

Dewey Participation in Military Surplus Program

Frequently Asked Questions

A. Following Money and Deposits of Military Surplus Equipment

1. Can a Local Police Department obtain 1033 Program Equipment to sell it?

No. According to the agreement between the Dewey Beach Police Department and the State of Delaware, “All requests for property must be based on bona fide law enforcement requirements. Property will not be obtained by any authorized participant for the purpose of sale, lease, loan, personal use, rent, exchange, barter, transfer, or to secure a loan.” ¹

2. What is the Federal Military Surplus Program Policy on Sales of Equipment?

The Law Enforcement Support Office (LESO) policy for the disposal of the equipment is that it should be in accordance with provisions in State and local law that govern public property. ² Delaware State Law and Local Law governs how it is sold and where the proceeds are placed. The 1033 rules do not dictate, in either the State Plan of Operation or the State Memorandum of Agreement, that proceeds are to go into a restricted account just for Law Enforcement Activity, because when the sale of the equipment takes place it is no longer LESO Property, the equipment belongs to the Law Enforcement Agency as a governmental entity. ³ The Dewey Beach Police are under the authority of the town of Dewey Beach, but clearly have operated as some semi-independent entity, given title was not transferred to the town, nor were the surplus funds deposit accounts subject to the town auditors review of Dewey’s accounts. And the Delaware law provides for proceeds of surplus equipment sales to be deposited in the general revenue fund NOT restricted or other types of accounts. ⁴

3. What is the Delaware State Required 1033 Program Equipment required procedure?

According to the agreement between the Dewey Beach Police Department and the State of Delaware, Demil A Property: “should be maintained and ultimately disposed of in accordance with provisions in State and local law that govern public property. Sales or gifting of DEMIL "A" property after the one year mark in a manner inconsistent with State or local law may constitute grounds to deny future participation in the LESO Program.” ⁵ The deposits of the proceeds of the equipment sales in a Dewey Police Dept, restricted account, as the DPD has done, is a violation of Delaware statute for such procedures. Proceeds from the sale of state surplus property in Delaware must be deposited with the State Treasurer. ⁶

Delaware State Law considers all equipment, supplies and material, purchased in whole or in part with state appropriated funds as assets of the state and not the State Agency that holds or uses the material. The procedure for sale of surplus equipment is set in Title 29 Chapter 70 of the Delaware State Code. ⁷

4. Can funds from the sale of the 1033 Program Equipment be deposited in the general town funds?

According to the agreement between the Dewey Beach Police Department and the State of Delaware, Demil A Property “should be maintained and ultimately disposed of in accordance with provisions in State and local law that govern public property.” ⁸ Proceeds from the sale of state surplus property in Delaware are deposited with the State Treasurer. ⁹

¹ [Dewey Beach State Plan of Operation-July 26, 2016](#) pg 2 III. General Terms and Conditions D)

² [Dewey Beach State Plan of Operation-July 26, 2016](#) pg 4 III. General Terms and Conditions Part K) 4)

³ [Dewey Beach State Plan of Operation-July 26, 2016](#) pg 4 III. General Terms and Conditions Part K) 4)

⁴ [Delaware State Code Online](#) 29 Del. C. 1953, § 7002 d.

⁵ [Dewey Beach State Plan of Operation-July 26, 2016](#) pg 4 III. General Terms and Conditions Part K) 4)

⁶ [Delaware State Code Online](#) 29 Del. C. 1953, § 7002 d.

⁷ [Delaware State Code Online](#)

⁸ [Dewey Beach State Plan of Operation-July 26, 2016](#) pg 4 III. General Terms and Conditions Part K) 4)

⁹ [Delaware State Code Online](#) 29 Del. C. 1953, § 7002 d.