apply to the Federal Aviation Administration for registration within 30 days of receipt of the aircraft.
 - (iii) When the aircraft is no longer usable or needed by the donee for the original purpose for which it was acquired, the donee shall return the aircraft, at its expense, to the nearest DOD disposal activity.
- (d) Donations of aircraft for public purposes.
 - 1. For the donation of a surplus aircraft to a donee eligible in accordance with the provisions of Subpart 101-44.5, the SF 123 and the donee's letter of intent shall be processed by and through the Federal Aviation Administration and submitted to GSA for approval.
 - 2. Surplus cannibalized or demilitarized aircraft may be approved for donation by GSA to a public airport for use in firefighting and rescue training. Flyable aircraft will not be approved for donation for public airport purposes.
- (4) Section 101-44.108-3 - Automatic data processing equipment - For automatic data processing equipment, the State Agency or other donee shall forward the Standard Form 123 to GSA for coordination and clearance with the holding agency. Applications for a computer system(s) must be accompanied by a letter from the intended donee setting forth the proposed use of the equipment.
- (5) Section 101-44.108-4 - Military-type items with lethal characteristics - Except for donation for State and local law enforcement or other public safety use and for limited donation of firearms and ammunition to eligible service educational activities, weapons and other combat-type items with lethal characteristics, which, if released, would be dangerous to the public health or safety, are not donable, and requests for property will not be approved by GSA.
- (6) Section 101-44.108-5 - Bedding and upholstered furniture - A Standard Form 123 submitted to GSA regional office for donation of bedding and upholstered furniture will not be approved by GSA unless the State Agency or other donee includes a statement that the material will be treated in accordance with applicable State laws and regulations before reuse.
- (7) Section 101-44.108-6 - Tax-free alcohol or specially denatured alcohol.
 - (a) Whenever tax-free or specially denatured alcohol is requested for donation, the donee must possess a special permit to acquire the property issued by the Assistant Regional Commissioner of the appropriate regional office, Bureau of Alcohol, Tobacco, and Firearms (BATF), Department of the Treasury.
 - (b) A Standard Form 123 submitted to a GSA regional office for donation of tax-free or specially denatured alcohol will be not approved by GSA unless the appropriate BATF use permit number is shown.
 - (c) A State Agency shall not store tax-free or specially denatured alcohol in distribution centers. This property shall be transferred from holding agencies direct to the designated donee.

(Rule 0690-01-01-.06, continued)

- (8) Section 101-44.108-7 - Franked and penalty envelopes and paper with official letterhead - A Standard Form 123 submitted to a GSA regional office for donation of paper with an official letterhead or for donation of franked or penalty envelopes on which the penalty indicia has not been obliterated will not be approved by GSA unless the State Agency or other donee includes a statement certifying that the indicia and all other Federal Government markings on the envelopes and paper will be completely obliterated before they are used.
- (9) Section 101-44.108-8 - Pesticides and herbicides - Standard Forms 123 requesting donation of pesticides and herbicides will not be approved by GSA Regional offices until full clearance for use of the property have been received by GSA from the Environmental Protection Agency headquarters office.
- (10) Section 101-44.108-9 - Donation of vessels.
 - (a) Each SF 123 submitted to GSA for donation of a vessel which is 50 or more feet in length shall be accompanied by a letter from the intended donee setting forth the proposed use of the vessel.
 - (b) Each donee, as a condition of the donation, shall agree to obtain documentation of the vessel under the applicable laws of the United States and the several States, to maintain this documentation at all times, and to record each document with the U.S. Coast Guard at the port of documentation of the property within 60 days after acquisition of the vessel.
- (11) The State Agency may amend, modify, or grant release of any term, condition, reservation, or restriction it has imposed on donated items of personal property in accordance with the enclosed standards (Exhibit A, sample copy enclosed), provided that the conditions pertinent to each situation have been affirmatively demonstrated to the prior satisfaction of the State Agency and made a matter of public record.
- (12) Cannibalization of items on which GSA has imposed special handling conditions or use limitations will require prior GSA approval during the period of restriction.
- (13) Non-combat aircraft and vessels over 50' carry a five-year restriction from the date they were placed in use. (See Exhibit B - Vessel Conditional Transfer Document, and Exhibit C - Non-combat type Aircraft Conditional Transfer Document).
- (14) Combat-type aircraft carry a perpetual restriction. (See Exhibit D - Combat-type Aircraft Conditional Transfer Document).
- (15) From the date it receives the property and through the period of time the restrictions remain in effect, the donee shall not sell, trade, lease, lend, bail, cannibalize, encumber, or otherwise dispose of such property or remove it permanently, for use outside the State, without the prior approval of the State Agency. The proceeds from any sale, trade, lease, loan, bailment, encumbrance or other disposal of the property, when such action is authorized by the State Agency, shall be remitted promptly by the donee to the State Agency.
- (16) In the event any of the property is sold, traded, leased, loaned, bailed, cannibalized, encumbered, or otherwise disposed of by the donee from the date it receives the property through the periods it is under restriction, without the proper prior approval of the State Agency, the donee, at the option of the State Agency, shall pay to the State Agency the proceeds of the disposal or for the fair market value or the fair rental value of the property at the time of such disposal, as determined by the State Agency.

(Rule 0690-01-01-.06, continued)

- (17) If at any time from the date it receives the property and throughout the period of restriction any of the property is no longer suitable, usable, or further needed by the donee for the purpose for which acquired, the donee shall promptly notify the State Agency, and shall, as directed by the State Agency, return the property to the State Agency, release the property to another donee or another state agency, sell or otherwise dispose of the property. The proceeds from any sale shall be remitted promptly by the donee to the State Agency.
- (18) The donee shall make reports to the State Agency on the use, conditions, and location of the property listed hereon, and on other pertinent matters as may be required by the State Agency.
- (19) At the option of the State Agency, the donee may abrogate the terms, reservations, and restrictions by payment of an amount as determined by the State Agency.

Authority: T.C.A. §§ 4-330(15), 12-333(5)(A), and 49-808 through 49-810. See also Public Law No. 94-519. **Administrative History:** Original rule filed August 31, 1977; effective September 30, 1977.

0690-01-01-.07 COMPLIANCE AND UTILIZATION.

- (1) Items Subject to Compliance Review. The terms, conditions, reservations, and restrictions under which Federal surplus property is donated are stated on the reverse of the property issue document. The State Agency shall conduct utilization reviews for donee compliance on items with a unit acquisition cost of \$3,000 or more and on passenger motor vehicles. Also, reviews will include items of property on which the Administrator of GSA imposes restrictions for special handling and use limitations defined in Rule 0690-01-01-.06, Terms and Conditions on Donable Property. Major items of equipment on which the State Agency imposes special use restrictions will be of major interest in the reviews.
- (2) Procedures for Conducting Utilization Reviews
 - (a) Compliance Memorandum. It shall be the policy of the State Agency to require a written utilization report from each donee who has acquired an item of property having a unit acquisition cost of \$3,000 or more, a passenger motor vehicle, or certain items on which GSA has imposed special handling and use limitations. After posting invoice to donee ledger card, utilization inquiry letter is mailed in duplicate to donee. Satisfactory replies, reflecting specific date restrictive item is placed into use, or to be placed into use, location, etc. are filed in respective donee restrictive item folder. Non-response and insufficient reply cases are sent follow-up letter six months from date of first letter. If after 30 days no reply or unsatisfactory reply, cases are referred to Director for personal visit by State Agency representative.
 - (b) Physical Inspections. State Agency personnel will physically inspect during the period of restriction any major item of property on which the State Agency has imposed a special use limitation. During such visits, State Agency personnel will spot check other items of surplus property acquired with special emphasis on any items with special handling and use limitations imposed on it by GSA.
 - (c) Report of Cannibalization. A report shall be required on items with a unit acquisition cost of \$3,000 or more and passenger motor vehicles on which cannibalization has been authorized to determine if the cannibalization has been performed and if any remaining component is valued at \$3,000 or more.
- (3) Compliance Actions

(Rule 0690-01-01-.07, continued)

- (a) Administrative compliance remedies in cases of non-use, misuse, or unauthorized disposal of donated property which had a unit acquisition cost of \$3,000 or more, passenger motor vehicles, or property distributed with special conditions or restrictions will be undertaken as follows:
1. Whenever possible and practicable, the property will be placed into eligible use by the present donee, transferred to another eligible donee, or returned to the State Agency.
 2. When it has been determined that property has been ineligibly used, demand will be made of the donee organization to pay to the State Agency or to the U.S. Government, in cases where the Federal conditions have been violated, fair rental value for the time the property was ineligibly used.
 3. If property has been disposed of and cannot be reclaimed for further use, or if property is worn or damaged so as to render it unfit for further use, the donee organization will be liable for fair market value as described above.
- (b) A full investigation will be conducted when there is evidence that suggests possible property compliance violations. A complete report will be filed with the Regional Office of GSA describing the results of the investigation if any compliance action is taken.
- (c) When fraud in the acquisition of donable property is alleged or suspected, a report containing all available information will be made to the FBI, with notification to the GSA regional office. Local law enforcement officials will be advised of any violations of State restrictions. The State Agency will take necessary actions to prosecute cases of fraud or misuse of donated property and will assist GSA or other responsible Federal or State officials in investigating such cases upon request.

Authority: T.C.A. §§ 4-330(15), 12-333(5)(A), and 49-808 through 49-810. See also Public Law No. 94-519. **Administrative History:** Original rule filed August 31, 1977; effective September 30, 1977.

0690-01-01-.08 RETURN OF DONATED PROPERTY. When a determination has been made that property has not been put in use by a donee within one year from the date of receipt of the property, or when the donee has not used the property for one year thereafter, under the terms and conditions of the application certification and agreement form signed by the administrative officer or other authorized representative of the donee as a condition of eligibility and repeated on the reverse side of each issue document, the donee, if property is still usable as determined by the State Agency, must:

- (1) Return the property at its own expense to the State Agency warehouse.
- (2) Re-transfer the property to another eligible donee as directed by the State Agency.
- (3) Make such other disposal of the property as the State Agency may direct.
- (4) The State Agency will periodically emphasize this requirement when surveying the utilization of donated property at donee facilities.

Authority: T.C.A. §§ 4-330(15), 12-333(5)(A), and 49-808 through 49-810. See also Public Law No. 94-519. **Administrative History:** Original rule filed August 31, 1977; effective September 30, 1977.

0690-01-01-.09 NON-UTILIZED DONABLE PROPERTY. Property in the possession of the State Agency which cannot be utilized by donees in the State shall be disposed of in accordance with FPMR 101-44.205 as follows:

(Rule 0690-01-01-.09, continued)

- (1) Report such property to the Administrator for his approval or disapproval of action contemplated. Make property available to other states.
- (2) Place property on public bid sale, as directed by GSA, with reimbursement to the State Agency for services involved for lotting, marking, and displaying property.
- (3) Request authorization from the Administrator for abandonment or destruction of property no longer usable by the State Agency or the donees.
- (4) Adjust inventory accordingly.
- (5) The State Agency may recover transportation charges for property that was acquired from points of over 100 miles from the location of the State Agency warehouse.

Authority: T.C.A. §§ 4-330(15), 12-333(5)(A), and 49-808 through 49-810. See also Public Law No. 94-519. **Administrative History:** Original rule filed August 31, 1977; effective September 30, 1977.

0690-01-01-.10 REPEALED.

Authority: T.C.A. §§ 4-4-103, 4-5-213(b), 4-330(15), 12-333(5)(A), and 49-808 through 49-810. See also Public Law No. 94-519. **Administrative History:** Original rule filed August 31, 1977. Repeal filed October 16, 2025; effective January 14, 2026.

0690-01-01-.11 CONSULTATION WITH ADVISORY BODIES AND PUBLIC AND PRIVATE GROUPS.

- (1) The State Agency will arrange for and participate in local, regional, or statewide meetings of such public and private organizations and associations representing public agencies, educational, public health, library, museums, civil defense, etc., to disseminate information on the program, discuss procedures and problems and obtain the recommendations on determining relative needs, resources, and the utilization of property and how we can provide a more effective service. The State Agency will regularly provide information on the donation program to State and local officials, and to heads of nonprofit institutions and organizations and will actively participate and provide speakers for conferences and meetings held by public and private organizations upon request.
- (2) The State Agency in consultation with advisory bodies and public and private groups will invite eligible donees to submit expressions of need and interest for property items so that the State Agency may advise the General Services Administration of such requirements, including requirements for specific items of property. The Assistant Director of the State Agency will be charged with the responsibility of seeing that such consultation is carried out on a regular and equitable way with all advisory bodies and public and private groups. This will be accomplished by regular meetings, telephone surveys, and personal contacts.

Authority: T.C.A. §§ 4-330(15), 12-333(5)(A), and 49-808 through 49-810. See also Public Law No. 94-519. **Administrative History:** Original rule filed August 31, 1977; effective September 30, 1977.

0690-01-01-.12 COOPERATIVE AGREEMENTS. The State Agency has the authority and will enter into such cooperative agreements deemed necessary with GSA or other Federal agencies in accordance with FPMR 101-44.206. Such agreements may involve, but are not limited to:

- (1) Use of property by State Agency.
- (2) Overseas property.
- (3) Use of Federal Telecommunications System.

(Rule 0690-01-01-.12, continued)

- (4) Interstate transfers.
- (5) Others, as may be necessary.

Authority: T.C.A. §§ 4-330(15), 12-333(5)(A), and 49-808 through 49-810. See also Public Law No. 94-519. **Administrative History:** Original rule filed August 31, 1977; effective September 30, 1977.

0690-01-01-.13 REPEALED.

Authority: T.C.A. §§ 4-4-103, 4-5-213(b), 4-330(15), 12-333(5)(A), and 49-808 through 49-810. See also Public Law No. 94-519. **Administrative History:** Original rule filed August 31, 1977; effective September 30, 1977. Repeal filed October 16, 2025; effective January 14, 2026.