PERSONAL PROPERTY LETTER

ISSUE NUMBER 970-3, Revision 1

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AUTHORITY

This Personal Property Letter (PPL) is issued by the Deputy Assistant Secretary for Procurement and Assistance Management pursuant to a delegation from the Secretary in order to provide interim guidance on personal property management matters.

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I. Purpose: The purpose of this PPL is to ensure that Department of Energy (DOE) organizations, contractors, and financial assistance recipients incorporate into their personal property management programs those controls appropriate to safeguard against the inadvertent transfer or disposal of certain items of personal property and related technical information which represent a high risk in terms of nuclear proliferation and/or national security, public health, safety, and the environment. For the purposes of control, the Department defines high risk property to include: (1) Especially Designed or Prepared

Property; (2) Export Controlled Property; (3) Proliferation-Sensitive Property; (4) Nuclear Weapon Components or Weapon-Like Components; (5) Automatic Data Processing Equipment; (6) Export Controlled Information; (7) Unclassified Controlled Nuclear Information; (8) Hazardous Property; (9) Radioactive Property; and (10) Special Nuclear Material.

II. Background: DEAR 970-5204-21(e) discusses management of high-risk property and classified materials.

III. Guidance: This PPL provides guidance on incorporating into existing personal property programs the responsibilities, policy, and procedures for four categories of Government-owned high risk property whose life-cycle management is not clearly specified in laws, regulations or DOE Orders. These four categories are: Especially Designed or Prepared Property, Export Controlled Property, Proliferation-Sensitive Property and Nuclear Weapon Components or Weapon-Like Components. All other categories of high risk property are excluded from this guidance and are subject to other Departmental special handling and controls. This PPL is not intended to cover items of property not defined as high risk.

This PPL is applicable to all DOE organizations that purchase, manage or dispose of Government-owned property and to contractors that manage Government facilities, programs, or related services which may directly or indirectly require the purchase, management, or disposal of Government-owned property. The policies in this PPL applicable to contractors and financial assistance recipients are enforceable to the extent that they are reflected in applicable regulations, contract clauses, or assistance agreements.

For financial assistance recipients, DOE is concerned only with property to which the Government holds title. Typically, title to property acquired under financial assistance is vested in the recipient. Title may be retained by DOE, however, in cases where the Government anticipates a subsequent need for the property in another program or at another recipient's site; the property is unique, expensive, and/or otherwise difficult to duplicate in a timely fashion; or the property meets one of DOE's four categories of high risk property covered by this PPL. For federally-owned equipment furnished by DOE or another federal agency to a financial assistance recipient, the title to the property would vest with the Government.

IV. Effective Date: This PPL is effective immediately upon receipt. This PPL supersedes PPL Issue Number 970-3, dated March 25, 1996.

V. Expiration Date: This PPL will remain in effect until incorporated into Departmental Regulations or other directives, as appropriate.

PERSONAL PROPERTY GUIDANCE

SUBJECT

HIGH RISK PERSONAL PROPERTY

1. DEFINITIONS:

DOE CATEGORIES OF HIGH RISK PROPERTY

- Automatic Data Processing Equipment. To the extent that such equipment is used to process classified information, unclassified controlled nuclear information or export controlled information, this category of high risk property includes any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.

- Especially Designed or Prepared Property. Equipment, materials, and technology designed or prepared especially for use in the nuclear fuel cycle and described in the International Atomic Energy Agency Information Circular (INFCIRC) 254 Part 1, the Nuclear Suppliers Group Trigger List.

- Export Controlled Property. Property the export of which is subject to licensing by the U.S. Department of Commerce, the U.S. Department of State, or the U.S. Nuclear Regulatory Commission, or authorization by the U.S. Department of Energy.

- Export Controlled Information. Unclassified U.S. Government information under DOE cognizance that, if proposed for export by the private sector, would require a Department of Commerce or Department of State validated license or a DOE authorization, and which, if given uncontrolled release, could reasonably be expected to adversely affect U.S. national security or nuclear nonproliferation objectives.

- Hazardous Property. Any personal property, including scrap or waste, that is ignitable, corrosive, reactive, or toxic because of its quantity, concentration, or physical, chemical, or infectious characteristics, or that is deemed a hazardous material, chemical substance or mixture, or hazardous waste under the Hazardous Material Transportation Act, the Resource Conservation and Recovery Act, or the Toxic Substances Control Act. Such property can be in solid, liquid, semi-liquid, or contained gas form and may cause or significantly contribute to an increase in mortality or illness, or pose present or potential hazards to human health or the

environment when improperly used, treated, stored, transported, disposed of, or mismanaged. Among other things, it includes hazardous materials and hazardous wastes as defined in the FPMR.

- Nuclear Weapon Components or Weapon-Like Components are parts of whole war reserve nuclear weapons, or of joint test assemblies, trainers, or test devices, including associated testing, maintenance, and handling equipment, or simulate such parts. If classified, their disposition is determined by the Atomic Energy Act of 1954, as amended, and if unclassified, by Department of Energy technical experts on the basis of reviews approved by the Director of the Office of Nonproliferation and National Security.

- Proliferation-Sensitive Property. Nuclear-related or dual-use equipment, material, or technology as described in the Nuclear Suppliers Group Trigger List and Dual-Use List or equipment, material or technology used in the research, design, development, testing, or production of nuclear weapons.

- Radioactive Property. Any item or material which is radioactive or that is contaminated with radioactivity and which emits ionizing radiation in excess of background radiation as measured by appropriate instrumentation.

- Special Nuclear Material. Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, any other materials which the Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, or material artificially enriched by the foregoing, but does not include source material.

- Unclassified Controlled Nuclear Information. U.S. Government information pertaining to atomic energy defense activities as defined in section 148 of the Atomic Energy Act of 1954, as amended. Such information can relate to aspects of nuclear weapons design, development, testing, physical security, production, or utilization facilities.

OTHER DEFINITIONS

- Demilitarization. The act of destroying the military offensive or defensive advantages inherent in certain types of equipment or material, using the methods specified in the Defense Demilitarization Manual, DoD 4160.21-M-1.

- Nuclear Suppliers Group Dual-Use List. Nuclear-related material, equipment, and related technology as described in the INFCIRC 254 Part 2.

- Department of State Munitions List. Articles, services, and related technical data designated as defense articles and defense services by the Arms Export Control Act.

- Nuclear Suppliers Group Trigger List. Nuclear material, equipment, and related technology as described in the INFCIRC 254 Part 1.

2. RESPONSIBILITIES

Organizational Property Management Officers (OPMOs) shall:

a. Coordinate and conduct the activities of an organization's personal property management program in accordance with existing regulatory requirements and provide guidance to DOE and DOE contractors and financial assistance recipients regarding the implementation of these guidelines.

b. Ensure that DOE contractors and financial assistance recipients develop practices and procedures consistent with this PPL and that subcontractors or subrecipients comply with DOE procedures for the management of high risk property.

3. POLICY

It is the policy of DOE and the responsibility of DOE and DOE contractors and financial assistance recipients to manage and control high risk property in an efficient manner. High risk property will be managed throughout its life-cycle so as to protect the safety of DOE personnel and the public and to advance the national security and nuclear nonproliferation objectives of the U.S. Government.

The disposition of high risk property is subject to special considerations because its disposition may present significant risks to the public health, safety, the environment, and national security and nuclear nonproliferation objectives of the Government. Organizations shall identify high risk property and control its disposition to eliminate or mitigate such risks in accordance with the guidelines contained in this PPL. In no case shall property be transferred or disposed of before an assessment is made to determine if it is high risk property, and if identified as such, is handled in accordance with this PPL.

4. PROCEDURES

The Heads of Field Organizations or the Organizational Property Management Officers shall ensure the following requirements are met:

A. Identification

To ensure the appropriate treatment of property at its disposal and to prevent inadvertent, uncontrolled release of high risk property, property shall be assessed and evaluated as high risk as early in its life cycle as is practical.

1) Identification of Newly Acquired Personal Property. All high risk property shall be identified, marked, and tracked as it is acquired for use by DOE or DOE contractors and financial assistance recipients.

2) Identification of Existing Personal Property. Personal property in use or awaiting use shall be reviewed for high risk identification, marking, and database entry during regularly scheduled personal property inventories. This PPL does not require special inventories for identification of high risk property.

   a. Components: If the property is a component of larger assemblies/operating systems or access to identify the component is impractical, then such components shall be reviewed for high risk property identification prior to final disposition.

   b. Equipment and Material Affixed to or Installed in Facilities: Due to the complexity of operating systems or the age of facilities, it may be difficult or impractical to identify individual components as high risk. For those facilities, it may be more practical to perform a high risk review of these operating systems when they are decommissioned and dismantled or when replacing specific components of these systems prior to disposition.

3) High Risk Marking Exemption. Equipment or material which by its nature cannot be marked, such as stores items, metal stock, etc., is exempt from marking but should be otherwise documented as part of a DOE or DOE contractor or financial assistance recipient personal property management program.

B. HFO Determination of Life Cycle Control

In instances where the HFO approves a contractor's or financial assistance recipient's program containing other than life cycle control consistent with this guideline, that decision shall be justified in writing and a copy thereof sent to the Deputy Assistant Secretary for Procurement and Assistance Management. An HFO decision not to provide life-cycle control, as provided by paragraph A above, should take into account the nature and extent of high risk property typically acquired by DOE or a DOE contractor facility or a financial assistance recipient

organization; the projected stability of DOE and DOE contractor or financial assistance recipient operations; and the degree of confidence in the property control measures available at disposition.

C. Disposition of High Risk Property

1) The property custodian is responsible for initiating the excess declaration of all personal property, including high risk property. Prior to disposition, items of personal property, materials, or data will be assessed to determine whether they should be characterized as high risk. All high risk property must be reviewed against the Nuclear Suppliers Group Trigger List and the Dual-Use List and the Department of State Munitions List prior to disposition. The nature of that determination will dictate the disposition controls necessary to ensure compliance with national security or nonproliferation controls.

2) The DOE or DOE contractor or the financial assistance recipient organization may not process high risk property within a reutilization/disposal program without performing the reviews prescribed by the local high risk property management system. Those reviews must be properly documented, and all appropriate certifications received, in accordance with the approved site or facility personal property management program.

3) Disposition (including demilitarization of Munitions List Items) and the handling of the high risk property are subject to applicable provisions of Subchapter H in the FPMR and the DOE-PMR, and the DOE Guidelines on Export Control and Nonproliferation.

4) Property transfer records shall include all applicable documentation, including the property's categorization as high risk. Such documentation shall be included with all transfers internal or external to DOE.

5) Any component, equipment, and material which are both surplus to the DOE and identified in the Nuclear Suppliers Group Trigger List or are nuclear weapon components or weapon-like components either shall be sold for scrap after being rendered useless for their originally intended purpose or shall be destroyed, unless an alternative disposition appears to be in the best interest of the Government. Any destruction process shall be verified and documented by the contractor, financial assistance recipient or DOE personnel. Requests for approval of alternative disposition may be made through the cognizant Assistant Secretary to the Director of the Office of Nonproliferation and National Security.

D. Restrictions Applicable to Sales, Transfers and Other Offerings

Certain sales, transfers, or other offerings of high risk property may require special conditions or specific restrictions as determined necessary by the property custodian or the cognizant DOE program office responsible for oversight, control or management of that type, class or condition of property.

E. Export Restriction Notice

The following Export Restriction Notice, or an equivalent notice from the site's or financial assistance recipient organization's property management system, shall be included in all property dispositions:

Export Restriction Notice

The use, disposition, export and reexport of this property are subject to all applicable U.S. laws and regulations, including the Atomic Energy Act of 1954, as amended; the Arms Export Control Act (22 U.S.C. 2751 et seq.); the Export Administration Act of 1979 (560 U.S.C. App. §2401 et seq.); Assistance to Foreign Atomic Energy Activities (10 CFR Part 810); Export and Import of Nuclear Equipment and Material (10 CFR 110); International Traffic in Arms Regulations (22 CFR 120 et seq.); Export Administration Regulations (15 CFR 730 et seq.); Foreign Assets Control Regulations (31 CFR 500 et seq.); and the Espionage Act (37 U.S.C. 791 et seq.) which among other things, prohibit:

a. The making of false statements and concealment of any material information regarding the use or disposition, export or reexport of the property; and

b. Any use or disposition, export or reexport of the property which is not authorized in accordance with the provisions of this agreement.

F. Deviations from this PPL may be requested through the cognizant HFO to the Deputy Assistant Secretary for Procurement and Assistance Management, which, when appropriate, will obtain the concurrence of the Office of Nonproliferation and National Security.