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COMPLIANCE IS MANDATORY

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Responsible Office: Logistics Management Division

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Chapter 6. Disposal of Foreign Property

6.1. Background

This chapter sets forth the authority and procedures for the disposing of NASA property located in foreign countries.

6.2. Federal Policy

6.2.1. The disposition of foreign personal property whether by utilization, transfer, sale, donation, abandonment, or destruction will conform to the foreign policy of the United States. So that the foreign policy of the United States may be effectively served in foreign countries, NASA foreign property disposal programs will be developed and conducted with the coordination and approval of the United States Diplomatic Mission in the country concerned.

6.2.2. Each NASA Center will be responsible for disposing of all NASA-owned personal property located in a foreign country that is no longer needed to fulfill Center's responsibilities.

6.2.3. The disposition of foreign property will be handled according to and conform to the foreign policy of the United States, including any limitations on the transfer of technology and certain types of property to specific countries. All dispositions of this property will comply with the United States and applicable foreign countries' export/import laws, regulations, and security or trade controls issued by the Congress, President, National Security Council, Council on International Economic Policy, Departments of Commerce, Defense, and State for export-control policy determinations.

6.2.4. No foreign property will be sold without a condition forbidding that its importation into the United States, unless the Secretary of Agriculture in the case of any agricultural commodity, food, or cotton or woolen goods, or Secretary of Commerce in the case of any other property, determines that the importation of such property would relieve domestic shortages or otherwise be beneficial to the economy of this country.

6.2.5. Each NASA Center shall develop local procedures to carry out the disposal of foreign excess property. Each NASA Center will ensure that a current version of any local implementing procedures or instructions are provided to the Manager, Warehousing and Disposal Programs, of the Logistics Management Office, NASA Headquarters.

6.3. Authority

6.3.1. These instructions are based on the authority for the disposal of foreign personal property as contained in the following:

- (1) 40 U.S.C. 511-514, Sections 401-404 of the Federal Property and Administrative Services Act of 1949, as amended.
- (2) 22 U.S.C. 2174 and 2357, Sections 214 and 607 of the Foreign Assistance Act of 1961, as amended.
- (3) 41 CFR Subpart 101-43.5, "Utilization of Foreign Excess Personal Property."
- (4) 41 CFR Subpart 101-44.3, "Donations of Foreign Excess Personal Property."
- (5) FAR Subsection 45.610-4, 48 CFR Subsection 45.610-4, and NFS Subsection 1845.610-4, 48 CFR Subsection 1845.610-4, "Contractor inventory in foreign countries."

6.4. Definitions

6.4.1. "Foreign Personal Property" means any personal property physically located outside the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

6.4.2. The "Trust Territory of the Pacific Islands" includes Palau and the former trust areas of the Federated States of Micronesia and the Marshall Islands.

6.5. Delegation of Authority

6.5.1. The Administrator has delegated authority to the Associate Administrator for Management Systems to approve policies, procedures, and any other matters related to the disposal of foreign personal property, subject to provisions of applicable laws and regulations.

6.5.2. The Assistant Administrator for Institutional and Corporate Management has redelegated authority to approve disposal of NASA-owned foreign personal property to the following NASA officials:

- (1) Director, Logistics Management Office, will issue the appropriate NASA policies and guidelines covering foreign disposal.
- (2) Directors of NASA Centers will ensure that the prescribed NASA policies and procedures are appropriately implemented.
- (3) Manager, NASA Resident Office, Jet Propulsion Laboratory, will ensure that the prescribed NASA policies and procedures are appropriately implemented.
- (4) Director, Headquarters Operations, NASA Headquarters, will ensure that the prescribed NASA policies and procedures are appropriately implemented.

6.5.3. No further redelegation may be made without the written approval of the Assistant Administrator for Institutional and Corporate Management. Any requests for further redelegation will be approved by the officials listed in section 6.5 above and submitted to the Director, Security, Logistics, Aircraft, and Industrial Relations Division, for concurrence and further submission to the Associate Administrator for Management Systems for final approval.

6.6. Sensitivity of Foreign Disposal

6.6.1. The foreign policy of the United States, including national security issues regarding, technology transfer controls or trade issues involving the United States and other countries' import and export controls, impacts the disposal of foreign property.

6.6.2. Due to the sensitive nature of disposing of foreign property, the officials to whom authority is delegated in section 6.5 above will ensure that the Manager, Warehousing and Disposal Programs, NASA Headquarters, is kept informed of proposed foreign property disposal actions, problems, or other matters related to the disposal of foreign property.

6.6.3. In some cases, this prescribed NASA disposal policy may be found to be in conflict with existing Department of State or NASA country-to-country agreements. Copies of any bilateral agreements should be provided to the Manager, Warehousing and Disposal Programs, NASA Headquarters, for review and approval of appropriate deviations to NASA disposal policy.

6.7. Potential Methods of Disposal

6.7.1. Whenever practical, and in the best interest of the Federal Government, disposal processing at a NASA Center in the United States will be conducted as normal exchange/sale or idle or excess personal property.

6.7.1.1. The NASA Center PDO should document and approve any decision to return foreign property to the United States for disposal processing.

6.7.1.2. Generally, this decision would take place after completion of all screening described in sections 6.9, 6.10, and 6.11 and it has been determined that the property should not be sold, abandoned, or destroyed in the foreign country of location.

6.7.2. The first potential method of disposal is NASA-approved utilization by NASA organizations, including NASA contractors or grantees located in the United States or a foreign country. For this type of disposal, the NASA Center PDO should approve the appropriate transfer documents. No further higher levels of concurrence or approval are required. Competing requests for the same item should not be approved on a first-come-first-served basis but, instead, be based on the least overall cost to the Federal Government. Consideration should be given to prevention of new procurement, transportation cost, packing cost, and retention of title to the property in the Federal Government. Assistance in deciding between similar requests may be referred to the Manager, Warehousing and Disposal Programs, NASA Headquarters.

6.7.3. The second potential method of disposal is NASA-approved transfer to another United States Federal agency in a foreign country for continued use or disposal processing.

6.7.3.1. Transfers for continued use by another U.S. Federal agency in a foreign country should not be approved until exclusive NASA-wide screening is completed. The NASA Center PDO should approve the Standard Form 122, Transfer Order. No further higher levels of concurrence or approval is required.

6.7.3.2. Competing requests, including requests for NASA use in the United States for the same item, should not be approved on a first-come-first-served basis but, instead, be based on the least overall cost to the Federal Government. Consideration should be given to prevention of new procurement, transportation cost, packing cost, and retention of title to the property in the Federal Government. Assistance in deciding between similar requests may be referred to the Manager, Warehousing and Disposal Programs, NASA Headquarters.

6.7.4. The third potential method of disposal is GSA-approved transfer to another U.S. Federal agency and return to the United States for use.

6.7.4.1. Transfers to another United States Federal agency and return to the United States for use should not be approved until exclusive NASA-wide screening is completed. The

GSA should approve the appropriate Standard Form 122, Transfer Order. No NASA levels of concurrence or approval are required.

6.7.4.2. As a matter of information, all direct costs involved in returning foreign property to the United States under the provisions of Federal Property Management Regulations 41 CFR 101-43.5, which are incurred by and billed to GSA from the point of origin to a GSA facility in the United States, shall be reimbursed by the transferee agency upon appropriate billing by the GSA. Direct costs include packing, handling, crating, and transportation.

6.7.5. The fourth potential method of disposal is GSA-approved transfer to an eligible donee and return to the United States for use.

6.7.5.1. In accordance with Federal Property Management Regulations 41 CFR 101-44.3, transfers to an eligible donee and return to the United States for use should not be approved until (a) exclusive NASA-wide screening, (b) theater area screening for United States Federal agencies in nearby foreign countries of 10 calendar days, and (c) other Federal agencies screening for return to the United States for use of 10 calendar days have been completed.

6.7.5.2. The Administrator of the GSA is authorized to make donations at his/her discretion for the purposes of this part. Unless otherwise authorized by GSA, personal property will not be released by NASA holding activities for donation, pursuant to this subpart until NASA has received Standard Form 123, Transfer Order Surplus Personal Property, bearing the signed approval of the appropriate GSA official. No NASA levels of concurrence or approval are required.

6.7.5.3. The State agency representative shall arrange for the shipment of personal property approved for donation and allocated by GSA to State agencies for distribution to an eligible donee. Upon request, handling, crating, and transportation services will be provided on a reimbursable basis.

6.7.5.4. As a matter of information, all transportation and direct costs incurred, incident to donation, including packing, handling, and crating, shall be borne by the State agency or the donee institution or organization receiving the property, including any costs incurred and billed by GSA or NASA. Care shall be exercised by the State agencies in the selection of property to ensure that it is economical to return the items to the United States for donation, giving full consideration to transportation and accessorial costs.

6.7.6. According to the Federal Property and Administrative Services Act, Title IV-Foreign Excess Property, section 491(c), NASA may approve the donation of medical materials or medical supplies only for use in any foreign country to nonprofit medical or health organizations, including those qualified to receive assistance under sections 214(b) and 607 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2174(b) and 2357.

6.7.6.1. The advice of the local representative of the Department of State will be obtained as to how donation of foreign property will be made to serve the U.S. foreign policy interests and objectives in the area. Local arrangements between representatives of the Department of State and NASA should be sufficiently flexible to permit advice covering donation of foreign property on a continuing basis, subject to periodic review as necessary, rather than on a case-by-case basis. The advice of the representative of the Department of State will be documented and given consideration in reaching a decision as to the recipient of the property to be donated.

6.7.6.2. Assistance in verifying information on the activities or organizations unknown or not familiar to the NASA Center concerned should be requested from the local representative of the Department of State or the Director, International Relations Division, Office of External Relations, NASA Headquarters.

6.7.6.3. The local American National Red Cross should be advised and offered, before donating to other agencies, property that can be readily identified as originally processed, produced, or donated by the American National Red Cross.

6.7.6.4. A request from the potential donee for the foreign property must be made in writing and contain, as a minimum, (a) a brief statement describing the activities of the organization or institution, (b) general information on the planned use of the requested property or the need and purpose of the property, and (c) a statement that the property will not be resold or put to use for any other purpose. The PDO should prepare a Standard Form 122, Transfer Order, and forward it from the NASA Center Director or other official referenced in section 6.5 to the Director, Security, Logistics, Aircraft, and Industrial Relations Division, who will then obtain the concurrence of the Director, International Relations Division, and return the documentation to the Center Director or other official referenced in Section 6.5 for final approval and execution.

6.7.6.5. Donations will be effected without cost to the U.S. Government.

6.7.7. The fifth potential method of disposal is sale with proceeds in U.S. currency or reduced to U.S. currency deposited into the U.S. Treasury as miscellaneous receipts.

6.7.7.1. Following NASA internal screening, other Federal agency screening, and donation screening, any remaining NASA-owned foreign personal property should be sold by competitive bid processes. The sale of NASA-owned foreign personal property will be conducted by (a) foreign service post, U.S. Department of State; (b) U.S. military installation; (c) Agency of a foreign government; (d) NASA. Whenever NASA-owned property is located in a foreign country, the PDO should establish plans for the potential future sale of the property.

6.7.7.2. The preferred sales method is to use the services and facilities of U.S. foreign service posts and U.S. military installations to sell NASA-owned foreign personal property whenever approved arrangements can be effected. NASA-owned foreign personal property may be provided to U.S. foreign service posts and military installations to sell immediately after NASA internal screening is completed, if the procedures ensure that appropriate screening for other Federal agencies and donation will be accomplished. Sales of NASA-owned foreign personal property by a U.S. foreign service post or U.S. military installation will be processed according to the directives and procedures of that installation.

6.7.7.3. The services and facilities of any agency of a foreign government country in which the foreign property is located will be used when an approved agreement or treaty exists between the U.S. Government and the foreign government concerned. Copies of any such agreements or treaties should be provided to the Manager, Warehousing and Disposal Programs, NASA Headquarters. To ensure compliance with U.S. foreign policy, including any limitations on the transfer of technology and certain types of property to specific countries, sale proposals of NASA-owned foreign personal property by any agency of a foreign government in the country in which the foreign property is located will be forwarded by the PDO to receive concurrence from (a) the appropriate U.S. foreign service post of the Department of State, (b) the Director, International Relations Division, NASA Headquarters, and (c) the Manager, Warehousing and Disposal Programs, NASA Headquarters. These sales proposals by foreign country agencies will include (a) copy of the approved finding for proposed sale; (b) designation and address of proposed seller; (c) name of activity and location of property to be sold; and (d) complete commercial description of the property to be sold including manufacturer, manufacturer date, quantity, condition, acquisition cost, features, capabilities, and country of origin.

6.7.7.4. Proposals for NASA, including NASA cost reimbursement contractors or grantees to conduct the sale of NASA-owned foreign personal property, will be prepared by the PDO and forwarded from the NASA Center Director or other official referenced in section 6.5 to the Director, Security, Logistics, Aircraft, and Industrial Relations Division, NASA Headquarters. The sale proposal will include (a) copy of the approved finding for proposed sale; (b) statement as to necessity for NASA to effect sale; (c) designation and address of proposed seller; (d) name of activity and location of property to be sold; and (e) complete commercial description of the property to be sold including manufacturer, manufacturer date, quantity, condition, acquisition cost, features, capabilities, and country of origin. The Manager, Warehousing and Disposal Programs, NASA Headquarters, will determine the method and conditions of sale and forward the proposal to the appropriate U.S. foreign

service post and the Director, International Relations Division, NASA Headquarters, for appropriate concurrence. Upon receipt of appropriate concurrence, the Director, Security, Logistics, Aircraft, and Industrial Relations, will approve and forward to the Director of the NASA Center or other appropriate individual designated in section 6.5, a sales kit consisting of specific instructions, required sales documents, and authority for the sale to be conducted.

6.7.8. The sixth potential method of disposal is NASA-approved abandonment, destruction or donation of foreign property that has no commercial value or the estimated cost of care and handling which would exceed the estimated proceeds from sale.

6.7.8.1. Normally, abandonment or destruction should not take place until it has been demonstrated in writing that the property has no utility for NASA or other Federal agencies, no donation potential to an eligible U.S. donee, and no sales value even as scrap. Property that is restricted from sales action by U.S. foreign policy, including technology transfer and property that is dangerous to public health or safety, should not be abandoned or destroyed without concurrence from the U.S. foreign service post on the actual abandonment or destruction processes to be used. The proposed abandonment or destruction may be documented by the PDO using NASA Form 812, Determination and Authorization to Abandon or Destroy Surplus Property. A public notice of the proposed abandonment or destruction will be given in the area that the property is located for at least 10 calendar days. The public notice will include a general description of the property, the date and location of the proposed abandonment or destruction, and an offer to donate the property to public bodies, or an offer to sell the property. Following the public notice period, the NASA Center Director or other official referenced in section 6.5 will forward the NASA Form 812 to the Director, Security, Logistics, Aircraft, and Industrial Relations Division, NASA Headquarters, for concurrence. The Director, Security, Logistics, Aircraft, and Industrial Relations Division, NASA Headquarters, will obtain the concurrence of the Director, International Relations Division, and return the documentation to the Center Director or other official referenced in section 6.5 for final approval and execution.

6.7.8.2. With the exceptions of NASA-owned property restricted by U.S. foreign policy, including technology transfer or property dangerous to public health and safety, NASA-owned personal property may be donated instead of taking abandonment or destruction actions to organizations listed below. Donations may be effected without cost to (a) any organization, institution or agency of any friendly foreign government or local subdivision thereof; and (b) any nonprofit scientific, literary, educational, public health, public welfare, charitable institution, any hospital or similar institution, organization or association in a friendly country, provided its activities are not adverse to the interests of the United States. Besides the NASA Form 812 required by section 6.7.8.1. above, the same documentation and approvals required in section 6.7.6.4. for donations of medical supplies will be prepared and obtained. Donations will be effected without cost to the U.S. Government.

6.7.9. The seventh potential method of disposal is any NASA-approved disposal by sale, exchange, lease, or transfer, for cash, credit, or other property with or without warranty, and upon such terms and conditions as the Director, Security, Logistics, Aircraft, and Industrial Relations Division deems appropriate. Any such proposal shall be documented by the PDO and forwarded by the NASA Center Director or other official referenced in section 6.5. to the Director, Security, Logistics, Aircraft, and Industrial Relations Division, NASA Headquarters, for concurrence. The Director, Security, Logistics, Aircraft, and Industrial Relations Division, will obtain the concurrence of the Director, International Relations Division, NASA Headquarters, and return the documentation to the Center Director or other official referenced in section 6.5 for final approval and execution.

6.7.10. The final potential disposal method is any NASA-approved disposal for foreign currencies or credits, or substantial benefits or the discharge of claims resulting from the compromise or settlement of such claims by NASA in accordance with the law, whenever the Director, Security, Logistics, Aircraft, and Industrial Relations Division, NASA Headquarters, finds to be most practical and advantageous to the Government. Any such proposal shall be documented by the PDO and forwarded by the NASA Center Director or

other official referenced in section 6.5 to the Director, Security, Logistics, Aircraft, and Industrial Relations Division, NASA Headquarters, for concurrence. The Director, Security, Logistics, Aircraft, and Industrial Relations Division, will obtain the concurrence of the Director, International Relations Division, NASA Headquarters, and return the documentation to the Center Director or other official referenced in Section 6.5 for final approval and execution.

6.8. Reporting Foreign Property for Disposal Processing

6.8.1. Idle or excess NASA-owned personal property located in foreign countries will be reported for disposal processing in the same manner as required for domestic property. Reference applicable NASA Center local procedures, Section 2.3., Turn in to NASA PDO, of this guideline, Federal Acquisition Regulations, 48 CFR 45.6, and NASA Federal Acquisition Regulations Supplement, 48 CFR 45.6, for specific details.

6.8.2. In order to determine proper disposition of the personal property, complete commercial descriptions, including features and capabilities are required. Depending on the final disposition of the property, it may be necessary to identify if an import license is involved for property shipped from the United States. Also, property manufactured or purchased in a foreign country must be identified since there may be import restrictions to the United States for use by NASA or other Federal agencies.

6.8.3. Under provisions of the Export Administration Act, the Department of Commerce regulations in Federal Property Management Regulation, 15 CFR, Chapter VII, Parts 770 through 779, and Department of Transportation regulations in Federal Property Management Regulations, 49 CFR, Chapter I, Part 173, may require more descriptive information and may determine if the personal property may be disposed of in the foreign country.

6.9. NASA Internal Screening of Foreign Property

6.9.1. NASA-owned property will undergo internal NASA-wide screening as follows:

(1) NASA internal agency screening will be 30 calendar days maximum. Additionally, this property will be screened via electronic method as an additional screening method.

(2) As permitted by the Federal Acquisition Regulations, 48 CFR 45.610-4, and NASA Federal Acquisition Regulations Supplement, 18 CFR 18-45.610-4, NASA hereby establishes a NASA internal screening period of 30 calendar days for all NASA-owned contractor inventory that is not purchased by or retained by the prime contractor or subcontractor or returned to suppliers, regardless of original acquisition cost or current condition code. Contractor inventory property will be listed on paper screening lists or approved inventory schedules and provided to all NASA PDO's to accomplish NASA-wide internal screening.

(3) All other NASA-owned property, not covered by paragraphs 6.9.1.1. and 6.9.1.2. above, will be screened NASA-wide for 30 calendar days by listing on a paper or electronic screening list distributed to all NASA PDO's.

6.10. Other Federal Agency Screening of Foreign Property

6.10.1. Other U. S. Federal agencies located in foreign countries should be encouraged to screen NASA foreign property concurrently during the initial 30-calendar-day internal NASA-wide screening period. However, no transfer to another U.S. Federal agency will be consummated until the internal exclusive NASA screening is completed. Following internal exclusive NASA-wide screening (30 calendar days), theater area (U.S. Federal agencies in nearby foreign countries) screening will be performed for 10 calendar days to make the property available for use in authorized Federal programs outside the United States.

6.10.2. Following the theater area screening period (10 calendar days), the property will be made available for 10 calendar days for return to the United States for use by other

Federal agencies.

6.10.2.1. GSA onsite representatives, located in designated overseas locations, will screen foreign property on behalf of Federal agencies for return and use in the United States.

6.10.2.2. The Manager, Warehousing and Disposal Programs, NASA Headquarters, can provide information on the current locations and geographical areas of responsibility for the GSA onsite representatives. The GSA onsite representatives should be mailed copies of the potential available NASA foreign property at the same time NASA-wide screening begins by the NASA PDO's.

6.10.3. All direct costs involved in returning foreign excess personal property to the United States for use by another Federal agency, which are incurred by and billed to the GSA from the point of origin to a GSA facility in the United States, shall be reimbursed by the transferee agency upon appropriate billing by GSA. Direct costs include packing, handling, crating, and transportation.

6.11. Donation Screening of Foreign Property

6.11.1. Following (a) internal exclusive NASA-wide screening (30 calendar days), (b) theater area (U. S. Federal agencies in nearby foreign countries) screening (10 calendar days), and (c) other Federal agencies screening for return to the United States for use (10 calendar days), any remaining NASA-owned foreign property will be made available for 10 calendar days for selection and return to the United States for donation.

6.11.2. To assist donation screening, GSA will provide State agency representatives with available advance information concerning available foreign property to the maximum extent possible.

6.11.3. To locate and select donable property, onsite representatives of State agencies duly accredited by GSA shall be permitted to screen the property.

6.12. Documentation of Disposal

The Center PDO will prepare a written case on all foreign excess property. A case will not be closed until approval is received by the PDO, approval by an official delegated authority in section 6.5 above, concurrence by NASA Headquarters, Director, International Relations Division, approval by the Director, Security, Logistics, Aircraft, and Industrial Relations Division, and the disposal is accomplished.

6.13. Records

Centers disposing of foreign excess property will maintain completely documented records of all disposal.

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