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**Law Enforcement Agency**

**North Carolina Department of Crime Control and Public Safety  
Law Enforcement Support Services (LESS) Division**

**1033 Excess Property Program  
MEMORANDUM OF AGREEMENT**

**PURPOSE:**

The Law Enforcement Support Services Division, Department of Crime Control and Public Safety, is designated as the state administering agency for North Carolina with respect to excess Department of Defense (DOD) personal property which is transferred pursuant to 10 U.S.C. §2576a (1033 Excess Property Program).

Within the Law Enforcement Support Services Division, a State Coordinator/State Point of Contact has been appointed with the specific management responsibility for the 1033 Excess Property Program. As such, the state coordinator shall adhere to all applicable state and federal rules and regulations established regarding this program and shall require the same of all participating law enforcement agencies (LEAs). The State Coordinator responsibilities include the review and approval of LEA applications; review and authorization of excess property requests; property search, requisition, transfer and disposal; record keeping and inventory management; and insuring LEA compliance with all regulations.

The purpose of this document is to set forth the plan of operation and terms and conditions which will be binding on the parties with respect to the 1033 Excess Property Program.

**AUTHORITY:**

The Secretary of Defense is authorized by 10 U.S.C. §2576a to transfer to federal and state agencies, personal property that is excess to the needs of the DOD and that the Secretary determines is suitable to be used by such agencies in law enforcement activities, with emphasis on counterdrug/counterterrorism activities, under such terms prescribed by the Secretary. The authorities granted to the Secretary of Defense have been delegated to the Defense Logistics Agency (DLA).

**TERMS AND CONDITIONS:**

- **Law Enforcement Agency (LEA) Eligibility Criteria:** Must be a “law enforcement activity” whose primary function is enforcement of applicable Federal, state and local laws as defined by the DLA regulation (this is referring to DLA Directive (DLAD) 4160.10 which will be superseded by the One Book) and whose

compensated officers have powers of arrest and apprehension. Property provided pursuant to the program shall be used for law enforcement purposes.

- **How to Enroll in the State 1033 Program:** The LEA must request enrollment via the State Coordinator and must provide a completed application/data sheet to the State Coordinator. If the enrollment request is approved by the State Coordinator, it will be forwarded to LESO. If approved by LESO, the State Coordinator will be contacted.
- **Identification/Acquisition/Transportation of Property:** LEAs secure needed property by submitting written requests and justifications for property to the State Coordinator who approves or denies the request. Requests are kept in a data base maintained by the office of the State Coordinator who screens property utilizing the electronic Defense Reutilization and Marketing Service (DRMS) website: [www.drms.dla.mil](http://www.drms.dla.mil) or by physically visiting DRMOs. Once property has been identified, DRMS Form 103 is completed and sent to LESO by the State Coordinator. If approved, it goes to Military Standard Requisitioning and Issue Procedures (MILSTRIP) or a manual DD Form 1348 is sent to the State Coordinator. It is the responsibility of the LEA to transport requested property to their location. Neither LESS nor DLA will fund the transportation cost.
- **Storage of Property:** LESS is authorized as a Transitional Distribution Center. AS such, LESS will hold property specifically designated for an LEA for 60 days. The LEA shall be responsible for pick up within 60 days of notification that the property is available. It shall be the responsibility of the LEA to store property received through the 1033 Program. After that time the property will be transferred to another LEA or returned to the DRMO at the expense of the LEA that originally requested the property.
- **Distribution of Property:** LESO and LESS will approve property request in the following priority: 1) counterdrug/counterterrorism and; 2) other law enforcement activities.
- **Security of Property:** It is the responsibility of the LEA to safeguard all property received through the 1033 Program. Should any property become lost due to theft, destruction or unauthorized sale/disposal, this information must be forwarded to the State Coordinator within seven (7) working days after the incident, if the property has a Demilitarization code of C, D, E, F, or G it must be reported within 24 hrs. The State Coordinator will contact LESO for additional guidance.
- **Accountability of Property:** LESS and each LEA must each maintain records for all property acquired through the 1033 Program. These records must provide an “audit trail” for individual items of property from receipt to distribution. These documents include, but are not limited to the following: DRMS Form 103 with all justifications or printouts of automated requests, DD Form 1348 (receipt and turn-in),

all disposal and transfer paperwork, approved Bureau of Alcohol, Tobacco and Firearms (ATF) Form 10s, Certificate of Aircraft Registration (AC Form 8050-3), Aircraft Registration Application (AC-Form 8050-1), and any pertinent paperwork through the LESO. The records maintained must also satisfy any and all pertinent requirements under its applicable State statutes and regulations for the program and this property.

- **File Retention:** Each LEA must institute a minimum of five (5) year file retention policy, maintaining an active file for two (2) years and inactive files for three (3) years. Files regarding DEMIL code B through Q, sensitive items and property valued at \$20,000 higher can never be destroyed and shall be maintained as active or inactive files.
- **Utilization of Property:** LEAs must place property received through the 1033 Program into service within one (1) year of receipt and the property must utilized for a minimum of one (1) year, unless its condition renders it unusable. If property is not placed in use within one (1) year of receipt, it must be transferred to another authorized agency, or returned to a DRMO. Property returns/turn-ins must be coordinated through the State Coordinator.
- **Transfer of Property:** LEAs must coordinate, in writing, the transfer of 1033 property through the State Coordinator. The State Coordinator will request final approval from the LESO. Property may be transferred within North Carolina or with other states as long as it is properly coordinated with the State Coordinator and LESO. If approved a “LESO transfer approval memo” will be sent to the State Coordinator. LEAs are encouraged to view the following links for more information:

WebFLIS

<https://www.dlis.dla.mil/webflis>

DEMIL Code definition

[http://www.dlis.dla.mil/demil/demil\\_codes.asp](http://www.dlis.dla.mil/demil/demil_codes.asp)

- **Disposal of Property:** LEAs must request approval, in writing, from their State Coordinator before **any** 1033 property is disposed of. Disposal shall be coordinated through the State Coordinator who will request final approval from LESO. If approved a “LESO disposal approval memo” will be sent to the State Coordinator. Only DEMIL codes A, and DEMIL Code Q with an Integrity Code of 6 may be approved for disposal. Items with DEMIL codes of C, B, D, E, F, G and all DEMIL Code Q with Integrity code of 3 must be transferred to an authorized agency or must be returned to a DRMO when no longer needed. Costs incurred for transfers, disposals or turn-ins will be borne by the LEA.

- LESO will provide turn-in documentation (DD Form 1348-1A). With few exceptions, the State Coordinator will be asked to coordinate the turn-in with a local DRMO. The State Coordinator informs LESO which DRMO has agreed to accept the turn-in. LESO will then provide turn-in documentation to the accepting DRMO. Upon receipt of the turn-in documentation, the LEA must return the property to the specified DRMO. The DRMO personnel receiving the materials will sign the turn-in document and give the LEA a copy of the signed receipt paperwork. This receipt paperwork must be maintained in the LEA's files and a copy of the receipt must be forwarded to the State Coordinator for their files. (see DOD 4160.21-M, Defense Material Disposition Manual; DOD 4160.21-M-1, Defense Demilitarization Manual; DRMS-I 4160.14, Volume VII for DEMIL rules).

### **LAW ENFORCEMENT AGENCY RESPONSIBILITIES:**

- a. Submit applications for participation to the 1033 program to the State Coordinator for approval.
- b. Submit written requests for property to the State Coordinator. Provide justification for all requisitions to the State Coordinator.
- c. Agrees to maintain, at no expense to the U.S. Government, adequate liability and property damage insurance coverage and worker's compensation insurance to cover any claims.
- d. Control and maintain accurate records on all property obtained under this program. These records must provide an "audit trail" for individual items of property from receipt to distribution. These documents include, but are not limited, to the following: DRMS Form 103 with all justifications or printouts of automated requests, DD Form 1348 (receipt and turn-in), all disposal and transfer paperwork, approved ATF Form 10s, Certificate of Aircraft Registration (AC Form 8050-3), Aircraft Registration Application (AC-Form 8050-1) and any pertinent paperwork through LESO. The records maintained must also satisfy any and all pertinent requirements under its applicable state statutes and regulations for the program and this property.
- e. Comply with the terms, conditions and limitations applicable to property transferred pursuant to this program.
- f. The following should be appointed by the LEA:

Property Accountable Officer (PAO) - full-time and/or part-time, sworn and/or non-sworn officers, responsible for all administrative aspects of property approval and management and for maintaining all accountable records for property received.

Property Requesting Officer (PR), (maximum of 2) - full-time and/or part-time, sworn and/or non-sworn officers, who are authorized to submit property requests to the State Coordinator.

In addition, a weapons POC full-time officer must be included in the application for participation for any LEA requesting weapons. An aircraft POC full-time officer must be included in the application for participation for any LEA requesting aircraft. The application will be sent by the state coordinator to LESO and any personnel changes must be updated immediately or whenever an update is requested.

- g. Assure that all environmentally regulated property handled, stored and disposed of in accordance with applicable federal, state and local environmental laws and regulations.
- h. Assure that all weapons are registered with the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives. See the Definitions section of the BATFE Form 10 for instructions, <http://www.atf.gov/forms/pdfs/f532010.pdf>. Recipients must comply with all applicable firearm laws and regulations. Report all stolen or unaccounted for weapons to LESO through the State Coordinator not later than twenty four (24) hours after the incident has occurred. All weapon transfers between LEAs must be approved by the LESO before it is completed. LEA must maintain an approved copy of the ATF Form 10 for all weapons received.
- i. Identify, in writing, to LESS and LESO each request that will be used in counterdrug/counterterrorism activities.
- j. LEAs enrolled in the state 1033 Program must review and maintain a current copy of the MOA. MOAs must be signed annually.
- k. LEAs must be aware of their responsibilities under the Single Audit Act of 1984, as amended (31 U.S.C. 7501-7).
- l. Conduct periodic reviews to include physical inventory/spot checks of actual property and related records. Ensure compliance with the terms of this MOA and appropriate regulations. LEAs shall fully cooperate with LESS as it conducts periodic reviews and compliance and inventory checks as well as other activities necessary for the proper management of the 1033 program.
- m. Obtain reconciliation reports from the State Coordinator and conduct monthly and annual reconciliations. Provide reconciliation results to the State Coordinator.
- n. Ensure serial/tail numbers are provided to the State Coordinator on items such as Peacekeepers/ Armored Personnel Carriers (APCs), Aircraft, Watercraft and Weapons.
- o. Conduct inventory reconciliations and provide inventory reconciliation results electronically to the State Coordinator within 10 working days of the monthly or annual reconciliation

process. Maintain a signed copy of all property reconciliation documentation received through the 1033 Program.

- p. Submit requests for property returns (turn-ins to a DRMO) to the State Coordinator. Costs of shipping or repossession of the property will be borne by the LEA.
- q. Submit disposal, transfer and inventory adjustment requests to the State Coordinator prior to any disposal, transfer or adjustments. Property shall not be sold, leased, cannibalized or lent.

**ADDITIONAL PROVISIONS:**

LEA accepts the transfer of property “as is” and without warranty of merchantability, fitness of any kind, express or implied. LEA acknowledges that there may be hazards associated with the use of the property which can cause damage to property or serious injury or death and agrees to provide appropriate training to any person who may use the property prior to such use. LEA acknowledges that neither LESS nor LESO can provide training on the use of equipment.

Neither the US Department of Defense, the North Carolina Department of Crime Control and Public Safety, nor any other agency or employee of the state of North Carolina, shall be liable for any damages or injuries to any person or property arising out of the use of the above described property. LEAs shall indemnify and hold harmless the United States Government, the State of North Carolina and any agency thereof, including Law Enforcement Support Services, any person acting as an employee of any of them, from any suits, actions, demands, or claims of any nature arising out of the use of the above-describe property.

The parties hereto have executed this agreement as of the last date written below.

\_\_\_\_\_  
State Coordinator Signature    DATE

\_\_\_\_\_  
LEA Chief Executive Signature    DATE

\_\_\_\_\_  
Type/Print Name

\_\_\_\_\_  
Type/Print Name, Title

\_\_\_\_\_  
Approving Authority Signature    DATE  
(Town Manager, Mayor, County  
Manager, County Commissioner, etc.)

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Type/Print Name, Title and Agency Name