



**Memorandum of Agreement (MOA)
between
Defense Logistics Agency (DLA)
and
United States Department of Agriculture (USDA)
Forest Service**

**MEMORANDUM OF AGREEMENT
BETWEEN
THE DEFENSE LOGISTICS AGENCY
AND
THE USDA FOREST SERVICE**

1. PURPOSE:

This Memorandum of Agreement (MOA) is hereby entered into by and between the Defense Logistics Agency (DLA) and the United States Department of Agriculture, Forest Service, Fire and Aviation Management, Washington Office, herein referred to as the “Forest Service”. This MOA will set forth the terms and conditions which will be binding on both parties with respect to excess Department of Defense (DOD) personal property. The Forest Service will act as the agent for DOD for the transfer of Excess DOD property, suitable for use in providing fire and emergency services, to State Agencies responsible for fire suppression and pre-suppression. Excess DOD Property is transferred pursuant to 10 USC § 2576b to promote the efficient and expeditious transfer of the property for firefighting and emergency services, herein referred to as the Firefighter Property (“FFP”) program and to ensure accountability of same.

2. AUTHORITY:

The Secretary of Defense is directed by 10 USC § 2576b to transfer to firefighting agencies in the District of Columbia and the States, commonwealths, and territories of the United States (referred to collectively hereinafter as “the States”), personal property that is excess to the needs of the DOD and that the Secretary of Defense determines is suitable to be used by such agencies in fire protection and emergency service activities, under such terms prescribed by this MOA. The authorities granted to the Secretary of Defense have been delegated to the Defense Logistics Agency in determining whether property is suitable for use by fire protection and emergency service activities. DLA defines fire protection and emergency activities as those firefighting and emergency activities performed in accordance with Federal, State and local laws.

3. TERMS AND CONDITIONS:

The DOD, through the DLA, has final authority to determine the type, quantity, and location of excess DOD personal property suitable for fire protection and emergency activities, if any, which will be transferred to the FFP program. Property available under this agreement is for the current use by authorized program participants; it will not be requested nor issued for cannibalization, parts, or for speculative use/possible future use. Property will not be obtained for the purpose of warehousing/stockpiling, sale, lease, rent, exchange, barter, to secure a

loan, or to otherwise supplement normal State/local governmental entities budgets. All requests for property will be based on bona fide fire protection or emergency service requirements and current needs. Any transportation, repair, maintenance, insurance, disposal, or other expenses associated with this excess DOD personal property is the sole responsibility of the State or authorized program participant. Property obtained under this MOA must be placed into use within two (2) years of receipt and utilized for a minimum of one (1) year for firefighting or emergency service; unless the condition of the property renders it unusable. Property that is not placed into use within two (2) years will be returned to the Defense Reutilization and Marketing Office (DRMO) at the State's or recipient's expense. Under no circumstances will property be sold or otherwise transferred to non-U.S. persons or exported. The Standard Operating Procedures of the FFP program will provide guidance on the overall management of the property.

4. THE DLA SHALL:

1. Authorize the transfer and use of excess Federal property to the State Program responsible for firefighting and its cooperators.
2. Authorize the USDA Forest Service to manage FFP property transfers provided for under 10 U.S.C. 2576b.
3. Write and distribute any internal regulations or guidance necessary to implement this program.
4. Enter into an interagency agreement under the Economy Act, 31 U.S.C. § 1535, to pay the USDA Forest Service \$3,750 per year to cover the cost of managing the program for DOD, and shall pay the USDA Forest Service that amount from funds available for that fiscal year.
5. For Demilitarization code A and Non-Sensitive Q items that do not require demilitarization, transfer title to authorized recipient upon taking possession of the equipment.
6. For Demilitarization B and Sensitive Q, title may be transferred to the recipient under special conditions outlined in paragraph 6.2 of this MOA.

5. THE USDA FOREST SERVICE SHALL:

1. Maintain an accessible website that will provide timely and accurate guidance, information and links for all individuals who work or have an interest in the FFP program.
2. Sign an agreement with the State agency responsible for distributing the property made available under 10 U.S.C. § 2576b, in each State which desires to participate in the transfer of DoD FFP.

3. This agreement shall stipulate that the State shall:
 - a. Prepare an Appointment Letter designating the State Point of Contact, which will be kept on file at the USDA Forest Service Regional Office, and which grants the State Point of Contact (POC) signature authority and power to act on the behalf of the State in the requisition and disposal of FFP. This letter will be prepared by the State agency responsible for fire management within the state and will be signed, at a minimum, by the State agency head and USDA Forest Service Regional Forester.
 - b. Create a comprehensive State Plan of Operation, which will be forwarded to the USDA Forest Service for approval/disapproval, and implemented in accordance with the regulations of the FFP program. The State shall maintain the approved MOA and State Plan of Operation on file.
 - c. Receive and approve/disapprove applications for participation by a Fire Department to acquire property pursuant to this MOA.
 - d. Identify recipients of FFP, assuring qualifications and certifications are met to provide firefighting and emergency services. FFP can only be distributed to an authorized fire protection or emergency service entity.
 - e. Sponsor Fire Departments (FDs) that want to actively participate in the program.
 - f. Screen for property that will be used for firefighting or emergency service purposes.
 - g. Enter into written agreements with each qualified/authorized FD, to assure they fully comply with the terms, conditions, and limitations applicable to property transferred pursuant to this agreement. FFP will be assigned to a FD and not to a particular person or member of the FD. Agreement will be between the FD and the State and will be signed by the FD Chief (or designated official) on behalf of the FD. Access the DRMS FFP website on a regular basis for timely and accurate guidance, information, and links concerning the FFP Program and ensure that all relevant information is passed on to participating FDs.
 - h. Maintain current and accurate contact information on State Foresters, FFP managers, screeners, and authorized recipients of FFP. Contacts will also be identified in the Federal Excess Property Management Information System (FEPMIS) database.
 - i. Notify the USDA Forest Service immediately on changes to State Forester, POC, authorized screeners, or recipients contact information.
 - j. Request for transfer only DOD property that can effectively be used by State, Territorial, or District of Columbia firefighting and emergency services agencies. Validating requests and accepting responsibility for property acquired.
 - k. Administer, account for, use and dispose of FFP acquired pursuant to 10 U.S.C. § 2576b as outlined in the USDA Forest Service Standard Operating Procedures.
 - l. Establish controls necessary to account for, manage, use, and dispose of said property, which may be further assigned by the State to other local cooperators or recipients in accordance with applicable guidelines.
 - m. Maintain adequate records necessary to control FFP as defined in the USDA Forest Service Plan of Operation. At a minimum, all file records will be retained

for five (5) fiscal years. These records must provide an audit trail for all excess DOD property from receipt “cradle” to transfer, turn-in, or disposal “grave”. These documents include, but are not limited to, DRMS 103, DD Form 1348-1A, and all requests for transfer, turn-in, or disposal.

- n. Provide access to and the right to examine all records, books, papers, or documents relating to such property to the DOD, including its Inspector General, the Comptroller Office of Inspector General, or their authorized representatives. This requirement shall also apply to all other entities, including local governments, private organizations, recognized Indian Tribes, or individuals that become the recipients of said property. This provision shall be incorporated into any agreement by the State with any other recipient.
- o. Identify, track and verify mutilation of Demil B & Q items which require special handling when no longer needed, property will be mutilated and/or returned to a DRMO site. The USDA Forest Service must approve the mutilation and will provide guidance to the State Agency with regard to mutilation procedures, etc. Special handling requires one of the following:
 - 1. If in usable/repairable condition the property may be transferred to another firefighting or emergency service entity that is an authorized participant in the FFP program or returned to a DRMO.
 - 2. When the item is no longer needed for firefighting or emergency services or the item is obsolete or no longer repairable, the property item will be rendered unusable and destroyed beyond use. The property item can only be sold for its value in scrap metal content. Title will be retained at the State level and marked “invalid” when the item has been disposed of as scrap metal. Title will be attached to the acquisition document and retained for 6 years 3 months after final disposal.
 - 3. The State may opt to not receive title for Demilitarization B and Sensitive Q items. Instead, the State will agree to return the property to the DRMO when the item is no longer needed, serviceable, or usable. State will not be charged for return/turn-in processing of asset but is responsible for transportation of asset to DRMO site.
- p. Aircraft are authorized and must be placed into service within two (2) years of receipt and used primarily for firefighting or emergency service.
 - 1. The State will agree to provide all required controls in accordance with applicable laws and regulations for aircraft and aircraft parts.
 - 2. Aircraft will be maintained in accordance with applicable airworthiness standards and procedures for maintenance and repair.
 - 3. Recipients will perpetuate repair and maintenance documentation.
 - 4. Aircraft and aircraft parts that are in usable condition may be transferred from one State to another State FFP participant.
 - 5. When no longer needed or usable, aircraft will be returned to DOD for disposal. The cost of transfer or return of aircraft will be borne by the State.
 - 6. Transfers or returns of aircraft and aircraft parts will be done with USDA Forest Service approval.

- q. Comply with DOD Public Key Infrastructure (PKI) requirements as they are implemented, i.e. use of Common Access Cards and/or medium assurance compliance certificates.\
 - The State will maintain or assure that property recipients maintain adequate insurance to cover damages or injuries to persons or property relating to the use of the property. At a minimum Liability insurance will be maintained.
 - r. To the extent permitted by federal law, the State or recipient of the property, shall indemnify and hold the U.S. Government harmless from any and all actions, claims, debts, demands, judgments, liabilities, costs, and attorney's fees arising out of, claimed on account of, or in any manner predicated upon loss of or damage to property, or injuries, illness or disabilities to or death of any person or legal or political entity including state, local and interstate bodies, in any manner caused by or contributed to by the State, its agents, servants, employees, or any person subject to its control while in, upon or about the sale site and/or the site on which the property is located, or while the property is in the possession of, used by, or subject to the control of the State, its agents, servants, or employees after the property has been removed from U.S. Government control.
4. Establish and submit to the DLA USDA Forest Service Standard Operating Procedures, developed in accordance with Federal and State laws and conforming to the provisions of this MOA. This USDA Forest Service Standard Operating Procedures will detail organizational and operational authority, address procedures for making determinations of eligibility, accountability, record retention, responsibility, disposal, transfer, and turn-in concerning excess DOD personal property.
 5. Provide the State with the USDA Forest Service Standard Operating Procedures and any subsequent changes and instructions relating to the transfer of FFP pursuant to 10 U.S.C. § 2576b. These materials may also be provided via the Internet.
 6. Maintain a system to provide automation to approve/disapprove transfer, turn-in and disposal requests for items acquired pursuant to this MOA for the time frame where Federal oversight is required as outlined in this MOA.
 - a. The USDA Forest Service will use the already existing FEPMIS for inventory management, acquisition reconciliation, and disposal of property.
 - b. Provide instruction to system users on how to use the automated system.
 7. Provide guidance and direction to the State POC in the management and disposal of FFP transferred pursuant to this MOA.
 8. Provide direction and training to State POCs on the processes for acquiring property pursuant to this MOA.
 - a. Encourage and assist State screeners in the use of electronic screening of the Defense Reutilization and Marketing Service (DRMS) world-wide inventory and the procedures to search for, identify, and request property.

- b. Encourage and assist State users with scheduling formalized instruction from the DRMS.
9. Maintain an up-to-date contact list of pseudo Department of Defense Activity Address Code (DODAAC) point of contacts.
10. Upon receipt for approval of a property acquisition request through the DRMS FFP automation system, ensure equitable distribution and proper identification of the property, validate the need for the purpose of firefighting or emergency services, and authorize pick up of the item from the Defense Reutilization and Marketing Office (DRMO). All transportation costs will be borne by the State or the authorized recipient.
11. Conduct Program Reviews on State and U.S. Territory participants every five (5) years to ensure USDA Forest Service Standard Operating Procedures are followed. Results will be provided within thirty (30) days to the State Accountable Officer and the USDA Forest Service National FFP Program Manager.
 - a. If the State or U.S. Territory fails a Program Review, it will be verbally notified by the USDA Forest Service that their operations have been temporarily suspended. A written report will be provided to the State within fourteen (14) days.
 - b. The State or Territory will have twenty-one (21) days to draft a Corrective Action Plan for approval/disapproval by the USDA Forest Service. The State has ninety (90) days to implement an approved Corrective Action Plan. Failure to properly execute the Corrective Action Plan may result in a termination from the FFP program.
 - c. If a State or U.S. Territory fails to correct identified deficiencies within one year, the USDA Forest Service will permanently suspend their operations.
 - d. The State or U.S. Territory will bear all expenses related to the turn-in to the nearest Defense Reutilization and Marketing Office (DRMO), the transfer to an approved Federal Agency, State, or Territory or the disposal of all excess DOD personal property obtained under this MOA if the State program is permanently suspended.
12. Establish additional controls for High Profile (Aircraft/Watercraft, HMMWV's), and/or High Awareness Demilitarization required (Munitions List Items Commerce Control List Items, Flight Safety Critical Aircraft Parts) property as identified by the USDA Forest Service.
13. Provide quarterly and cumulative fiscal year reports which reflect materiel obtained through program and approximate acquisition value.
14. Coordinate with DLA to ensure an automated link of the DRMS database with FEPMIS is established and maintained.

6. IT IS MUTUALLY AGREED AND UNDERSTOOD BY THE DLA AND THE USDA FOREST SERVICE THAT:

1. Title will be issued for Demilitarization A and Non-Sensitive B and Q property, and requires no special handling. After the item has been used for firefighting or emergency services for a minimum of one (1) year, the item may be transferred, cannibalized for usable parts, sold, donated, or scrapped. Title may be transferred to any U.S. citizen or entity.
 - a. All costs related to transfer or disposal of the property item will be borne by the recipient of the property.
 - b. In rare circumstances property obtained may be held for a minimum time frame due to the item being unserviceable or un-economically repairable. USDA Forest Service approval prior to disposal is required and will be done on a case-by-case basis. Additional documentation may be required prior to approval. Property cannot be sold, scrapped, bartered, exchanged, or traded until the approval process is completed.
2. Title may be issued for Demilitarization B and Sensitive Q items that require special handling if appropriate procedures and controls are incorporated into the MOA between the USDA Forest Service and the State. All subsequent recipients must be aware of and agree to provide appropriate controls as outlined in the USDA Forest Service Plan of Operation for these items.
3. Demilitarization required C, D, and F property will be returned to the DRMO when no longer needed or usable. Title will not pass for property items with Demilitarization code C, D, or F.
 - a. Property items with Demilitarization required C, D, or F codes will be controlled and tracked by the USDA Forest Service for accountability purposes until final disposition.
 - b. Transfer or return of these property items will be coordinated with the issuing DRMO, the USDA Forest Service and the State. These items will not leave Federal government control.
4. All aircraft (fixed and rotary wing), Flight Safety Critical Aircraft Parts (FSCAP), Demilitarization required Munitions List Items (MLI), and Commerce Control List Items (CCLI) may be transferred to a State for its use in firefighting and emergency services.
5. The U.S. Government assumes no liability for damages or injuries to any person(s), or property arising from the use of the property.

6. Property records will be managed in a concise and accurate order to provide timely and relevant information. Record retention requirements will be outlined in the USDA Forest Service's Plan of Operations.
7. Designated State parties to this program will perform joint reviews to assure compliance with the USDA Forest Service Plan of Operation and other applicable statutes and regulations. Recommendations can be made for changes to improve the program or to bring it into compliance with program and property management requirements by Federal or State participants.
8. Any information furnished to the USDA Forest Service under this instrument is subject to the Freedom of Information Act ("FOIA") 5 U.S.C. § 552.
9. Modifications of this MOA shall be made by mutual consent of both parties by the issuance of a written modification signed and dated by all parties, prior to any changes being performed.
10. This MOA in no way restricts the USDA Forest Service or DOD from participating in similar activities with other public entities. If it later determines it is in the Government's interest, DOD may transfer particular equipment or particular types of equipment directly to State Firefighting Agencies.
11. Either of the parties may terminate, in writing, this MOA in whole or in part, at any time before the date of expiration. Neither party shall incur any new obligations for the terminated portion of the instrument after the effective date and shall cancel as many obligations as possible.

The principal contacts for this MOA are:

USDA Forest Service National
Program Manager:
Ms. Melissa Frey
Phone: 202-205-1090
Email: mfrey@fs.fed.us

DLA Project Manager:
Ms. Carole Christensen
Phone: 703-767-7510
email: Carole.Christensen@dla.mil

12. This MOA is executed as of the date of last signature. This agreement will expire at the end of five years unless extended by mutual agreement of the Parties.
13. If this MOA expires or is terminated, it would have a direct effect on the validity of the property agreements between the USDA Forest Service and the States, and the USDA Forest Service would manage that termination according to the laws and regulations governing the use of the property.
14. This MOA does not obligate funds. The USDA Forest Service and DLA separately shall execute mutually agreed upon documents to transfer funds to the USDA Forest Service to cover the costs of managing this program for DOD.

AUTHORIZED REPRESENTATIVES. By signature below, the parties each certify that the individuals listed in the document are representatives of that party and are authorized to act in their receptive areas for matters related to this agreement.

THE PARTIES HERETO have executed this instrument as of the last written date below.

JOHN E. HALL
Executive Director
Operations & Sustainment
Defense Logistics Agency

TOM HARBOUR
Director, Fire and Aviation Mgmt
USDA Forest Service
U.S. Department of Agriculture

Date

Date