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§ 101-48.101-3 Cost of care and handling.

Each holding agency shall be responsible for performing care and handling of forfeited or voluntarily abandoned personal property pending disposition.

§ 101-48.101-4 Retention by holding agency.

(a) Subject to the limitations on certain types of passenger vehicles (see §101-43.307-9), a Federal agency may retain and devote to official use any property in its custody that is forfeited other than by court decree or determined by the agency to be voluntarily abandoned. Large sedans and limousines may be retained by an agency and devoted to official use only if such retention is clearly authorized by the provisions of subpart 101-38.1.

(b) A holding agency, when reporting property pursuant to §101-48.101-5, which is subject to pending court proceedings for forfeiture, may at the same time file a request for that property for its official use. A request for only components or accessories of a complete and operable item shall contain a detailed justification concerning the need for the components or accessories and an explanation of the effect their removal will have on the item. Upon receipt of a request, GSA will make application to the court requesting delivery of the property to the holding agency, provided that, when a holding agency has requested only components or accessories of a complete and operable item, GSA determines that their removal from the item is in the best interest of the Government.

(c) Except where otherwise specifically provided, any property that is retained by a Federal agency for official use under this subpart 101-48.1 shall thereupon lose its identity as forfeited or voluntarily abandoned property. When such property is no longer required for official use, it shall be reported as excess in accordance with §101-43.304.

(Sec. 307, 49 Stat. 880; 40 U.S.C. 3041)

[42 FR 55813, Oct. 19, 1977, as amended at 44 FR 42202, July 19, 1979; 56 FR 40260, Aug. 14, 1991]

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§ 101-48.101-5 Property required to be reported.

(a) A Federal agency shall promptly report, in accordance with §101-43.304, property in its custody that is forfeited other than by court decree or voluntarily abandoned and not desired for retention by that agency for its official use and property on which proceedings for forfeiture by court decree are being started or have begun, except that:

(1) Reports shall be submitted to the GSA National Capital Region (mailing address: General Services Administration (3FBP-W), Washington, DC 20407) in lieu of being submitted to the GSA regional office for the region in which the property is located.

(2) The reporting agency's internal documents containing information relevant to the property may be used in lieu of the Standard Form 120, Report of Excess Personal Property; and

(3) Distilled spirits, wine and malt beverages fit for human consumption in quantities of 5 wine gallons or more shall be reported regardless of acquisition cost.

(b) The following information shall be furnished:

(1) Whether property was:

(i) Abandoned;

(ii) Forfeited other than by court decree; or

(iii) The subject of a court proceeding and, if so, the name of the defendant and the place and judicial district of the court from which the decree has been or will be issued;

(2) Existence or probability of a lien or claim of lien, or other accrued or accruing charges, and the amount involved; and

(3) If the property is distilled spirits, wine, or malt beverages: Quantities and kinds (rye or bourbon or other whiskey and its brand, if any; sparkling or still wine and its color or brand; cordial, brandy, gin, etc.), proof rating, and condition for shipping.

(c) In addition to the exceptions and special handling described in §§101-43.305 and 101-43.307, the following forfeited or voluntarily abandoned property need not be reported:

(1) Forfeited arms or munitions of war which are handled pursuant to 22 U.S.C. 401;

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(2) Forfeited firearms which are transferable by the holding agency to the Secretary of Defense;

(3) Abandoned, condemned, or forfeited tobacco, snuff, cigars, or cigarettes which the holding agency estimates will not, if offered for sale by competitive bid, bring a price equal to the internal revenue tax due and payable thereon; and which is subject to destruction or delivery without payment of any tax to any hospital maintained by the United States for the use of present or former members of the military or naval forces of the United States;

(4) Forfeited distilled spirits (including alcohol), wine and malt beverages not fit for human consumption nor for medicinal, scientific, or mechanical purposes. (Domestic forfeited distilled spirits, wine, and malt beverages which were not produced at a registered distillery, winery, or brewery or which are in containers that have been opened or entered shall be regarded as not fit for human consumption. (See §101-48.302 for disposition.));

(5) Distilled spirits, wine, and malt beverages in any one seizure of less than 5 wine gallons (see §§101-48.201-5 and 101-48.302 for disposition);

(6) Effects of deserters from the Coast Guard or the military services, or of deceased persons of the Coast Guard or the military services, or of deceased inmates of naval or soldiers' homes or Government hospitals;

(7) Seeds, plants, or misbranded packages seized by the Department of Agriculture pursuant to authorities provided by law;

(8) Game and equipment (other than vessels, including cargo) seized by the Department of the Interior pursuant to authorities provided by law;

(9) Files of papers, all dead and undeliverable mail matter, and non-mailable matter in the custody of the Postmaster General;

(10) Infringing articles in the custody of the Patent Office, Department of Commerce;

(11) Unclaimed and abandoned personal property subject to applicable customs laws and regulations;

(12) Collection seizures to satisfy tax liens and property acquired by the United States in payment of or as secu-

rity for debts arising under the internal revenue laws;

(13) Property, the vesting and disposition of which is controlled by the provisions of 38 U.S.C. 5201 (*et seq.*), Disposition of deceased veterans' personal property; and

(14) Motor vehicles which are 4 or more years old.

(d) The general rule for reporting specified in this §101-48.101-5 is modified with respect to the following:

(1) Controlled substances (as defined in §101-43.001-3), regardless of quantity, condition, or acquisition cost, shall be reported to the Drug Enforcement Administration, Department of Justice, Washington, DC 20537;

(2) Forfeited firearms not desired for retention by the seizing agency, except those covered by paragraphs (c) (1) and (2) of this section, shall be reported provided such firearms are in excellent serviceable condition and known to be used for law enforcement or security purposes or are sufficiently unusual to be of interest to a Federal museum. Forfeited firearms not reportable in accordance with the foregoing criteria shall be destroyed and disposed of pursuant to §101-48.303;

(3) Property forfeited other than by court decree which is suitable for human consumption or which may be used in the preparation of food may be immediately transferred by the agency having custody to the nearest Federal agency known to be a user of such property, without specific authorization from GSA;

(4) Vessels of 1,500 gross tons or more which the Maritime Administration determines to be merchant vessels or capable of conversion to merchant use shall be reported to the Maritime Administration;

(5) Property seized by one Federal agency but adopted by another for prosecution under laws enforced by the adopting Federal agency shall be reported by the adopting agency to the extent and in the manner required by this subpart 101-48.1;

(6) Lost, abandoned, or unclaimed personal property controlled by the provisions of 10 U.S.C. 2575 shall be disposed of as provided by 10 U.S.C. 2575 and regulations issued thereunder by appropriate authority; and

(7) Drug paraphernalia seized and forfeited under the provisions of 21 U.S.C. 857, which is not retained for official use by the seizing agency or transferred to another Federal agency under seizing agency authorities, or such drug paraphernalia retained for official use but no longer required by the agency, shall be reported on Standard Form 120 to the General Services Administration, Property Management Division (FBP), Washington, DC 20406.

(e) Property not required to be reported pursuant to this §101-48.101-5 and not excepted or modified with respect to reporting pursuant to this §101-48.101-5 shall be handled as set forth in §101-43.305.

[42 FR 55813, Oct. 19, 1977, as amended at 56 FR 40260, Aug. 14, 1991]

§101-48.101-6 Transfer to other Federal agencies.

(a) Normally, the transfer of forfeited or voluntarily abandoned personal property shall be accomplished by submitting for approval a Standard Form 122, Transfer Order Excess Personal Property (see §101-43.4901-122), or any other transfer order form approved by GSA, to the General Services Administration (3FBP-W), Washington, DC 20407, for approval.

(b) Except for property which is subject to court action, the transfer order shall indicate the agency having custody of the property, the location of the property, the report or case number on which the property is listed, the property required, and the fair value, if applicable.

(c) Property subject to court action may be requested by submitting a transfer order or a letter setting forth the need for the property by the agency. If proceedings for the forfeiture of the property by court decree are being started or have begun, application will be made by GSA to the court, prior to entry of a decree, for an order requiring delivery of the property to an appropriate recipient for its official use.

(d) Transfers of forfeited or voluntarily abandoned distilled spirits, wine, and malt beverages shall be limited to those for medicinal, scientific, or mechanical purposes or for any other official purposes for which appropriated funds may be expended by a govern-

ment agency. Transfer orders shall be signed by the head of the requesting agency or a designee. Where officials are designed to sign, the General Services Administration (3FBP-W), Washington, DC 20407, shall be advised of designees by letter signed by the head of the agency concerned. No transfer order will be acted upon unless it is signed as provided herein.

(e) Transfer orders requesting the transfer of forfeited or voluntarily abandoned firearms shall set forth the need for the property by the requesting agency.

(f) Transfer orders requesting the transfer of reportable forfeited drug paraphernalia shall be submitted to the General Services Administration, Property Management Division (FBP), Washington, DC 20406, for approval. Transfers will not be approved unless the Standard Form 122 or other transfer document contains a certification that the paraphernalia will be used for law enforcement or educational purposes only.

(g) Any property transferred for official use under this subpart 101-48.1, with the exception of drug paraphernalia, shall thereupon lose its identity as forfeited or voluntarily abandoned property. When no longer required for official use, it shall be reported as excess in accordance with §101-43.304. Drug paraphernalia shall not lose its identity as forfeited property. When no longer required for official use, it shall be reported in accordance with §101-48.101-5(d)(7).

[42 FR 55813, Oct. 19, 1977, as amended at 56 FR 40261, Aug. 14, 1991]

§101-48.101-7 Reimbursement and costs incident to transfer.

(a) Reimbursement upon transfer of personal property forfeited or voluntarily abandoned other than by court decree shall be in accordance with §101-43.309-3.

(b) Reimbursement for judicially forfeited property shall be in accordance with provisions of the court decree.

(c) Commercial charges incurred at the time of and subsequent to forfeiture or voluntary abandonment but prior to transfer shall be borne by the transferee agency when billed by the commercial organization.