

8(a) Business Development Program Federal Government Surplus Property

FREQUENTLY ASKED QUESTIONS

1. What is Surplus Property?

If a federal agency no longer has a need for personal property, it declares the property excess property, and the property is then made available to all other federal agencies. If no federal agency claims the excess property within a certain amount of time, it is declared surplus property.

2. Are 8(a) Participants Eligible to Receive Surplus Property?

The Small Business Act provides that eligible 8(a) Program participants are qualified to receive federal surplus property on a priority basis. 15 U.S.C. § 636(j)(13)(F).

3. How is Surplus Property Transferred to an 8(a) Participant?

Surplus property is transferred to an 8(a) participant by a State Agency for Surplus Property (SASP).

4. What is a SASP?

A SASP is a state agency responsible for distributing surplus property to eligible recipients, monitoring its use, and managing the future retention, transfer or disposal of the property, if appropriate.

5. Do 8(a) Participants Receive Any Special Priority From the SASP?

No. Participants may participate in the surplus property distribution program administered by the SASPs to the same extent, but with no special priority over, other authorized transferees.

6. How May Surplus Property Be Used?

Surplus Property must be used by the 8(a) participant in the course of conducting normal business operations, and may not be sold or transferred to any other party, including affiliates, until one year after the concern graduates from the 8(a) Business Development (8(a) BD) program identified in 15 U.S.C. § 636(j)(13)(F).

7. **How Can an 8(a) Participant Locate Surplus Property?**

An 8(a) participant can locate available surplus property by contacting the SASP in the state in which the participant's principal place of business is located.

8. **What Must a Participant Do to Acquire Federal Government Surplus Property?**

A Participant must certify in writing to the SASP that it is eligible to receive the property as outlined in 13 C.F.R. § 124.405(d)(2)(i); make the written representations and agreement required as stated in 13 C.F.R. § 124.405(d)(2)(ii); and identify to the SASP its servicing SBA field office. (See 13 C.F.R. § 124.405(d)(2)(iii)).

9. **What Must the Eligible Participant Agree to Do To Acquire Surplus Property?**

The Participant must agree that:

- a. It will use the property to be acquired in the normal conduct of its business activities or be liable for the fair rental value from the date of its receipt;
- b. It will not sell or transfer the property to any party other than the Federal Government during its term of participation in the 8(a) program and for one year after it leaves the program;
- c. It will, at its own expense, return the property to a SASP or transfer it to another participant if directed to do so by SBA because it has not used the property as intended within one year of receipt;
(See 13 C.F.R. § 124.105(c))

10. **Is the 8(a) Participant Required to Make the Property Available for Inspection?**

Yes. The 8(a) Participant must give SBA and the SASP access to inspect the property and all records pertaining to it.

11. **What Will the SASP Do When It Receives the Participant's Letter Requesting Surplus Property?**

The SASP must contact the appropriate SBA field office and obtain SBA's verification that the concern seeking to acquire the surplus property is eligible, and that the identified use of the property is consistent with the concern's business activities.

12. **Who is Not Eligible to Receive Surplus Property?**

Participants that have been suspended or terminated from the 8(a) BD Program, or that are proposed for termination, suspension, or graduation; and Participants that are debarred or suspended under the Federal Acquisition Regulation (FAR).

13. **What Happens After the Servicing District Office Has Verified That a Participant is Eligible to Receive the Identified Surplus Property?**

The SASP and the Participant must agree on and record the fair market value of the surplus property at the time of the transfer to the participant. The SASP must provide to SBA a written record, including the agreed upon fair market value, of each transaction to a Participant when any property has been transferred. (See 13 C.F.R. §124.405(4)).

14. **When Does the Participant Take Title to Acquire Surplus Property?**

The title to surplus property acquired from a SASP will pass to the Participant when the Participant executes the applicable SASP distribution documents and takes possession of the property.

15. **What Is the Servicing District Office's Role after Property Has Been Transferred?**

SBA will periodically review whether Participants that have received 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.

16. **What Should the Servicing District Office Do If a Firm Sells or Disposes of Property in Violation of the Applicable Terms and Conditions?**

If a participant sells or disposes of property in violation of the applicable terms and conditions, the servicing District Office must immediately contact the SASP. In addition, it may:

- a. Direct the concern to deliver the property to another Participant or to the SASP from which it was acquired.
- b. Initiate proceedings to recover the fair market value of the property at the time of transfer, or the sale price, whichever is greater, of the property sold or transferred.
- c. Initiate proceedings to terminate the participant from the 8(a) BD Program.

21. **What happens to any Funds SBA Receives as a Result of the Participant's Misuse or Unauthorized Sale of Surplus Property?**

Any funds SBA receives as a result of the participant's misuse or unauthorized sale of surplus property must be remitted to the United States Treasury as miscellaneous receipts.

22. **Who Do I Contact if I Have Any Questions?**

Please contact Randy Greene, Program Analyst Office of Business Development at (202) 205-7353.