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DEPARTMENT OF AGRICULTURE

7 CFR Chapter XXXII

RIN 0500-AA00

Office of Procurement and Property Management; Uniform Procedures for the Acquisition and Transfer of Excess Personal Property

AGENCY: Office of Procurement and Property Management.

ACTION: Final rule.

SUMMARY: The final rule sets forth uniform procedures for the acquisition and transfer of excess personal property to the 1890 Land Grant Institutions (including Tuskegee University), the 1994 Land Grant Institutions and the Hispanic-Serving Institutions in support of research, educational, technical, and scientific activities or for related programs as authorized by section 923 of the Federal Agriculture Improvement and Reform Act (FAIR) of 1996 (Pub. L. 104-127), 7 U.S.C. 2206a.

EFFECTIVE DATE: November 27, 1998.

FOR FURTHER INFORMATION CONTACT: Kathy Fay on 202-720-9779.

SUPPLEMENTARY INFORMATION:

I. Background

II. Analysis of comments

III. Procedural Requirements

- A. Executive Order Nos. 12866 and 12988.
- B. Regulatory Flexibility Act.
- C. Paperwork Reduction Act.
- D. Small Business Regulatory Enforcement Fairness Act.

IV Electronic Access Addresses

I. Background

The proposed rule was published in the **Federal Register** on January 23, 1998 (63 FR 3481). Three comments were received.

II. Analysis of comments

The General Services Administration (GSA) requested that Accountable Utilization Officer be changed to Area

Utilization Officer. GSA was unclear if the Department of Agriculture (USDA) would sign the Standard Form 122, Transfer Order Excess Personal Property as the approving office and forward the document to GSA for final approval. USDA will sign the SF-122 as the approving office and forward the document to GSA for final approval. GSA asked we note that where there are competing Federal requests for excess property, GSA gives a higher priority to those requests where title will be retained by the Federal Government. Changes have been made to section 3200.4 to clarify the rule and incorporate the GSA recommended addition. GSA also expressed concern about USDA's plan to conduct compliance checks. USDA intends to conduct scheduled compliance reviews on an annual basis to ensure that the property is being used for intended purposes, and has added additional language to section 3200.9 to so state.

The State of South Dakota, Federal Property Agency requested that we not transfer title of excess personal property to the 1890 Land Grant Institutions, (including Tuskegee University), 1994 Land Grant Institutions and Hispanic-Serving Institutions. The State of South Dakota, Federal Property Agency expressed concern that the transfer of title would prevent further return of the property to Federal surplus when no longer needed by an eligible institution. This would deprive other State, local and nonprofit agencies of potential future use of the property. USDA believes that transferring title of excess personal property to institutions for the most part located in economically disadvantaged rural and urban areas will improve research, educational, technical, and scientific activities and related programs and build capacity on the respective campuses. The State of South Dakota, Federal Property Agency is concerned about usable excess personal property being requested for purposes of cannibalization. The State of South Dakota, Federal Property Agency suggests excess personal property should be screened first for use of the property for its intended purpose. USDA notes that eligible institutions are required to submit a supporting statement with each excess personal property request to cannibalize. The supporting statement must justify clearly the cannibalization, and indicate

that cannibalizing the requested property for secondary use has a greater benefit than utilization of the item in its existing form. USDA has added a new subsection to 3200.6 to prohibit stockpiling of excess personal property, and note that requests for cannibalization normally are subordinate to requests for complete items.

The National Association of State Agencies for Surplus Property (NASASP) opposed the proposed rule out of concern that the transfer of title would have a negative effect on the amount of property available for the Federal surplus property donation program. USDA believes targeting institutions located for the most part in areas that are economically disadvantaged will improve their capacity in the areas of research, educational, technical, and scientific activities.

With respect to concern regarding accountability for the property and improper use for cannibalization purposes, USDA notes that eligible institutions violating the provisions of this part may face suspension and debarment under 7 CFR part 3017.

Additional, non-substantive stylistic changes also have been made.

III. Procedural Requirements

A. Executive Order Nos. 12866 and 12988

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB). The proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. The proposed rule meets the applicable standards in section 3 of Executive Order 12988.

B. Regulatory Flexibility Act

The Department of Agriculture certifies that this rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This certification is based on the fact that the regulation imposes no new requirements on small entities, and that any impact on the reduction of surplus property due to the transfer of title will be minimal because most property

returned to USDA by the institutions for surplus in the past has been unusable.

C. Paperwork Reduction

The information collection and record keeping requirements to implement these procedures have been cleared by the Office of Management and Budget (OMB), under 0505-0019, in accordance with the Paperwork Reduction Act., 44 U.S.C. 3500 *et seq.*

D. Small Business Regulatory Enforcement Fairness Act

This rule has been submitted to each House of Congress and the Comptroller General in accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801, *et seq.*

IV. Electronic Access Addresses.

You may send electronic mail (E-mail) to kathy.fay@usda.gov or contact us via fax at (202) 720-3747.

List of Subjects in 7 CFR Part 3200

Excess Government property, Government property, Government property management.

For the reasons set forth in the preamble, the Department of Agriculture establishes chapter XXXII of title 7 of the Code of Federal Regulations to read as follows:

CHAPTER XXXII—OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT, DEPARTMENT OF AGRICULTURE

Part 3200—Department of Agriculture guidelines for the acquisition and transfer of excess personal property.

3201—3299 [Reserved]

PART 3200—DEPARTMENT OF AGRICULTURE GUIDELINES FOR THE ACQUISITION AND TRANSFER OF EXCESS PERSONAL PROPERTY

Sec.

- 3200.1 Purpose.
- 3200.2 Eligibility.
- 3200.3 Definitions.
- 3200.4 Procedures.
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- 3200.7 Title.
- 3200.8 Costs.
- 3200.9 Accountability and record keeping.
- 3200.10 Disposal.
- 3200.11 Liabilities and losses.

Authority: 5 U.S.C. 301; 7 U.S.C. 2206a.

§ 3200.1 Purpose.

This Part sets forth the procedures to be utilized by Department of Agriculture (USDA) in the acquisition and transfer of excess property to the 1890 Land Grant Institutions (including Tuskegee

University), 1994 Land Grant Institutions, and the Hispanic-Serving Institutions in support of research, educational, technical, and scientific activities or for related programs as authorized by 7 U.S.C. 2206a. Title to the personal property shall pass to the institution.

§ 3200.2 Eligibility.

Institutions that are eligible to receive Federal excess personal property pursuant to the provisions of this part are the 1890 Land Grant Institutions (including Tuskegee University), 1994 Land Grant Institutions, and the Hispanic-Serving Institutions conducting research, educational, technical, and scientific activities or related programs.

§ 3200.3 Definitions.

(a) *1890 Land grant institutions*—any college or university eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 *et seq.*), including Tuskegee University.

(b) *1994 Land grant institutions*—any of the tribal colleges or universities as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note).

(c) *Hispanic-serving institutions*—institutions of higher education as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c (b)).

(d) *Property management officer*—is an authorized USDA or institution official responsible for property management.

(e) *Screener*—is an individual designated by an eligible institution and authorized by the General Services Administration (GSA) to visit property sites for the purpose of inspecting personal property intended for use by the institution.

(f) *Excess personal property*—is any personal property under the control of a Federal agency that is no longer needed.

(g) *Cannibalization*—is the dismantling of equipment for parts to repair or enhance other equipment.

§ 3200.4 Procedures.

(a) To receive information concerning the availability of Federal excess personal property, an eligible institution's property management officer may contact their regional GSA, Area Utilization Officer. All property management officers of eligible institutions will be placed on the USDA mailing list for information on the availability of property. USDA excess property will first be screened by USDA agencies through the Departmental

Excess Personal Property Coordinator (DEPPC) using the PMIS/PROP system.

(b) Excess property selected by screeners of eligible institutions should be inspected whenever possible, or the holding agency should be contacted to verify the condition of the items, because interpretation of condition codes varies among Federal agencies.

(c) If the condition of the item is acceptable, the institution should "freeze" (reserve) items by calling the appropriate GSA office or USDA Departmental Excess Personal Property Coordinator (DEPPC). Since GSA may have several "freezes" on a piece of equipment, it is critical that the paperwork be submitted as soon as possible. Further, while transfers of excess personal property normally will be approved by GSA on a first-come-first-serve basis, consideration will be given to such factors as national defense requirements, emergency needs, preclusion of new procurement, energy conservation, equitable distribution, and retention of title in the Government.

(d) Eligible institutions may submit property requests by mail or fax on a Standard Form 122, "Transfer Order Excess Personal Property," with a written justification statement (submitted by the recipient) explaining how the property will be used for research, educational, technical, or scientific activity or for related programs.

(e) The SF-122 should be signed by the eligible institution's property management officer or authorized designee.

(1) The following information should also be provided:

- (i) Date prepared.
- (ii) GSA/DEPPC address.
- (iii) Ordering Agency and address.
- (iv) Holding Agency and address.
- (v) Name and address of Institution.
- (vi) Location of property.
- (vii) Shipping instruction (including institution contact person and phone number).
- (viii) Complete description of property including original acquisition cost, serial number, condition code, and quantity.

(2) This statement needs to be added following the property description but does not serve as a justification statement:

The property requested hereon is certified to be used in support of research, educational, technical, and scientific activities or for related programs. This transfer is requested pursuant to the provisions of section 923 of Pub. L. 104-127 (7 U.S.C. 2206a).

(f) The SF-122 should be forwarded to USDA for approval and signature by an authorized USDA official. As

confirmation of approval, the eligible institution's property management officer will receive a stamped copy of the SF-122. If the request is disapproved, it will be returned to the property management officer of the eligible institution with an appropriate explanation. All USDA approved SF-122's will be forwarded to DEPPC or the appropriate GSA office for final approval.

(g) Once the excess personal property is physically received, the institution is required to immediately return a copy of the SF-122 to USDA indicating receipt of requested items. Cancellations should also be reported to USDA.

Note: USDA shall send an informational copy of all SF-122's transactions to GSA.

§ 3200.5 Dollar Limitation.

There is no dollar limitation on excess personal property obtained under these procedures.

§ 3200.6 Restrictions.

(a) The authorized USDA official will approve the transfer of excess personal property in the following groups for the 1890 Land Grant Institutions (including Tuskegee University), 1994 Land Grant Institutions and the Hispanic-Serving Institutions in support of research, educational, technical, and scientific activities or for related programs:

ELIGIBLE FEDERAL SUPPLY CODE GROUPS	
FSC group	Name
12	Fire Control Equipment.
19	Ships, Small Crafts, Pontoons, and Floating Docks.
22	Railway Equipment.
23	Vehicles, Motor Vehicles, Trailers and Cycles.
24	Tractors.
26	Tires and Tubes.
28	Engines, Turbines and Components.
29	Engine Accessories.
30	Mechanical Power Transmission Equipment.
31	Bearings.
32	Woodworking Machinery and Equipment.
34	Metal Working Machinery.
35	Service and Trade Equipment.
36	Special Industry Machinery.
37	Agricultural Machinery and Equipment.
38	Construction, Mining, Excavating, and Highway Maintenance Equipment.
39	Material Handling Equipment.
40	Rope, Cable, Chain, and Fittings.
41	Refrigeration, Air Conditioning and Air Circulating Equipment.

ELIGIBLE FEDERAL SUPPLY CODE GROUPS—Continued

FSC group	Name
42	Fire Fighting, Rescue, and Safety Equipment.
43	Pumps, Compressors.
44	Furnace, Steam Plant, and Drying.
45	Plumbing, Heating, and Sanitation Equipment; and Nuclear Reactors.
46	Water Purification and Sewage Treatment Equipment.
47	Pipe, Tubing, Hose, and Fittings.
49	Maintenance and Repair Shop Equipment.
51	Hand Tools.
52	Measuring Tools.
53	Hardware and Abrasives.
54	Prefabricated Structures and Scaffolding.
55	Lumber, Millwork, Plywood, and Veneer.
56	Construction and Building Materials.
58	Communication, Detection, and Coherent Radiation Equipment.
59	Electrical and Electronic Equipment Components.
60	Fiber Optics Materials, Components, Assemblies, and Accessories.
61	Electric Wire, and Power and Distribution Equipment.
62	Lighting Fixtures and Lamps.
63	Alarm, Signal, and Security Detection Systems.
65	Medical, Dental, and Veterinary Equipment and Supplies.
66	Instruments and Laboratory Equipment.
67	Photographic Equipment.
69	Training Aids and Devices.
70	General Purposes Automatic Data Processing Equipment (Including Firmware) Software, and Support Equipment.
71	Furniture.
72	Household and Commercial Furnishings and Appliances.
73	Food Preparation and Serving Equipment.
74	Office Machines, Text Processing Systems and Visible Record Equipment.
75	Office Supplies and Devices.
76	Books, Maps, and Other Publications.
77	Musical Instruments, Phonographs, and Home-type Radios.
78	Recreational and Athletic Equipment.
79	Cleaning Equipment and Supplies.
80	Brushes, Paints, Sealers, and Adhesives.
81	Containers, Packaging and Packing Supplies.

ELIGIBLE FEDERAL SUPPLY CODE GROUPS—Continued

FSC group	Name
83	Textiles, Leather, Furs, Apparel and Shoe Findings, Tents, and Flags.
84	Clothing, Individual Equipment and Insignia.
85	Toiletries.
87	Agricultural Supplies.
88	Live Animals.
91	Fuels, Lubricants, Oils and Waxes.
93	Nonmetallic Fabricated Materials.
94	Nonmetallic Crude Materials.
95	Metal Bars, Sheets, and Shapes.
96	Ores, Minerals and their Primary Products.
99	Miscellaneous.

Note to paragraph (a): Requests for items in Federal Supply Code Groups other than those listed in this paragraph shall be referred to the Director of OPPM for consideration and approval.

(b) Excess personal property may be transferred for the purpose of cannibalization, provided the eligible institution submits a supporting statement which clearly indicates that cannibalizing the requested property for secondary use has greater benefit than utilization of the item in its existing form.

(c) Use of the procedures in this part for the purpose of stockpiling of excess personal property for future cannibalization is prohibited. Transfer requests for the purpose of cannibalization will be considered, but are normally subordinate to requests for complete items.

§ 3200.7 Title.

Title to excess personal property obtained under Part 3200 will automatically pass to the 1890 Land Grant Institutions (including Tuskegee University), 1994 Land Grant Institutions, and the Hispanic-Serving Institutions once USDA receives the SF-122 indicating that the institution has received the property. **Note:** When competing Federal claims are made for particular items of excess personal property held by agencies other than USDA, with or without payment of reimbursement, GSA will give preference to the Federal agency that will retain title in the Government.

§ 3200.8 Costs.

Excess personal property obtained under this part is provided free of charge. However, the institution must pay all costs associated with packaging and transportation. The institution

should specify the method of shipment on the SF-122.

§ 3200.9 Accountability and record keeping.

USDA requires that Federal excess personal property received by an eligible institution pursuant to this part shall be placed into use for a research, educational, technical, or scientific activity, or for a related purpose, within 1 year of receipt of the property, and used for such purpose for at least 1 year thereafter. The institution's property management officer must establish and maintain accountable records identifying the property's location, description, utilization and value. To ensure that the excess personal property is being used for its intended purpose under this part, compliance reviews will be conducted by an authorized representative of USDA. The review will include site visit inspections of the property and the accountability and record keeping systems.

§ 3200.10 Disposal.

When the property is no longer needed by the institution, it may be used in support of other Federal projects or sold, and the proceeds used for research, educational, technical, and scientific activities, or for related programs of the recipient institution.

§ 3200.11 Liabilities and losses.

USDA assumes no liability with respect to accidents, bodily injury, illness, or any other damages or loss related to excess personal property transferred under this part.

PARTS 3201-3299—[RESERVED]

W. R. Ashworth,

Director, Office of Procurement and Property Management.

[FR Doc. 98-28542 Filed 10-26-98; 8:45 am]

BILLING CODE 3410-PA-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150-AF41

Financial Assurance Requirements for Decommissioning Nuclear Power Reactors; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final Rule: correction.

SUMMARY: This document corrects a final rule appearing in the **Federal Register** on September 22, 1998 (63 FR 50465), that amended the Nuclear

Regulatory Commission's regulations on financial assurance requirements for the decommissioning of nuclear power reactors. The action is necessary to correct an omission and typographical errors.

EFFECTIVE DATE: November 23, 1998.

FOR FURTHER INFORMATION CONTACT:

Brian J. Richter, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1978; e-mail: bjr@nrc.gov.

SUPPLEMENTARY INFORMATION:

§ 50.75 [Corrected]

1. On page 50481, first column, in § 50.75, in the first sentence of paragraph (e)(1)(i), the words "decommissioning costs." should be corrected to read "decommissioning costs at the time termination of operation is expected."

2. On page 50481, second column, in the sixth sentence of paragraph (e)(1)(ii), the words "these methods" should be corrected to read "this method."

3. On page 50482, first column, in the first sentence of paragraph (e)(1)(vi), the reference to "paragraphs (e)(1)(i)-(iv)" should be corrected to read "paragraphs (e)(1)(i) through (v)."

4. On page 50482, first column, in the second sentence of paragraph (f)(1), the reference to "paragraph (e)(1)(ii)(C)" should be corrected to read "paragraph (e)(1)(v)."

Dated at Rockville, Maryland, this 21st day of October, 1998.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 98-28710 Filed 10-26-98; 8:45 am]

BILLING CODE 7590-01-P

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

DEPARTMENT OF THE TREASURY

12 CFR Chapter XV, Parts 1502, 1503, 1505, 1506, 1507

Repeal of Thrift Depositor Protection Oversight Board's General Regulations and Transfer of Authority of Regulations Related to Resolution Funding Corporation to the Secretary of the Treasury

AGENCY: Thrift Depositor Protection Oversight Board and Department of the Treasury.

ACTION: Final rule.

SUMMARY: Pursuant to the Homeowners Protection Act of 1998, the Thrift

Depositor Protection Oversight Board (the Board) will be abolished on October 28, 1998. On that date authority of the Board related to the Resolution Funding Corporation (Refcorp) is transferred to the Secretary of the Treasury. This rule repeals regulations of the Board that will not be needed after the Board is abolished and designates remaining regulations as regulations of the Department of the Treasury.

EFFECTIVE DATE: October 28, 1998.

FOR FURTHER INFORMATION CONTACT:

Matthew Green, Office of Financial Institutions Policy, Department of the Treasury, (202) 622-2157.

SUPPLEMENTARY INFORMATION: The Board was established as the "Oversight Board," by section 21A(a)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(1)), as added by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"). The Board was renamed the "Thrift Depositor Protection Oversight Board" by the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Pub. L. 102-233, sec. 302(a), 105 Stat. 1761, 1767).

The Board's principal duty was to oversee the Resolution Trust Corporation ("RTC"), which also was established by FIRREA. The principal duty of the RTC was to manage and resolve failing and failed thrift institutions. The Board was also responsible for the general oversight of the Refcorp, which was established by FIRREA to fund the operations of RTC. To fund the RTC, Refcorp issued debt obligations, which will remain outstanding until they mature. Although the RTC was abolished on December 31, 1995, the Board has continued to carry out its other responsibilities, including those with respect to Refcorp.

To carry out its duties and responsibilities, the Board promulgated general regulations relating to the Freedom of Information Act, the Privacy Act, employee responsibilities and conduct, and contractors. These rules are found at 12 CFR Chapter XV, Subchapter A. The Board also promulgated rules relating to Refcorp and its debt obligations. These rules are found at 12 CFR Chapter XV, Subchapter B.

Because Refcorp will continue to exist until its debt obligations are retired section 14 of Public Law 105-215 transferred to the Secretary of the Treasury, effective October 28, 1998, the Board's authority and duties with respect to Refcorp (see sections 21A(a)(6)(I) and 21B of the Federal Home Loan Bank Act). Because Public Law 105-216 did not transfer to the