

Federal Management Regulation

§ 102-41.35

RESPONSIBILITY

§ 102-41.25 Who retains custody and is responsible for the reporting, care, and handling of property covered by this part?

You, the holding agency, normally retain physical custody of the property and are responsible for its care and handling pending final disposition. With the exception of property listed in § 102-41.35, you must report promptly to the GSA forfeited, voluntarily abandoned, or unclaimed personal property not being retained for official use and seized property on which proceedings for forfeiture by court decree are being started or have begun. In general, the procedures for reporting such property parallel those for reporting excess personal property under part 102-36 of this subchapter B.

§ 102-41.30 What is GSA's role in the disposition of property covered by this part?

(a) *Seized property subject to court proceedings for forfeiture.* (1) If the seizing agency files a request for the property for its official use, the GSA Region 3/ National Capital Region will apply to the court for an order to turn the property over to the agency should forfeiture be decreed. If no such request has been filed, GSA will determine whether retention of the property for Federal official use is in the Government's best interest, and, if so, will apply to the court to order delivery of the property to—

- (i) Any other Federal agency that requests it; or
- (ii) The seizing agency to be retained for a reasonable time in case the property may later become necessary to any agency for official use.

(2) In the event that the property is not ordered by competent authority to be forfeited to the United States, it may be returned to the claimant.

(b) *Forfeited, voluntarily abandoned, or unclaimed property.* When forfeited, voluntarily abandoned, or unclaimed property is reported to GSA for disposal, GSA will direct its disposition by—

- (1) Transfer to another Federal agency;
- (2) Donation to an eligible recipient, if the property is not needed by a Federal agency and there are no require-

ments for reimbursement to satisfy the claims of owners, lien holders, or other lawful claimants;

(3) Sale; or

(4) Abandonment and destruction in accordance with § 102-36.305 of this subchapter B.

§ 102-41.35 Do we report to GSA all seized personal property subject to judicial forfeiture as well as forfeited, voluntarily abandoned, or unclaimed personal property not retained for official use?

Yes, send GSA reports of excess (see § 102-36.125 of this subchapter B) for all seized personal property subject to judicial forfeiture as well as forfeited, voluntarily abandoned, or unclaimed personal property not required for official use, except the following, whose disposition is covered under other statutes and authorities:

(a) Forfeited firearms or munitions of war seized by the Department of Commerce and transferred to the Department of Defense (DOD) pursuant to 22 U.S.C. 401.

(b) Forfeited firearms directly transferable to DOD by law.

(c) Seeds, plants, or misbranded packages seized by the Department of Agriculture.

(d) Game animals and equipment (other than vessels, including cargo) seized by the Department of the Interior.

(e) Files of papers and undeliverable mail in the custody of the United States Postal Service.

(f) Articles in the custody of the Department of Commerce Patent and Trademark Office that are in violation of laws governing trademarks or patents.

(g) Unclaimed and voluntarily abandoned personal property subject to laws and regulations of the U.S. Customs and Border Protection, Department of Homeland Security.

(h) Property seized in payment of or as security for debts arising under the internal revenue laws.

(i) Lost, abandoned, or unclaimed personal property the Coast Guard or the military services are authorized to dispose of under 10 U.S.C. 2575.

(j) Property of deceased veterans left on a Government facility subject to 38 U.S.C. 8501.

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(k) Controlled substances reportable to the Drug Enforcement Administration, Department of Justice, Washington, DC 20537.

(l) Forfeited, condemned, or voluntarily abandoned tobacco, snuff, cigars, or cigarettes which, if offered for sale, will not 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 Federal Government for the use of present or former members of the military.

(m) Property determined appropriate for abandonment/destruction (see §102-36.305 of this subchapter B).

(n) Personal property where handling and disposal is governed by specific legislative authority notwithstanding Title 40 of the United States Code.

Subpart B—Seized or Forfeited Personal Property

§102-41.40 How is personal property forfeited?

Personal property that has been seized by a Federal agency may be forfeited through court decree (judicial forfeiture) or administratively forfeited if the agency has specific authority without going through the courts.

§102-41.45 May we place seized personal property into official use before the forfeiture process is completed?

No, property under seizure and pending forfeiture cannot be placed into official use until a final determination is made to vest title in the Government.

§102-41.50 May we retain forfeited personal property for official use?

Yes, you may retain for official use personal property forfeited to your agency, except for property you are required by law to sell. Retention of large sedans and limousines for official use is only authorized under the provisions of part 102-34 of this subchapter B. Except for the items noted in §102-41.35, report to GSA all forfeited personal property not being retained for official use.

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§102-41.55 Where do we send the reports for seized or forfeited personal property?

(a) Except for the items noted in paragraph (b) of this section, report seized or forfeited personal property not retained for official use to the General Services Administration, Property Management Branch (3FPD), Washington, DC 20407.

(b) Report aircraft, firearms, and vessels to the regional GSA Property Management Branch office specified in §102-36.125 of this subchapter B.

§102-41.60 Are there special requirements in reporting seized or forfeited personal property to GSA?

Yes, in addition to the information required in §102-36.235 of this subchapter B for reporting excess, you must indicate—

(a) Whether the property—

(1) Was forfeited in a judicial proceeding or administratively (without going through a court);

(2) Is subject to pending court proceedings for forfeiture, and, if so, the name of the defendant, the place and judicial district of the court from which the decree will be issued, and whether you wish to retain the property for official use;

(b) The report or case number under which the property is listed; and

(c) The existence or probability of a lien, or other accrued or accruing charges, and the amount involved.

§102-41.65 What happens to forfeited personal property that is transferred or retained for official use?

Except for drug paraphernalia (see §§102-41.210 through 102-41.235), forfeited personal property retained for official use or transferred to another Federal agency under this subpart loses its identity as forfeited property. When no longer required for official use, you must report it to GSA as excess for disposal in accordance with part 102-36 of this subchapter B. You must follow the additional provisions of subpart E of this part and part 101-42 of Chapter 101, Federal Property Management Regulations in this title when disposing of firearms, distilled spirits, wine, beer, and drug paraphernalia.