



# Defense Surplus Equipment Disposal: Background Information

Valerie Bailey Grasso  
Specialist in Defense Acquisition

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## Summary

The Department of Defense (DOD) through a Defense Logistics Agency (DLA) component called the Defense Utilization and Marketing Service (DRMS) has a policy for disposing of government equipment and supplies considered surplus or deemed unnecessary to the agency's currently designated mission. DRMS is responsible for property reuse (including resale), precious metal recovery, recycling, hazardous property disposal, and the demilitarization of military equipment. The effort to dispose of surplus military equipment dates back to the end of World War II when the Federal government sought to reduce a massive inventory of surplus military equipment by making such equipment available to civilians. [Note: disposal of surplus real property, including land, buildings, commercial facilities, and equipment situated thereon, is assigned to the General Services Administration's Office of Property Disposal. For further information, see CRS Report RS20630, *Disposition of Surplus Federal Property*, by Garrett Hatch.] In August 2008, Liquidity Services, Inc. was awarded the DRMS contract to manage the receipt, storage, marketing, and disposition of all useable surplus property generated by DOD installations throughout the United States. The contract has a base term of three years, with two one-year renewal options.

During March 2009, several press reports indicated that DRMS had tightened its demilitarization policy on the sale of small arms cartridge cases. On March 20, 2009, DLA issued a statement that revised this policy. DLA has determined that the cartridge cases could be made available for public sale to qualified buyers.

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## Introduction

On September 12, 1972, the Defense Property Disposal Service (the forerunner to DRMS) was established under the Defense Supply Agency (now DLA). Defense Property Disposal Offices were established worldwide on or near major military installations. DRMS is responsible for property reuse (including the disposal and sale of surplus and excess defense equipment and supplies), precious metal recovery, recycling, hazardous property disposal, and the demilitarization of military equipment. DRMS provides support at major U.S. military installations worldwide. Headquartered in Battle Creek, Michigan, DRMS personnel serve in 16 foreign countries (including Iraq and Afghanistan), two U.S. territories (Guam and Puerto Rico) and 41 states. DRMS employs approximately 1,455 people. Of those, approximately 332 work at its Battle Creek, Mich., headquarters.

Property disposal means redistributing, transferring, donating, selling, demilitarizing, destroying, or other “end of life cycle” activities. Disposal is the final stage before the property leaves DOD’s control.<sup>1</sup> In some cases, the act of demilitarization—destroying the item’s military offensive and defensive capability—accomplishes the intent of disposal. During FY2006 DLA identified, disposed of, or re-utilized approximately \$20 billion dollars of military surplus/excess materiel—items ranging from desks and chairs to full weapons systems.<sup>2</sup>

Property is considered excess when one particular agency determines it is not needed for its particular use, while property is considered surplus when it is no longer needed by the Federal government. Property transferred to DRMS is declared surplus after about 21 days. Surplus property can be reused, transferred, donated, or sold; potential recipients may include law enforcement agencies, school systems, medical institutions, civic and community organizations, libraries, homeless assistance providers, state and local government agencies, and the public. About half of all surplus items are designated for the foreign military sales program, and about half are made available to other government agencies, eligible donees, or sold to the public.<sup>3</sup>

In June 2001, DRMS awarded a seven-year contract to Surplus Acquisition Venture, LLC, for the exclusive right to sell military surplus items. The company established Government Liquidation, LLC as the purchaser and reseller for aircraft parts, vehicles, clothing and textiles, medical items, furniture, commercial kitchen equipment, and other items. Government Liquidation is a subsidiary of Liquidity Services, Inc. (LSI), and holds the exclusive contract with DRMS for the sale of surplus DOD property. LSI has established new “centralized controlled property centers” in the United States to achieve greater control over inventory and to prevent restricted property from being offered for sale to the public.<sup>4</sup> As of June 1, 2007, LSI’s contract with DOD was

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<sup>1</sup> See the Acquisition Community Connection at the Defense Acquisition University, at <https://acc.dau.mil>.

<sup>2</sup> From the DRMS website, at <http://www.drms.dla.mil>.

<sup>3</sup> For further discussion of excess defense property, and the demilitarization and disposal of surplus military equipment, see CRS Report RL31675, *Arms Sales: Congressional Review Process*, by Richard F. Grimmett, CRS Report RS20428, *Excess Defense Articles: Grants and Sales to Allies and Friendly Countries*, by Richard F. Grimmett, and CRS Report RL31686, *Demilitarization of Significant Military Equipment*, by Valerie Bailey Grasso. Another source for information is the Demilitarization and Disposal section of the Acquisition Community Connection at the Defense Acquisition University.

<sup>4</sup> Press Release. Liquidity Services, Inc., to Develop and Implement New Inventory Assurance Procedures under Its Surplus Contract with DOD. September 13, 2006. <http://investor.liquidityservicesinc.com/phoenix.zhtml?c=195189&p=irol-newsArticle&ID=904827&highlight=>

broadened to include the oversight, audit, and verification procedures for the destruction of DOD scrap property sold to the public. Under the terms of the contract, LSI will manage the receipt, marketing, and sale of virtually all DOD surplus scrap property in Hawaii and Guam. LSI was awarded a new contract in August 2008. Under the terms of the new contract, LSI will pay DOD about 3.26% of DOD's original acquisition value for all useable surplus items referred; LSI will retain 100% of the profit while assuming the costs for merchandising and resale. DOD's surplus property will continue to be offered for sale through LSI's online auction marketplace.<sup>5</sup>

In 2005, DLA conducted a public-private competition for warehousing functions at 68 DRMS sites in the United States, including Hawaii. As a result of the competition, DRMS determined that it was more cost effective to retain the government employees rather than convert to contractor performance. The final decision, to retain the government's Most Efficient Organization (MEO), was announced on October 7, 2005.<sup>6</sup>

## Controlling Legal Authority

Authority for the disposal of surplus defense property can be found in Public Law (P.L.) 94-519, 10 U.S.C. 381, which amends the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), P.L. 107-117, and in DOD Manual 4160.21, at <http://www.dla.mil/dlaps/dod/416021m/guide.asp>.

## Legislative Activity

In the 111<sup>th</sup> Congress, the Affordable Reloaded Munitions Supply (ARMS) Act of 2009 (H.R. 2193) was introduced in the House on April 30, 2009. The bill would prohibit the Secretary of Defense from implementing any policy that prevents or places undue restriction on the sale of "intact spent military small arms ammunition casings" to certain domestic suppliers. The bill has 41 co-sponsors, and was referred to the House Armed Services Committee.

In the 110<sup>th</sup> Congress, at least two bills were introduced that sought to strengthen the control of sensitive surplus military equipment. S. 387, the Stop Arming Iran Act, was introduced in the Senate on January 25, 2007, had two co-sponsors, and was referred to the Senate Armed Services Committee. The bill would prohibit the direct or indirect sale of spare parts for F-14 fighter aircraft (whether for sale through DRMS or through another DOD agency). A similar bill, H.R. 1441, also known as the Stop Arming Iran Act, was introduced in the House on June 12, 2007, had 38 co-sponsors, and was referred to the House Armed Services Committee.

P.L. 110-116 (FY2008 DOD Appropriations Act) contains a provision (Section 8079) that authorizes the creation of a joint program between DOD and the Department of Health and

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<sup>5</sup> Liquidity Services, Inc. Awarded New Surplus Contract with the U.S. Department of Defense. *Science Letter*, August 19, 2008. Expanded Reporting, pg. 2698.

<sup>6</sup> Defense Logistics Agency Announces DRMS A-76 Results. October 7, 2005. [http://www.dla.mil/DLAPublic/DLA\\_Media\\_Center/PressRelease/PressRelease.aspx?ID=17](http://www.dla.mil/DLAPublic/DLA_Media_Center/PressRelease/PressRelease.aspx?ID=17)

Human Services to distribute surplus dental and medical equipment, at no cost to DOD, to certain Indian Health Service facilities and to federally-qualified health centers.<sup>7</sup>

## **Major Recipients**

### **State and Local Governments**

If property cannot be reused or transferred to other federal agencies, it may be donated to state and local government programs. Each state has designated a “State Agency for Surplus Property Program,” which is a local governing authority to receive and distribute all federal surplus property. The program authorizes “screeners” to handle the logistics, and the state agency may charge a fee for handling the transaction. Eligible recipients include, but are not limited to organizations that promote public health, safety, education, recreation, conservation, and other public needs, including veterans groups and Native American organizations. Some groups that qualify as a “service education activity” may have a slight priority in the screening process.

### **Law Enforcement Support Office (LESO)**

LESO administers 10 U.S.C. Section 2576a, which transfers excess DOD equipment to federal and state law enforcement agencies through the 1033 Program (FY1997 National Defense Authorization Act). DLA estimates the LESO budget for FY2008 and FY2009 to be \$1.3 million for each year.<sup>8</sup> In addition, the 1122 Program (FY1994 National Defense Authorization Act) authorizes state and local governments to purchase law enforcement equipment for counter-drug activities. Each state appoints a “Point of Contact (POC)” for this program; the POC may purchase items from any of the four inventory control points managed by DLA. To order items, applicants are to contact their State Agency for Surplus Property Program.

### **Fire-Fighting Support Program**

Title 10 U.S.C. 2576b authorizes the U.S. Department of Agriculture Forest Service to manage the DOD firefighting property transfers. An interagency agreement between DOD and the Forest Service is under the authority of the Economy Act, 31 U.S.C. 1535. The Federal Excess Personal Property (FEPP) Program, administered through the Forest Service, provides equipment to state and territorial forestry programs for wild land and rural firefighting.<sup>9</sup>

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<sup>7</sup> P.L. 110-116, Section 8079 states: (a) The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental and medical equipment of the Department of Defense, at no cost to the Department of Defense, to Indian Health Service facilities (within the meaning of section 1905(1)(2)(B) of the Social Security Act (42 U.S.C. 1396d(1)(2)(B))). (b) In carrying out this provision, the Secretary of Defense shall give the Indian Health Service a property disposal priority equal to the priority given to the Department of Defense and its twelve special screening programs in distribution of surplus dental and medical supplies and equipment.

<sup>8</sup> Defense Logistics Agency, Operation and Maintenance, Defense-Wide, FY2008/FY2009 Budget Estimates.

<sup>9</sup> <http://www.fs.fed.us/fire/partners/fepp/>.

## **Humanitarian Assistance Program**

10 U.S.C. 25 authorizes DOD to provide excess property as coordinated through the Defense Security Cooperation Agency, Office of Humanitarian and Refugee Affairs.

## **Public Sales**

Property not reused, transferred, or donated can be sold to the general public through public auctions and sealed bidding. Munitions, explosives and strategic items are not sold.

Press reports indicate that in March 2009, Government Liquidation notified certain small arms dealers that the new DRMS policy regarding the demilitarization of small arms cartridge casings would require DRMS personnel to witness the mutilation of the property and sign the Certificate of Destruction prior to its sale. DLA later issued a formal press release which reversed the policy, as described in the following excerpt from the DLA Press Release.<sup>10</sup>

The primary focus of the DRMS mission is to protect national security by ensuring property is properly identified for reutilization and disposition and not released for public sale when to do so would jeopardize national security.

During the past two years, DRMS, located in Battle Creek, Mich., revised its processes to further ensure only appropriate items were made available for public sale. To strengthen current controls and to mitigate future security risk, the DOD issued policy that prohibits the sale of military unique items controlled by the Department of State through its Munitions List.

Small arms cartridge cases are identified as a sensitive Munitions List item and were held pending review of the policy relating to the category of items in which cartridge cases were included. Upon review, the Defense Logistics Agency has determined the cartridge cases could be appropriately placed in a category of government property allowing for their release for sale.<sup>11</sup>

## **Other Programs**

There are other programs which may assist organizations which fail to qualify for DRMS property as a DOD, federal, or donation customer. Such programs include (but are not limited to) museums, educational institutions, National Guard and Senior Reserve Officer Training Corps units, and the Civil Air Patrol.<sup>12</sup>

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<sup>10</sup> For further information, contact Tonya Johnson, DLA, at (703)767-6310, or LaTonya.Johnson@dla.mil.

<sup>11</sup> [http://www.dla.mil/DLAPublic/DLA\\_Media\\_Center/PressRelease/PressRelease.aspx?ID=438](http://www.dla.mil/DLAPublic/DLA_Media_Center/PressRelease/PressRelease.aspx?ID=438).

<sup>12</sup> For further information, see <http://www.drms.dla.mil/rtd03/specialprograms.htm>.

## **For Additional Information**

For more information about DRMS, see <http://www.dla.mil/drms>. Also, the DLA Customer Contact Center is open 24 hours a day, 7 days a week, at (877) 352-2255, or contact the Center at [DLAContactCenter@dlm.mil](mailto:DLAContactCenter@dlm.mil).

## **Author Contact Information**

Valerie Bailey Grasso  
Specialist in Defense Acquisition  
[vgrasso@crs.loc.gov](mailto:vgrasso@crs.loc.gov), 7-7617