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 UTAH

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 UTAH, to set forth the terms and conditions with respect to Federal surplus property which is transferred to 8(a) Business Development (BD) Program Participants (Participants).

II. AUTHORITY:

a. The Small Business Act provides that eligible 8(a) BD Program Participants may receive Federal surplus property in accordance with 15 U.S.C. § 636(j)(13)(F).

b. SASPs may enter into cooperative agreements with Federal agencies designated by GSA in accordance with 40 U.S.C §549(f)(1)(D).

c. 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: Eligible Participants may obtain Federal surplus property from the SASP in the State(s) where the Participant is located and operates, provided the Participant represents and agrees in writing:

(1) That the intended use of the property is consistent with the objectives of the Participant's 8(a) business plan;

(2) That it will use the property to be acquired in the normal conduct of its business activities;

(3) That it will not sell or transfer the property to any party during its term of participation in the 8(a) BD Program and for one year after it leaves the 8(a) BD Program, unless it has received express written authorization to dispose from the SASP and GSA pursuant to 41 CFR §102-37.320.

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

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

(6) That should the Participant violate any of the paragraphs above, the

Participant will return the property to the donating SASP at the Participant's expense, or if the Participant has sold, transferred, or otherwise disposed of the acquired surplus property in violation of the agreement covering sale and disposal, the Participant 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.

(7) For Federal surplus property that is damaged or non-working that an 8(a) Participant received directly from a Federal agency and not picked up from a SASP location, the 8(a) Participant shall immediately contact the coordinating SASP's point of contact (POC) to return the property for a refund in accordance with the SASP's State Plan of Operation no later than 7 business days after receiving the property. NOTE: No service charge refund or credit will be allowed on returned property which was screened by the Participant directly at a Federal holding agency unless there is evidence of concealed damage or condition misrepresentation at the time of actual screening by the Participant. The final determination will be made by the SASP Program Administrator and favorable rulings will conform to the refund procedure of the SASP's State Plan of Operation.

(8) TITLE: Title to Federal surplus property other than an aircraft or vessel, as defined in 41 CFR 102, acquired from a SASP will pass to the Participant when the Participant executes the applicable SASP distribution documents and takes possession of the property. In all cases, regardless of title passage, the conditions of use, including sale and transfer restrictions, in Section III and compliance requirements in Section IV(c) still apply.

b. AIRCRAFT AND VESSELS:

(1) Terms and conditions of donations of aircraft and vessels, specified at 41 CFR 102-37.460 apply to donations of such items to 8(a) Participants 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. SBA's 8(a) BD Program Participants must have at least five years remaining in the 8(a) BD Program to be eligible for Aircraft or Vessel donations.

(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 Participant when the Participant 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 following conditions are met: (1) the Participant has placed the property in "USE" for five

years and (2) one year has passed since the Participant graduated from the SBA 8(a) BD Program. In all cases, regardless of title passage, the conditions of use, including sale and transfer restrictions, in Section III and compliance requirements in Section IV(c) still apply. (Title for combat configured aircraft never passes; therefore SBA, GSA, and the SASP will not approve any request for combat configured aircraft.)

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

d. 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: Assist in educating Participants on the availability of Federal surplus property and the terms, conditions, and limitations of use.

b. PROCEDURES AND VERIFICATION OF ELIGIBILITY: After the SASP has received the 8(a) Participant's certification of eligibility in accordance with 13 CFR 124.405(d), the SASP shall submit to the servicing SBA District Office Attachment 1, Property Request, to validate the eligibility of the 8(a) Participant for receipt of property. SBA will submit their written approval to the servicing SASP.

c. COMPLIANCE:

(1) SBA will periodically review whether Participants that have received Federal surplus property have used and maintained the property as agreed. This review may include site visits to visually inspect the property to ensure that it is being used in a manner consistent with the terms of its transfer. SBA shall utilize the SASP's quarterly inventory listing to report at the end of each fiscal year to GSA a consolidated list of all Federal surplus property items released to its 8(a) Participants. The list will include: the name of the 8(a) Participant and the donating SASP, the invoice number(s) and a description of the property, date of acquisition, and if the property has been disposed of. The list will be submitted to the Director of the Utilization and Donation Program Division, GSA Office of Personal Property Management.

(2) Where SBA receives credible information that transferred Federal surplus property may have been disposed of or otherwise used in a manner that is not consistent with the terms of the transfer, SBA may investigate such a claim to determine its validity.

(3) SBA may take any action to correct any noncompliance involving the use of transferred property still in possession of the Participant or to enforce any terms,

conditions, reservations, or restrictions imposed on the property by the distribution document. Actions to enforce compliance, or which may be taken as a result of noncompliance, include the following:

(i) Requiring that the property be placed in proper use within a specified time;
(ii) Requiring that the property be returned to the donating SASP;
(iii) Recovering the Fair Market Value of the property, as determined by GSA or the donating SASP, or the sale price of the property, whichever is greater; or
(iv) Initiating proceedings to terminate the Participant from the 8(a) BD Program.

(4) GSA will provide guidance and/or advice on Compliance-related issues when requested by SBA. GSA Points of Contact for assistance on Compliance-related issue are listed in Section VI(c) of this document.

V. THE SASP SHALL:

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

b. VERIFICATION OF ELIGIBILITY: Prior to allocating any property, the SASP shall have in its possession a determination from SBA that the Participant seeking to acquire the Federal surplus property is eligible and that the identified use of the property is consistent with the Participant's business plan objectives. A SASP may not release property to a Participant without this verification.

c. FEES: Charge Participants fees 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.

d. RECORDS: Maintain accurate records on all property transferred to Participants, including the acquisition value, fees, and the number of 8(a) Participants registered with the SASPs and provide such information to SBA's Office of Program Review quarterly, Attn: Randy Greene at randy.greene@sba.gov.

VI. POINTS OF CONTACT

a. SBA:

Sharon A. Gurley
sharon.gurley@sba.gov
202-205-7084
Director, Office of Program Review
Office of Business Development

b. GSA

Cynthia Gardiner
cynthia.gardiner@gsa.gov
703-605-2758
Director
Utilization and Donation Program Div.
Office of Personal Property Management

c. GSA POCs for Compliance Notification and Assistance

POC	Title	Areas of Oversight
Greg Flores greogry.flores@gsa.gov 312-209-0208	Program Specialist, Mid-Atlantic Zone	CT, DE, MA MD, ME, NH, NJ, NY, PA, PR, RI, VI, VT, VA, WV and DoD Vessels
Kevin Stallings kevin.stallings@gsa.gov 404-331-1110	U&D Chief, Southeast-Great Lakes Zone	AL, FL, GA, IN, IL, KY, MI, MN, MS, NC, OH, SC, TN, WI and Civilian Vessels
Lori Mars lori.marrs@gsa.gov 817-850-8148	U&D Chief, Southwest-Central Zone	AR, CO, KS, IA, LA, MO, MT, ND, NE, NM, OK, SD, TX, UT AND WY IA, KS, MO, NE, AR, LA, NM, OK, TX, CO, MT, ND, SD, UT, WY
Sandra Klar sandra.klar@gsa.gov 415-522-3041	U&D Chief, Pacific Rim Zone	AK, AS, AZ, CA, GU, HI, ID, MP, NV OR, WA and All Aircraft
Rickey Parker rick.parker@gsa.gov 202-619-8968	U&D Chief, National Capital Zone	Washington, DC

d. The SBA POC addressed above in Section VI will be the POCs for any compliance issues identified by GSA and SASPs where there is no response or indication of action by the SBA District Office.

VII. TERM:

This MOA will take effect as soon as SBA, GSA, and the SASP for the State of UTAH 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.

VIII. 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.

IX. 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 UTAH in writing, but the remaining provisions of this Agreement shall remain in force and effect unless otherwise noted.

X. 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.

9 JUL 2018

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

~~Ajoy Sinha~~ Sharon A. Gurley Date 30 July 2018
Acting Associate Administrator for
Government Contracting and
Business Development
U. S. Small Business Administration

July 17, 2018

Dan R Martinez Date
Director
State Agency for Surplus Property
State of UTAH

(ATTACHMENT 1): PROPERTY REQUEST

Verification by issuing SASP:

SASP APPROVAL _____ SASP APPROVAL DATE_____

ACCOUNT NO._____ 8(a) FIRM_____

DISTRICT OFFICE _____ 8(a) ADDRESS_____

Item No.	Description	NSN #	Serial/Vin #	Qty	Handling Fee	Adjusted Hand. Fee	Total Due	Acq $ Each	Total Acq Cost

- Firm is 8(a) active
- Firm will use the property in the normal conduct of its business activities
- That the intended use of the property is consistent with the objectives of the participant's 8(a) business plan
- Eligible Participants may obtain Federal surplus property from the SASP in the State where the Participant is located and operates
- The firm will not sell or transfer the property to any party during its term of participation in the 8(a) BD program and for one year after it leaves the 8(a) BD program
- The firm will use the property as intended within one year of receipt

SBA BOS APPROVAL* _____

* Please give this request priority by approving in (3) three business days.