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Supply

**EXCHANGE, SALE, OR TEMPORARY
CUSTODY OF NONEXCESS PERSONAL
PROPERTY**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This instruction implements AFD 23-1, *Requirements and Stockage of Materiel*, and AFD 23-5, *Reusing and Disposing of Materiel*, by providing guidance and procedures for making nonexcess personal property available to programs authorized by legislation. Requirements contained in this instruction are derived from the Federal Property and Administrative Services Act of 1949, as amended, Title 40, United States Code, Section 471, and Department of Defense (DoD) 4140.1-R, DoD Materiel Management Regulation. This instruction does not apply to agreements to provide government furnished materiel (GFM) under a Federal Acquisition Regulation (FAR) government contract, grant, or cooperative agreement. It applies to all Air Force activities and the Air National Guard and US Air Force Reserve units or members. Notify HQ USAF/ILSP should this instruction conflict with other Air Force instructions or directives. HQ USAF/ILSP will review and approve all supplements prior to distribution.

This is the initial publication of AFI 23-119. It contains five sections: Each addressing a distinct program for supplying nonexcess personal property to non-Federal activities. **Section A** contains policy and procedures for making replenishment spare parts available to domestic business concerns for design replication or modification. **Section B**, **Section C**, and **Section D** contain supply responsibilities and procedures for providing materiel to programs implemented by Scientific/Research and Development (61 series) and Contracting (64 series) publications. **Section E** identifies supply responsibilities for implementing leases to friendly foreign governments.

Title 40 U.S.C. establishes responsibility and accountability for government property. All USAF personnel will use, manage, and protect government property IAW AFI 23-111. Government personal property or equipment will not be sold, loaned, exchanged, donated, leased, or otherwise disposed of unless specifically authorized by law or regulation. The following sections address supply policy for making nonexcess personal property available to programs authorized by law.

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Section A—Replenishment Parts Purchase or Borrow Program (RPPOB)

1. Program Objective:

1.1. The objectives of the Air Force RPPOB are to:

- 1.1.1. Permit domestic businesses to examine, borrow, or buy Air Force-managed replenishment parts for design replication or modification,
- 1.1.2. Develop new producers for items having limited sources, and
- 1.1.3. Reduce replenishment parts costs through competition and product simplification.

2. Authority. Public Law 98-525, Defense Procurement Reform Act of 1984, Defense

Acquisition Regulation Supplement (DFARS) Appendix E, *DoD Spare Parts Breakout Program*, DoDD 5230.25, *Withholding of Unclassified Technical Data from Public Disclosure*, DOD 4140.57, *DOD Replenishment Parts Purchase or Borrow Program*, and AFI 63-301, *Air Force Competition and Commercial Advocacy*.

3. Policy.

3.1. Sample parts shall be made available to domestic contractors when it is in the best interests of the Government and all other requirements of DoDD 4140.57 and this instruction are met.

3.2. The Air Force item management (IM) activity is the final authority for determining materiel availability and releasing materiel to support requests from potential suppliers for sample items and shall approve materiel release only when all of the following criteria are met:

- 3.2.1. The item has limited sources of supply because it lacks the technical data package (TDP), has an incomplete TDP, or a TDP containing limited rights data.
- 3.2.2. The item has an annual buy requirement in excess of \$10,000.
- 3.2.3. Lease or sale of the item will not deplete or adversely impact the asset position.
- 3.2.4. DFARS Appendix E economic evaluation projects potential life cycle cost savings in excess of costs of making the item available.
- 3.2.5. The item is not classified and will not disclose military or space applications technology as a result of developing the TDP.
- 3.2.6. There is a high probability of subsequent acquisition.
- 3.2.7. There are no other restrictions imposed by law or regulations.

3.3. The IM shall limit sample parts quantities to the minimum required to meet program objectives and shall establish controls to prevent exploitative ordering.

3.4. In order to reduce Air Force administrative and management costs, to the extent possible, IM activities shall give preference to sales in lieu of lease or inspection.

3.4.1. A warranted contracting officer shall execute all sales.

3.4.2. Pricing shall comply with the provisions of DoD 7000.14-R.

3.5. If sale is not possible, a lease agreement ([Attachment 2](#)) shall be prepared.

3.5.1. A warranted contracting officer shall execute all lease agreements.

3.5.2. Leases shall be assessed costs in accordance with DoD 7000.14-R.

3.5.3. Leased parts shall not be subjected to destruction or irreversible disassembly.

3.5.4. Leased parts shall not be provided to potential suppliers unless such parts can be re-inspected and validated by the Government.

3.6. If neither sale nor lease is possible, potential suppliers may inspect parts for the purpose of familiarization in Air Force designated display areas.

3.7. Requests for sample parts must:

3.7.1. Be in writing from only domestic business concerns.

3.7.2. State the intent of the purchase/lease (modification and/or replication) and subsequent sale of replenishment parts to the Air Force.

3.7.3. Identify the national stock number (NSN) of the item desired.

3.7.4. Specify the improvement to be offered by a proposed modification.

3.7.5. Specify the duration of time the item will be leased when requesting lease.

3.8. Sales, lease, and inspection agreements shall include all of the following statements:

3.8.1. Materiel or information received under the RPPOB is intended solely for the purpose of meeting US Government requirements.

3.8.2. Retransfer of the parts or technical data to other parties or firms within the United States or to foreign parties, firms, or governments is not authorized.

3.8.3. Approval of the contracting officer is required prior to the sale to a non-US government entity of any item produced from parts or data acquired under the RPPOB.

4. Responsibilities.

4.1. The purchaser/lessee:

4.1.1. Must not be currently debarred, suspended, or otherwise prohibited from engaging in government procurement.

4.1.2. Shall demonstrate to the Air Force their ability to replicate the part and to comply with established performance, quality reliability, testing, and inspection standards.

4.1.3. Must furnish information, at a minimum, to include company location, facility size, primary type of business, years in business, prior year's gross sales, in addition to the written request (See [3.7.](#)).

- 4.1.4. Submit reimbursement as required by the lease.
- 4.2. The Air Force Materiel Command activity responsible for source development in coordination with the Competition Advocate's office shall:
 - 4.2.1. Identify candidate items for the RPPOB.
 - 4.2.2. Encourage contractors to participate.
 - 4.2.3. Be the single point of contact with prospective purchaser/borrowers and receive all RPPOB requests.
 - 4.2.4. Verify the purchaser/lessee is not debarred, suspended or otherwise prohibited from engaging in government procurement.
 - 4.2.5. Submit RPPOB requests to the IM activity for review and approval
 - 4.2.6. Ensure program sales and lease agreements are executed only by warranted contracting officers and only after the IM activity furnishes approval and information required by Exhibits A and B ([Attachment 2](#)).
 - 4.2.7. Ensure the purchaser/borrower/inspector complies with the terms and conditions of the agreement.
 - 4.2.8. Shall accept reimbursement from the purchaser/borrower and provide a fund cite number to the appropriate ALC finance office.
 - 4.2.9. Designate a display area for viewing the asset when the IM activity determines asset position prevents sale or lease of the item.
- 4.3. Item managers shall:
 - 4.3.1. Review RPPOB program requests.
 - 4.3.2. Coordinate with materiel management engineering representatives to determine if all required item criteria (See [3.2.](#)) are met.
 - 4.3.3. Notify the Competition Advocate the request is approved or disapproved.
 - 4.3.4. Provide justification for all disapprovals identifying the criteria (See [3.2.](#)) that were not met.
 - 4.3.5. Complete Exhibits A and B ([Attachment 2](#)) for inclusion in contracting's sales file for all approved item sales.
 - 4.3.6. Complete Exhibits A and B for inclusion in the lease agreement ([Attachment 2](#)) for all items approved for lease and provide to the appropriate system program manager/logistics officer.
 - 4.3.7. Ensure the appropriate system program manager/logistics officer completes [Section B](#) of Exhibit B ([Attachment 2](#)) and forwards the exhibits to the contracting officer.
 - 4.3.8. Release sold/leased items to the buyer/lessee only after receiving a copy of the sales/lease agreement from Contracting.
 - 4.3.9. Establish a suspense file to ensure timely return of items released for lease or inspection.
 - 4.3.10. Notify the appropriate contracting officer when items are not returned in the condition or by the date required by the applicable agreement.

Section B—Lease of Nonexcess Personal Property to Domestic Business Concerns:

5. Objective. This section contains supply policy and procedures for giving temporary custody of non-excess personal property to authorized domestic nongovernment organizations and law enforcement activities. Nonexcess personal property lease policy is in AFI 64-103. Provisions for lease of resources to law enforcement agencies outside of the Federal government are in AFI 10-801.

6. Authority. Title 10 of the United States Code (U.S.C.) Section 2667, authorizes the military services to lease real and personal property to domestic corporations and other nongovernmental concerns when it is advantageous to the United States. 10 U.S.C. 2667 does not apply to government contracts managed under FAR procedures.

7. Policy.

7.1. SAF/AQ may authorize leases of nonexcess personal property to domestic nongovernmental organizations under terms and conditions as SAF/AQ determines will promote national defense and be in the public interest.

7.2. Nonexcess personal property considered for leasing must be on the property accounts of the leasing activity (i.e. operational command for aircraft, laboratory for nonstocklisted assets, and wholesale inventory manager for spares and support equipment).

7.3. In accordance with 10 U.S.C. 2667, excess property shall not be leased.

7.3.1. HQ USAF/XPPE will determine whether aircraft are excess based on screening procedures contained in AFI 16-402 and AFMAN 23-110, Volume 6.

7.3.2. The IM activity will determine whether spares and support equipment is excess based on policy in AFI 23-501 and AFMAN 23-110, Volume 1.

7.4. Personal property cited in the lease shall be released to domestic business or other authorized nongovernmental concerns only after the appropriate contracting officer has signed the lease, and controls are established to ensure return of the property at the end of the lease period.

7.5. Notwithstanding any other provisions of the lease, the government shall not be required to provide to the lessee any spare/repair parts or support services.

7.6. Lessees are not authorized to requisition materiel from the DoD supply system unless there is independent legal authority for such access to DoD supplies.

7.7. A suspense system will be established to ensure timely and complete return of leased personal property.

7.8. The title for leased personal property shall remain with the Air Force.

7.9. All lease agreements must be revocable by the government at any time that it is considered to be in the best interest of the Air Force.

7.10. The lease must promote National Defense, or be in the general public interest.7.11. Leases involving only personal property, exceeding one year duration, and a fair market value of \$100,000, shall use competitive procedures and be reported to Congress at least 45 days prior to selection of the lessee.

8. Responsibilities.

8.1. SAF/AQCP:

- 8.1.1. Receives, reviews, and authorizes proposed leases in accordance with AFI 64-103 policy.
- 8.1.2. Implements reporting requirements and reports leases and leasing data as required by regulatory and legislative requirements

8.2. AFMC:

- 8.2.1. Evaluates proposed leases and determines whether assets are available by completing a lease impact assessment ([Attachment 3](#)).
- 8.2.2. Establishes the fair market value of personal property proposed for leasing and notifies SAF/AQCP when the value meets competition and congressional notification requirements established in 10 U.S.C. 2667.
- 8.2.3. Once SAF/AQCP authorizes a lease, assigns a unique lease control number to each lease.

8.3. A warranted contracting officer at the ALC, test center, or laboratory having accountability and custody of the leased property shall:

- 8.3.1. Negotiate and sign the lease after receiving SAF/AQ approval.
- 8.3.2. Maintain copies of all leases.
- 8.3.3. Accomplish any required lease reporting.
- 8.3.4. Review and control leased property to ensure compliance with the requirements of paragraph [7.4.](#) through [7.7.](#)

8.4. The ALC Item Manager shall:

- 8.4.1. Maintain accountability for leased support equipment and spares release from wholesale stocks.
- 8.4.2. Maintain a consolidated master file of all leased personal property, both centrally procured and base funded.
- 8.4.3. Periodically review the active file to resolve unsatisfactory conditions, such as, the need to recall short supply or critical items on lease; retrieval of items not returned by required date, etc.
- 8.4.4. Notify the contracting officer of the requirement to recall leased assets needed to relieve critical asset shortage conditions.
- 8.4.5. Ensure CFO reporting for all leased items above the reportable threshold.

8.5. The cognizant contracting office shall:

- 8.5.1. Ensure warranted contracting officers execute lease agreements required by AFI 64-103.
- 8.5.2. Notify the lessee when leases terminate.
- 8.5.3. Ensure billings for items provided by the government to the lessee are on an actual cost basis plus packing, crating, handling, and transportation (PCH&T) charges and for any other charges

8.6. The lessee shall:

- 8.6.1. Obtain commercial support for the leased property.
- 8.6.2. Reimburse the government for leased property in accordance with lease terms.
- 8.6.3. Reimburse the government for the cost incurred for PCH&T in connection with the delivery of the property and return of assets to the government.
- 8.6.4. Ensure leased property is returned in accordance with the lease provisions.

Section C—Exchange or Sale (Exchange/sale) of Nonexcess Personal Property Concurrent with an Acquisition

9. Program Objective. Exchange/sales authority: (See DoD 7000.14-R, Volume 2A, Chapter 1, Paragraph 010210.)

- 9.1. Permits the Air Force to reduce funding requirements when acquiring replacement personal property by applying the exchange allowance or sales proceeds from property being replaced to the acquisition of similar replacement property.
- 9.2. Enables agencies to avoid the costs associated with holding and processing property through the normal disposal cycle.
- 9.3. Enables the Air Force to retain exchange allowances or sales proceeds in lieu of having disposal sales proceeds sent to the miscellaneous receipts account at the U.S. Treasury.

10. General Guidance.

- 10.1. This section provides procedures for implementing DoD Materiel Management Regulation, DOD 4140.1-R, authority to apply the exchange or sales proceeds from eligible nonexcess items when acquiring replacement items.
- 10.2. All exchanges/sales will comply with these procedures, DOD 4140.1-R, Section 6.2. If the AF acquires personal property using both Government personal property and appropriated funds as consideration, the acquisition must also comply with DFARS 217.7000.
- 10.3. Nonexcess personal property may be sold/exchanged only after a determination that the personal property:
 - 10.3.1. Is still needed to perform missions/duties,
 - 10.3.2. Does not adequately perform all of the tasks for which it was procured and used,
 - 10.3.3. Was not originally acquired for the purpose of conducting an exchange, and
 - 10.3.4. Isn't in a prohibited federal supply class.
- 10.4. The System Program Director (SPD) for major end items and the managing DoD Integrated Manager/Inventory Control Point (ICP) for secondary items determine whether centrally managed eligible nonexcess items qualify for exchange/sale.
- 10.5. SPDs will coordinate proposed end item exchanges or sales with the ICPs managing installed components/parts.

10.6. Bases, Air Force Reserve, and Air National Guard units may use exchange/sales provisions when procuring like replacement items for eligible noncentrally managed items and for centrally managed items when prior approval is obtained from the managing ICP.

10.7. All centrally managed items must be reported to the appropriate ICP for disposition determination in accordance with existing supply policy in AFI 23-501.

10.8. Prior to contracting for replacement property, the holding activity will contact Federal Agencies known to use or distribute similar property to determine if an agency wants the property by means of a reimbursable transfer. The price negotiated must not be greater than the best estimate of what would have been received in a sale or exchange.

10.9. Prior to contracting for replacement property, a determination will be made of which method – exchange or sale – will provide the greater return to the Government. This determination will become part of the contract file. When estimating the return under each method, all administrative and overhead costs will be considered. If the exchange allowance or estimated sales proceeds for property would be unreasonably low, property will be turned in for disposal in accordance with existing supply policies.

10.10. Proceeds from exchange/sale of nonexcess materiel may only be used to acquire materiel that is similar to the materiel exchanged/sold. (See DoD 7000.14-R, Volume 2A, Chapter 1, Paragraph 010210.)

10.11. Property acquired must be authorized for an approved program.

10.12. The number of items exchanged/sold must be equal to the number of items acquired unless:

10.12.1. The item(s) acquired perform all or substantially all the tasks for which the item(s) being replaced would be used.

10.12.2. The item(s) acquired and the items exchanged/ sold are parts of or containers for identical or similar end items.

10.13. Materiel with demilitarization codes other than Code A, B, or Q must be demilitarized in accordance with DoD 4160.21-M-1, Defense Demilitarization and Trade Security Controls Manual, and other applicable regulations.

10.14. Prior to exchange or sale for items with demilitarization codes other than A, the contracting officer will obtain End Use Certificates from the successful bidder.

10.15. This authority does not permit sale or exchange of:

10.15.1. Centrally managed materiel between bases and ANG or AFR units, MAJCOMs, or Services except through an ICP unless authorized in writing by the ICP.

10.15.2. Any item in the following Federal Supply Classes (FSCs) and Federal Supply Groups (FSGs):

10 Weapons

11 Nuclear ordnance

12 Fire control equipment

14 Guided missiles

- 15 Aircraft and airframe structural components (except FSC 1560 Airframe Structural Components)
 - Firefighting, rescue, and safety equipment.
 - 44 Nuclear reactors (FSC class 4472 only).
 - 51 Hand tools
 - 54 Prefabricated structure and scaffolding
 - 68 Chemicals and chemical products, except medicinal chemicals
 - 71 Furniture
 - 84 Clothing, individual equipment, and insignia
- 10.15.3. Materials in the National Defense Stockpile (50 U.S.C. *et. seq.*) or the Defense Production Act inventory (50 U.S.C. App. 2093).
- 10.15.4. Nuclear Regulatory Commission-controlled materiel unless the requirements of 41 CFR 101-42.1102-4 and other applicable regulations are met.
- 10.15.5. Controlled substances and hazardous materials unless the requirements of 41 CFR 101-42 and other applicable regulations are met.
- 10.15.6. Scrap materials, except in the case of scrap gold for fine gold.
- 10.15.7. Property that was originally acquired as excess or forfeited property or from another source other than new procurement, unless such property has been in official use by the acquiring agency for at least 1 year.
- 10.15.8. Property that is dangerous to public health or safety without first rendering such property innocuous or providing for adequate safeguards as part of the exchange/sale.
- 10.15.9. Combat materiel without demilitarizing it in accordance with applicable regulations.
- 10.15.10. Aircraft parts, unless the AF complies with the additional requirements of 41 CFR 101-37, which impose additional requirements based upon whether the part is airworthy, flight safety critical, at its life limits and salvageable.
- 10.16. Bases, ANG, and AFR units may not sell or exchange:
- 10.16.1. Materiel that requires demilitarization
 - 10.16.2. Any item in the following FSCs/FSGs:
 - 13 Ammunition
 - 1560 Airframe Structural Components
 - 16 Aircraft Parts
 - 1720 Aircraft Launching Equipment
 - 2350 Combat, Assault, and Tactical Vehicles
- 10.16.3. Flight Safety Critical Aircraft Parts, Nuclear Regulatory Commission-controlled materials, Controlled substances, or any item with a Controlled Inventory Item Code other than U, J, V,

W, X, Y, Z. (The appropriate ICPs or PMs may sell/exchange these items as permitted by and under the conditions outlined in the Federal Management Regulation (FMR) (41 CFR Subpart 101-46.3) and all other applicable DoD and Air Force policies and regulations.

10.17. This authority may not be used to acquire:

10.17.1. Unauthorized replacement property.

10.17.2. Replacement property which violates:

10.17.2.1. Any restriction on procurement of a commodity or commodities, or

10.17.2.2. Any replacement policy or standard prescribed by the President, Congress, or the Administrator of General Services, or

10.17.2.3. Any contractual obligation.

10.18. This authority is not applicable to Foreign Military Sales (FMS).

11. Responsibilities:

11.1. Each base and ANG or AFR unit will maintain data for all property exchanged or sold when acquiring replacement property. Units will record sales and exchanges by fiscal year and retain records for five years as prescribed in AFMAN 37-139. Each acquisition transaction will include: FSC, NSN, noun, number of items sold/exchanged, original acquisition cost, number of items acquired, exchange allowance or sales proceeds, and source from which the property was originally acquired, i.e., new procurement, excess, forfeiture, or other source. These data, aggregated at the MAJCOM level, may be requested by HQ USAF to evaluate use of the exchange/sale authority.

11.2. MAJCOMs and DRUs shall ensure bases/organizations establish management controls to ensure, as a minimum, that:

11.2.1. Provisions of DoD 4160.21-M-1, Defense Demilitarization Manual, are observed and that materiel is rendered safe or innocuous prior to sale/exchange,

11.2.2. All sales/exchanges are documented as required by this AFI,

11.2.3. Proceeds obtained from sale/exchanges are applied to the purchase of similar replacement items in accordance with DoD guidance and 41 CFR 101-46.3, Exchange/Sale Methods,,

11.2.4. Items sold are not excess,

11.2.5. Items acquired are needed for approved programs,

11.2.6. Items excluded by DoD policy or the FMR are not sold/exchanged, and

11.2.7. Any exchange/sales not clearly meeting all legal and regulatory requirements are referred through command legal channels for review and approval. GSA general counsel is the final approval authority for questionable exchanges/sales.

11.3. Contracting activities will:

11.3.1. Comply with DFARS 217.70 when acquiring personal property when both Government personal property and appropriated funds are provided as consideration.

11.3.2. Ensure acquisitions employing exchange/sales provisions are conducted by warranted contracting officers and reviewed by their legal office prior to award.

11.3.3. Ensure sales are conducted using the methods, terms, conditions of sale and forms prescribed in the FMR (41 CFR Subpart 101-45.3, Sale of Personal Property). (NOTE: Negotiated sales of surplus personal property prescribed in Sec. 101-45.304-2(a) of the FMR are not applicable to the sale of property being replaced.)

11.3.4. Maintain the contract file for each acquisition employing exchange/sale for five years. Each file will contain:

11.3.4.1. A "determination of economic advantage" paper describing the anticipated economic advantage to the Government.

11.3.4.2. Certification that the net proceeds were applied against the payment for the new, similar item and identification of the replacement item. This certification will be established at the time of the sale or exchange or when the replacement item is acquired, whichever is first.

11.3.4.3. A statement that the sold or exchanged item was made safe before it was released.

11.3.4.4. Demilitarization Certification or End Use Certification when required by DoD 4160.21-M-1.

11.4. Waivers:

11.4.1. Requests for deviation to these rules must be routed through the appropriate MAJCOM HQ, HQ AFMC/LGI, and forwarded to the Office of the Deputy Chief of Staff, Installations and Logistics, HQ USAF/ILSP, Washington, DC 20330-1030. Requests must include economic justification that demonstrates proposed deviation is for the benefit of the U.S. Government.

11.4.2. Requirements established by statute, such as, that exchanged/sold property may not be excess and that acquired property must be similar to the property exchanged/sold, cannot be waived.

11.4.3. Requests for exception to demilitarization or trade security requirements must be routed through the Air Force Demilitarization Program Manager, HQ AFMC/LGI, and DLSC/LC to DUSD(L) for approval.

Section D—Domestic Technology Transfer Programs

Cooperative Research and Development Agreements (CRADAs)

12. Program Objective. The Federal Technology Transfer Act of 1986 authorized CRADAs as a means to help improve the way Federal agencies transfer commercially useful technologies to the private sector. This section provides guidance for Air Force activities to provide temporary custody of Air Force property to CRADA applicants.

13. Authority. CRADAs between laboratories and applicants (collaborators) are authorized by 15 U.S.C. 3710a. DoD policy in DoDD 5535.3, May 21, 1999, DoD Domestic Technology Transfer (T2) Program, and procedures in DoDI 5535.8, May 14, 1999, DoD Technology Transfer (T2) Program, provide overarching guidance for CRADAs. AFI 61-302, July 26, 1994, establishes AF policy and procedures for executing CRADAs.

14. General Guidance.

14.1. A military-use CRADA is an agreement between a DoD laboratory and/or technical activity and an industrial partner to utilize existing unique capabilities and facilities at the DoD laboratory in a product or process intended primarily for DoD or other military use. A "laboratory" means any facility or group of facilities that is owned, leased, or otherwise used by DoD and funded by the Government, whether operated by the Government or by a contractor.

14.2. Under a CRADA the laboratory/technical activity may provide personnel, services, facilities, equipment, or other resources with or without reimbursement, but not funds to the non-Federal party.

14.3. The non-Federal party may provide funds, personnel, services, facilities, equipment, and other resources toward the conduct of specific R&D efforts that are consistent with the missions of the laboratory.

14.4. A CRADA, as provided in 15 U.S.C. § 3710(d), is not a procurement contract or a cooperative agreement as Section 6303 et seq. of Title 31 of the United States Code uses these terms. FAR procedures shall not be used in providing materiel to CRADA collaborators.

14.5. The Air Force shall not make monetary payments to the collaborating party under a CRADA.

14.6. Equipment, maintenance or other sustainment support shall not be provided for the laboratory equipment furnished by the CRADA.

15. Responsibilities:

15.1. The head of the laboratory shall:

15.1.1. Determine which laboratory property is suitable and available for temporary and exclusive use by a CRADA collaborator.

15.1.2. Ensure property is nonexcess, but not for the time needed by DoD, by screening within the DoD laboratory/scientific community to determine whether there are other immediate government requirements for the property.

15.1.3. Ensure proper controls are applied to prevent unauthorized release of property having environmental regulations, U.S. Department of State or Commerce export license restrictions, demilitarization requirements or trade and security control risks.

15.1.4. Ensure property provided by custodial transfer is managed in accordance with procedures in AFI 61-301.

15.1.5. Ensure leased property is managed in accordance with procedures in AFI 64-103.

15.1.6. Ensure the laboratory retains title/accountability for property provided to collaborators, accomplishes required CFO reporting, and ensures, after termination or expiration of the agreement/lease, that property is returned in the condition in which it was provided, normal wear and tear excepted.

15.1.7. Ensure all reporting is accomplished as required by DoDI 5535.8.

15.2. The laboratory supply activity shall:

15.2.1. Use the federal catalog (FED LOG) to obtain item characteristics for stock-listed property to identify items requiring controls.

15.2.2. Obtain item characteristics/controls data from the manufacturer for nonstock-listed property.

15.2.3. Contact the Defense Logistics Information System (DLIS) Demilitarization Coding Management Office (DCMO), Battle Creek, MI, to obtain assistance identifying security and trade control requirements for property being considered for lease or custodial transfer under a CRADA.

15.2.4. Ensure property is not released to the collaborator until the CRADA document is formalized and the laboratory director, or his representative, has authorized release of the property.

15.2.5. Maintain accountable records, accomplish CFO reporting, and inspect the property upon return by the collaborator.

15.3. Air Force inventory control points (ICP) will normally not be involved in educational partnership property transactions since the property is laboratory-owned and on the laboratory's accountable records. Requests for ICP involvement in CRADA property transactions will be referred to HQ AFMC/LGIA.

Educational Partnerships

16. Program Objective. The educational partnership is a vehicle whereby Air Force laboratories undertake joint tasks with educational institutions for the purpose of encouraging and enhancing study in scientific disciplines of interest to the Air Force. Such partnership agreements provide educational institutions access to laboratory resources (laboratory equipment, personnel, facilities, etc.) and provide a unique opportunity for students to work on projects and equipment not otherwise available within the educational institution. This section provides guidance for Air Force activities to authorize the use of Air Force property in conjunction with an educational partnership agreement.

17. Authority. 10 U.S.C. 2194 authorizes the Secretary of Defense to allow defense laboratories to enter into one or more educational partnership agreements and to transfer excess laboratory equipment to participating educational institutions at all levels of education. 15 U.S.C. 3710(i), commonly known as the Stevenson-Wydler Technology Innovation Act, also provides transfer authority for a laboratory, agency, or department to donate excess research equipment to educational institutions and non-profit organizations for technical, scientific education, and research activities. DoD policy in DoDD 5535.3, May 21, 1999, *DoD Domestic Technology Transfer (T2) Program*, and procedures in DoDI 5535.8, May 14, 1999, *DoD Technology Transfer (T2) Program*, provide overarching guidance for these partnerships. AFI 61-301 and AFI 61-302 provide implementing procedures. .

18. General Guidance.

18.1. Property shall be made available to public and private schools and nonprofit educational institutions located in the U.S. by means of a lease, custodial transfer agreement or donation agreement.

18.1.1. Property provided by custodial transfer agreement or lease shall be nonexcess.

18.1.2. If property is surplus, it may be provided by donation in accordance with DoD 4160.21-M.

19. Responsibilities .

19.1. The head of the laboratory shall:

- 19.1.1. Determine which laboratory property is suitable for custodial transfer, lease, or donation.
- 19.1.2. Ensure property is screened within the DoD laboratory/scientific community to determine whether there are other government requirements for the property.
- 19.1.3. Ensure proper controls are applied to prevent unauthorized release of property having environmental regulations, U.S. Department of State or Commerce export license restrictions, demilitarization requirements or trade and security control risks.
- 19.1.4. Ensure nonexcess property provided by custodial transfer is managed in accordance with procedures in AFI 61-301.
- 19.1.5. Ensure leased nonexcess property is managed in accordance with procedures in AFI 64-103.
- 19.1.6. Ensure the laboratory retains title/accountability for property provided through custodial transfer or lease, accomplish required CFO reporting, and, after termination or expiration of the agreement/lease, that property is returned in the condition in which it was provided, normal wear and tear excepted.
- 19.1.7. Ensure all reporting is accomplished as required by DoDI 5535.8.

19.2. The laboratory supply activity shall:

- 19.2.1. Use the federal catalog (FED LOG) to obtain item characteristics for stock-listed property to identify items requiring controls.
- 19.2.2. Obtain item characteristics/controls data from the manufacturer for nonstock-listed property.
- 19.2.3. Contact the Defense Logistics Information System (DLIS) Demilitarization Coding Management Office (DCMO), Battle Creek, MI, to obtain assistance identifying security and trade control requirements for property being considered for lease, donation, or custodial transfer under an educational partnership agreement.
- 19.2.4. Ensure donated property is properly documented and removed from the laboratory's accountable records.
- 19.2.5. Ensure property is not released to the educational activity until the educational partnership agreement is formalized and the laboratory director, or his representative, has authorized release of the property.

19.3. Air Force inventory control points will normally not be involved in educational partnership property transactions since the property is laboratory-owned and on the laboratory's accountable records. Requests for ICP involvement in CRADA property transactions will be referred to HQ AFMC/LGIA.

Section E—Lease of Nonexcess Personal Property to Friendly Foreign Governments

20. Objective. This section contains supply policy and procedures for giving temporary custody of non-excess personal property to authorized foreign governments. Policy and procedures for lease of nonexcess

personal property to friendly foreign governments are contained in the Security Assistance Management Manual (SAMM), Chapter 12 and AFI 16-101, Chapter 7.

21. Authority.

21.1. The Arms Export Control Act (AECA), Chapter 6, Section 61, prescribes authority for lease of defense articles to foreign countries or international organizations.

22. General Guidance.

22.1. Only nonexcess property, that is not for the time needed for public use, is eligible to be leased. Property must be on the property accounts of the leasing activity and needed for future mission requirements (i.e. operational command for aircraft, laboratory for nonstocklisted assets, and wholesale inventory manager for spares and support equipment). Retail activities shall not lease centrally-managed spares and support equipment.

22.2. Excess property shall not be leased.

22.2.1. HQ USAF/XPPE will determine whether aircraft are excess based on screening procedures contained in AFI 16-402 and AFMAN 23-110, Volume 6.

22.2.2. The IM will determine whether spares and support equipment is excess based on policy in AFI 23-501 and AFMAN 23-110, Volume 1.

22.3. Property already offered for sale through an FMS letter of offer and acceptance (LOA) is not eligible for leasing.

22.4. Air Force activities:

22.4.1. Shall not provide information about property to a potential lessee until the Director, Defense Security Cooperation Agency (DSCA) has approved leasing as an available option.

22.4.2. Shall release leased property to a lessee only after SAF/IA issues an international program directive.

22.5. Prior written approval of SAF/IA, HQ USAF/ILS, SAF/FMB, and SAF/GC is required for all leases to foreign governments or international organizations, regardless of dollar value or duration.

22.6. Leases of USAF equipment to foreign governments may be made only to particular governments eligible for Security Assistance.

22.7. Lease pricing and reimbursements shall be in accordance with DoD 7000.14-R.

22.8. Accessorial charges for costs associated with the lease (i.e. packing, crating, handling, and transportation (PCH&T)) shall be assessed against a FMS case.

23. Responsibilities.

23.1. SAF/IA:

23.1.1. Writes all leases of Air Force property to foreign governments and international organizations and manages them in the Defense Security Assistance Management System (DSAMS).

23.1.2. Obtains availability and cost data from the cognizant Air Force system program director, laboratory director, or inventory control point.

23.1.3. Coordinates lease and determination documents with HQ USAF/ILS, SAF/FMB, and SAF/GC prior to sending to DSCA for approval.

23.1.4. Reports data to DSCA for all USAF leases to foreign countries and international organizations IAW DoD 5105.38-M.

23.2. AFMC/AFSAC:

23.2.1. Receives international program directives from SAF/IA.

23.2.2. Writes and implements supporting cases to pay for PCH&T and other reimbursable costs associated with the lease.

23.3. The applicable System Program Director, item manager, or laboratory supply personnel:

23.3.1. Determine PCH&T charges and submit them to the appropriate financial office for billing action.

23.3.2. Establish a control system to ensure leased items are returned at the projected lease termination date.

23.3.3. Upon lease termination, inspect the leased property for condition and ensure reimbursement is obtained for damage or loss of property.

MICHAEL E. ZETTLER, Lt General, USAF
DCS/Installations & Logistics

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

Federal Property and Administrative Services Act of 1949, as amended, *Title 40, United States Code, Section 471*

Public Law 98-525, *Defense Procurement Reform Act of 1984, October 19, 1984*

Title 10 of the United States Code (U.S.C.) Section 2667, *Leases: Non-excess Property*

Defense Acquisition Regulation Supplement (DFARS) Number 6, *DoD Spare Parts Breakout Program*

DoD 4140.1-R, *DoD Materiel Management Regulation, May 20, 1998*

DoDD 4140.57, *DoD Replenishment Parts Purchase or Borrow Program, April 13, 1987*

DoD 4160.21-M, *Defense Materiel Disposition Manual, August 18, 1997*

DoD 5105.38-M, *Security Assistance Management Manual, January 18, 2001*

DoDD 5230.25, *Withholding of Unclassified Technical Data From Public Disclosure, November 6, 1984*

DoDD 5535.3, *DoD Domestic Technology Transfer (T2) Program, May 21, 1999*

DoDI 5535.8, *DoD Technology Transfer (T2) Program, May 14, 1999*

DoD 7000.14-R, *DoD Financial Management Regulation, Volume 4, January 4, 2001, and Volume 11A, October 25, 2000*

AFI 10-801, *Assistance to Civilian Law Enforcement Agencies*

AFI 16-402, *Aerospace Vehicle Programming, Assignment, Distribution, Accounting, and Termination*

AFPD 23-1, *Requirements and Stockage of Materiel*

AFPD 23-5, *Reusing and Disposing of Materiel*

AFI 23-111, *Management of Government Property in Possession of the Air Force*

AFI 23-501, *Retaining and Transferring Materiel*

AFMAN 23-110, Volume 1, Part 1, *Basic Air Force Supply Procedures*

AFMAN 23-110, Volume 6, *Excess and Surplus Personal Property*

AFI 63-301, *Air Force Competition and Commercial Advocacy.*

AFI 64-103, *Leasing USAF Aircraft and Related Equipment to Nongovernmental Organizations*

Terms

Accountability—The obligation imposed by law or regulation on an individual to keep accurate property records.

Acquire—To procure or otherwise obtain personal property, including by lease.

Annual Buy Quantity—The forecast quantity of an item required for the next 12 months.

Annual Buy Requirement—The annual buy quantity multiplied by its unit price.

Centrally Managed Item—Any item that is assigned an Acquisition Advice Code of other than G (GSA managed), L (local purchase), T (Condemned), V (Terminal) or Y (Terminal).

Competition—A contract action where the government solicits two or more responsible sources, acting independently, to satisfy the government's requirement. Leases involving only personal property, exceeding one year duration, and a fair market value of \$100,000, shall use competitive procedures and be reported to Congress at least 45 days prior to selection of the lessee.

Custodial Transfer—Temporary conveyance of the right to possess and use property to a lessee or other recipient under a lease or other legal agreement. Title to the property remains on the accountable records of the conveying activity.

Determination and Finding—A document prepared by a contracting activity to justify a proposed lease arrangement, which must be staffed and approved by SAF/AQ before the lease may be negotiated and signed.

Excess property—Property under the control of the Air Force that is no longer needed to support Air Force missions. Authority for making excess determinations is contained in AFI 23-501.

Exchange/Sale—To exchange or sell non-excess personal property and apply the exchange allowance or sale proceeds in whole or in part payment for the acquisition of similar property.

Lease (To Domestic Business Concerns/Law Enforcement Agencies, 10 U.S.C. 2667)—A contract granting use of personal property for a fixed period of time in exchange for monetary consideration. The government retains title to the property. Lessee provides payment as required by the legal authority cited in the lease.

Lease (To Foreign Governments or International Organizations, AECA, Chapter 6)—An agreement for temporary transfer, with or without a rental charge, of the right of possession and use of a defense article to a foreign military sales (FMS) eligible foreign government or international organization, with the transferee agreeing to maintain, protect, repair, or restore the article, under authority of Chapter 6, the Arms Export and Control Act (AECA).

Lease (Replenishment Parts Purchase of Borrow Program, 10 U.S.C. 2320(d))—An agreement to provide replenishment parts on a temporary basis to business concerns for the purpose of design replication. Also, referred to in DoDD 4140.57 as "bailment". The government retains legal title to such material even though the borrowing agency has possession during the stated period. Lessee provides payment as required by the legal authority cited in the lease.

Loan—Temporary conveyance for a fixed period of time of property to a lessee or other recipient under a lease or other legal agreement. Title to the property remains on the accountable records of the conveying activity. Lessee provides payment in cash or kind as required by the legal authority cited in the lease or other legal agreement.

Nonexcess property—Property under the control of the Air Force which continues to be required for its needs and the discharge of its responsibilities, but which is for the time not needed. Nonexcess property must be on the account of the Air Force sponsor prior to execution of the CRADA or educational partnership lease.

Personal Property—Property of any kind or of any interest except real property and records of the Federal Government.

Replenishment Part—A part, repairable or consumable, purchased after provisioning of that part for: replacement; replenishment of stock; or use in the maintenance, overhaul, and repair of equipment such as aircraft, engines, ships, tanks, vehicles, guns and missiles, ground communications and electronic systems, ground support, and test equipment. Except when distinction is necessary, the term "part" includes subassemblies, components, and subsystems as defined by the current version of MILSTD 280.

Reverse Engineering—A process by which parts are examined and analyzed to determine how they were manufactured, for the purpose of developing a complete technical data package.

Similar Items—

Items which:

- Are identical; or
- Are designed or constructed for the same function; or
- Both constitute parts or containers for identical or similar end items; or
- Both fall within the same Federal Supply Classification (FSC) Group.

Temporary Custody—Physical possession of materiel for a limited and defined period of time. Temporary custody must be documented in a written agreement that cites the legal or regulatory authority for giving temporary custody. Title does not transfer to the possessing activity, but remains with the accountable owner.

Attachment 2

**(APPLIES TO SECTION A)
SAMPLE LEASE AGREEMENT
DEPARTMENT OF THE AIR FORCE
REPLENISHMENT PARTS
LEASE NUMBER ____**

Whereas, the Air Force, hereinafter referred to as “Bailer” or “Government”, under the authority of 10 U.S.C. d 2320 (d) and Department of Defense Directive (DoDD) 4140.57, DoD Replenishment Parts Purchase or Borrow Program, desires to grant to _____, Company, a domestic business organized and incorporated under the laws of the state of _____, hereinafter referred to as “Borrower,” a lease for the use of certain parts, hereinafter referred to as “the Property”; and

Whereas, the Property is more particularly described in Exhibit A, attached hereto and incorporated herein; and

Whereas, the Property is to be used by the Borrower for the purpose of design replication or modification in the submission of subsequent offers to sell the same or like parts to the United States; and

Whereas, Bailer has determined that this lease is in the best interests of the Government, having considered national security requirements, inventory needs, and the probability of future purchases of the Property by the Bailer,

Now therefore, the Bailer hereby grants the Property to the Borrower, subject to all terms and conditions contained herein.

THIS LEASE is granted subject to the following conditions.

1. Parties. The Bailer and the Borrower, when referred to together, are hereinafter referred to as the “Parties.”

2. Term. This lease shall be effective when signed by all the Parties and the consideration has been tendered. It shall remain effective for a period of thirty (30) days, unless sooner revoked or terminated by the Bailer. At the end the thirty days, the lease may, at the request of the Borrower and at the discretion of the Bailer, be renewed for an additional thirty-day period. The Borrower shall submit a written request to the Bailer if an extension is requested.

3. Consideration. The Borrower shall pay the Bailer \$ _____, which costs have been assessed in accordance with the *Department of Defense Financial Management Regulation*, Volume 11A, DoD 7000.14-R. The Borrower shall also pay all charges associated with the delivery of the Property to the Borrower and all charges for the return of the Property to the Bailer at the end of the term.

4. Liability. The Borrower shall assume full liability for any damage to the Property itself, or any other property damage or loss, personal injury, death, or costs resulting from the Borrower's use of the Property while on lease, including, but not limited to, movement, activation, conversion, and operations involving the Property.

5. Proprietary and Patent Rights. The Borrower shall protect all the Government's proprietary, patent, and industrial rights in and to the Property, and all information furnished with or derived from the Property.

6. Receipt and Return of the Property.

A. Receipt of the Property. The Borrower shall furnish the Contracting Officer (CO), OC-ALC/PK, 3001 Staff Dr., Tinker AFB OK 73145-3055, with a copy of a signed receipt for the Property. If the Borrower receives the property in a condition unsuitable for the intended use, the Borrower shall notify the CO, detailing the facts, and, as directed by the CO, return the Property to the Bailer immediately.

B. Return of the Property. Upon completion of the project or at the end of the term, the Borrower shall request disposition instructions for return of the Property from the CO. The Property shall not be shipped from the Borrower's facility without prior instructions from the CO. An advance copy of the shipping document shall be furnished to the CO upon occurrence of the shipping action. The Property shall be returned to the Bailer in as good a condition (less fair wear and tear) as when provided. The Borrower shall bear all expenses necessary to place the Property in such condition. The Air Force reserves the right to inspect the Property upon its return to validate its condition.

7. Limitations on Use and Transfer of the Property.

A. Destruction or Disassembly. Under no circumstances shall the Property, or any part thereof, be subjected by the Borrower to destruction or irreversible disassembly. In the event the Borrower, or others acting on its behalf, do destroy or irreversibly disassemble the Property or any part thereof, the Borrower agrees to promptly pay the Bailer, as compensation, the full value of the Property, or part thereof, as listed in Exhibit A.

B. Retransfer to Third Party. All Property and information provided under this agreement are intended solely for the purpose of meeting U.S. Government requirements. The Borrower shall not retransfer the

Property, or technical data related to the Property, to any other parties or firms within the United States or to foreign firms or governments. Prior written approval of the Bailer is required before the sale of any item produced from the Property or data provided under this agreement to a non-U.S. Government entity.

8. Title to the Property. Title to the Property shall remain with the Bailer.

9. Revocation. The Bailer reserves the right to revoke all or any part of this agreement when it is in the best interests of the Government.

10. Nondiscrimination. The Borrower agrees that no person(s) will be discriminated against in connection with the Borrower's use of the Property on the grounds of race, color, religion, sex, or national origin, nor will any person(s) be denied the benefits of or be subject to discrimination under any program or activity held, conducted, or sponsored by the Borrower and that any activity, program, or use made of the Property by the Borrower will be in compliance with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d).

In Witness whereof, I have hereunto set my hand by authority of the Secretary of the Air Force, this _____ day of _____, 1999.

(Contracting Officer -name)

(Title)

(Address)

In Witness whereof, Borrower hereunto sets its hand, this ____ day of _____, 1999.

Quantity:

B. Property Value:

Unit Cost:

Quantity Requested:

Unit Cost x Quantity Requested:

C. National Security Considerations or Limitations (if any).

Exhibit B

Availability of the Property in Exhibit A for Parts Replenishment Program

A. Item Manager's Sample Parts Determination.

I have reviewed the request to obtain the sample parts in Exhibit A (the Property) on lease and I have determined that all the following criteria have been met, as required by DoDD 4140.57D1. **(NOTE – approval for lease of engineering critical or unstable parts, as defined in DoDD 4140.57, must be obtained from Air Force Component with technical cognizance of the part).**

1. The part has limited or reduced sources of supply due to the unavailability in the U.S. of the Technical Data Package (TDP), an incomplete TDP, or a TDP that contains limited rights data; and
2. The annual buy value of the part exceeds \$10,000 as defined in Defense Acquisition Regulation Supplement Number 6; and
3. Lease of the part will not adversely affect or deplete required supply quantities; and
4. Potential life cycle cost saving exceed the cost of making the part available; and

5. The part is a part whose TDP, once developed, would not disclose critical technology with military or space applications, as determined in accordance with DoD Directive 5230.25, "Withholding of Unclassified Technical Data from Public Disclosure."

Item Manager's Signature

Name (Type/Print) Office Symbol & Ext Date

B. System Program Manager's/Logistics Officer's Statement (Choose proper statement):

_____ 1. This lease will have no effect on USAF programming requirements and system programs.

_____ 2. This lease will have the following effect(s) on USAF programming requirements and systems programs (include national security if applicable)(attach comments on separate page).

System Program Manager's/Logistics Officer's Signature

Name (Type/Print) Office Symbol & Ext Date

Attachment 3

NONEXCESS PERSONAL PROPERTY LEASE IMPACT ASSESSMENT

A. Source of Supply:

Item Manager:

Air Logistics Center:

Parent Command: Air Force Materiel Command (AFMC)

B. Property Identification:

NSN:

Part Number:

Noun:

Quantity:

Unit Cost:

Unit Cost x Quantity Requested:

C. National Security Considerations or Limitations (i.e. Demil, FSCAP, Classification, etc.):

D. Availability of the Property for Lease

Item Manager's Determination:

I have reviewed the proposed lease and I have determined that:

- 1. The requested part(s) are not excess,
- 2. Lease of the part(s) will not adversely affect or deplete required supply quantities, and
- 3. The requested part(s) are not projected to be needed during the period of the lease.

 Item Manager's Signature

_____	_____	_____
Name (Type/Print)	Office Symbol & Ext	Date

System Program Manager's/Logistics Officer's Statement (Check proper statement):

_____ 1. This lease will have no effect on USAF programming requirements and system programs.

_____ 2. This lease will have the following effect(s) on USAF programming requirements and systems programs (include national security if applicable)(attach comments on separate page).

 System Program Manager's/Logistics Officer's Signature

_____	_____	_____
Name (Type/Print)	Office Symbol & Ext	Date