

SMG 2620.5

FDA STAFF MANUAL GUIDES, VOLUME III - GENERAL ADMINISTRATION

PROCUREMENT AND SUPPLY MANAGEMENT

PERSONAL PROPERTY

REPORT OF SURVEY SYSTEM

Effective Date: 05/04/2010

Change: 07/06/2016

NOTE: This SMG Is Being Revised

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1. PURPOSE

This Guide establishes procedures to be followed and actions to be taken by Boards of Survey in determining responsibility and establishing the extent of liability of employees for the theft, loss, or damage of government-controlled personal property. The Guide further provides definitions and process procedures for the conduct of reviews and investigations associated with the Report of Survey program.

2. REFERENCE

This Guide implements the provisions of the HHS Logistics Management Manual.

3. APPLICABILITY AND SCOPE

This Guide applies to all Headquarters and field activities.

4. DEFINITIONS

A. Accountable Area

An installation or organization so designated for property accountability purposes. The entire Food and Drug Administration is an accountable area.

B. Organization/Custodial Area

A section, branch, division, office, laboratory, or physical area administratively designated as a discrete component for property accountability.

C. Government-Controlled Personal Property

All personal property on loan to FDA, held in trust, rented, leased, or owned by FDA.

D. Board of Survey (BOS)

A fact-finding body consisting of three to five FDA employees appointed by the Center Executive Officer or Center Executive Designate. A Center Executive may also appoint himself or herself to the board. A permanent Board of Survey should be appointed at activities where, from experience, the need for the services of a board is more than occasional. Otherwise, boards may be appointed on a case-by-case basis, and board members will be appointed for no longer than a 3-year term. The following individuals are **not eligible** for appointment to a Board of Survey:

1. Purchasing Agent
2. Receiving Official
3. Determining Authority
4. Property Custodial Officer
5. Accountable Property Officer
6. Employees of the immediate office and subordinate offices reporting the loss

E. Survey Officer

An FDA officer or employee designated by the Center Executive Officer to conduct an immediate investigation with regard to property loss, once notification is received in writing. The following is a list of qualifications for appointment of the Survey Officer:

1. GS-13 level employee and above
2. Commission Corp Officers (any grade level)
3. Disinterested Person with regard to the investigation
4. Property and Supply Staff totally exempt from this duty (Conflict of Interest)

F. Appointing Authority

An FDA officer or employee designated by the Center Executive Officer to inform the individual being charged, and to explain the charge and all rights to the appeal process.

G. Determining Authority

The FDA official responsible for making an appropriate decision or determination on the findings and recommendations from a Board of Survey/Survey Officer. The following FDA officials are designated to act as a Determining Authority:

1. Property Management Officer (PMO)
2. Property Management Officer (PMO) Appointed FDA Official

H. Office of General Counsel (OGC)

The Office of the General Counsel (OGC) is part of the Department of Health and Human Services (HHS). The Office of the Chief Counsel (OCC), which serves FDA, is a division within OGC.

I. Property Custodial Officer (PCO)

An FDA officer or employee designated by proper authority to ensure the proper use, maintenance, and protection of personal property entrusted to their possession or charged to their organization area.

J. Accountable Property Officer (APO)/Center Executive Designate

An FDA officer or employee designated by the Center Executive Officer for managing the personal property assets of an FDA major component.

K. Report of Survey (FDA Report of Survey Form)

A written report submitted by an FDA component summarizing the facts and circumstances surrounding a theft, loss, or damage of Government-controlled personal property. The submitted report may be scrutinized by the Board of

Survey, which may issue findings for submission to the Determining Authority.
(See Attachment A)

5. RESPONSIBILITIES

A. Board of Survey (BOS)

1. The responsibility of the Board of Survey is to inquire into the facts and circumstances connected with a case involving a shortage, loss, theft, damage, destruction, or condition of Government-controlled personal property, in accordance with prescribed policies and procedures. Each Center shall determine its Board of Survey procedural process.
2. The Board of Survey will automatically be called in to review all Reports of Survey if the Determining Authority finds an unaccounted for discrepancy, or if the Determining Authority deems a noticeable trend in theft/loss.
3. The Board of Survey will make a recommendation to the Determining Authority as to any pecuniary responsibility and if an employee is liable for the property loss.

B. Survey Officer

1. Immediately after receiving notification in writing, the Survey Officer is responsible for conducting a thorough investigation as to the property loss, which includes:
 - a. Interviews and obtaining signed statements
 - b. Compilation of all evidence/exhibits, and confirmation of facts with supporting evidence
 - c. Omission of any unsubstantiated opinion, bias, or prejudice
 - d. Provide recommendations as to how losses occurred, referencing evidence
 - e. Provide recommendation of financial liability or relief of responsibility with regard to concerned parties
2. The Survey Officer shall consult the PMO and Appointing Authority as to any concerns, or element of doubt regarding the investigation.
3. The Survey Officer has 30 days to complete the investigation and make any recommendation.

4. If property is recovered, the Survey Officer is responsible for notifying the PMO immediately.

C. Appointing Authority

1. The Appointing Authority is responsible for informing the individual being charged via written notification, and explaining the charge involved.
2. The Appointing Authority shall explain to the individual the process of appeal, including the following rights as to the process:
 - a. Allows request for reconsideration
 - b. Allows submission of more statements and new evidence
 - c. Allows only 10 days upon notification of being charged to submit an appeal
 - d. If appeal is denied, the Report of Survey is closed.
3. The Appointing Authority is responsible for forwarding Form 342 to Finance for processing, and providing the PMO a completed copy for the supporting document file.

D. Determining Authority

1. The Determining Authority is responsible for evaluating the facts, circumstances, findings, and recommendations from the Board of Survey/Survey Officer, and makes an appropriate decision or determination.
2. If relief from pecuniary responsibility is decided, the Determining Authority forwards the Report of Survey to the Office of General Counsel (OGC) for legal review:
 - a. The OGC renders legal opinion, and Form 342 is returned to the Determining Authority.
 - b. If legal opinion supports the Determining Authority's decision, the Report of Survey is closed and returned to the PMO.
3. If approved for financial liability is decided, the Determining Authority forwards Form 342 to the OGC:
 - a. The OGC renders legal opinion, and returns Form 342 to the Determining Authority.

- b. If legal opinion supports the Determining Authority's decision, the Report of Survey should be forwarded to the Appointing Authority to notify employee. The Determining Authority forwards Form 342 to the Office of Finance and Accounting Office for processing. Processing is suspended if the employee appeals, but continues if the appeal is denied.

E. Office of General Counsel (OGC)

1. The responsibility of the OGC is to review all submitted Reports of Survey for legal sufficiency to appropriately support any recommendations.
2. The OGC is responsible for providing an opinion in writing to the Determining Authority:
 - a. Within 10 days for the first review
 - b. Within 5 days for the second review

F. Property Custodial Officer (PCO)

1. Stolen, Lost, or Damaged Property Item. The PCO participates with the supervisor and/or employee in the completion of the Report of Survey form. The PCO is responsible for ensuring the inclusion of the item's key descriptors (e.g. barcode number, serial number, location code, and description) and to ensure that the explanation developed by the supervisor/employee is concise and accurate.
2. Inventory Shortages. In cases of inventory shortages (considered losses), the PCO completes a Report of Survey form. The PCO is responsible for including the item's key descriptors and developing an explanation that is concise and accurate.

G. Accountable Property Officer (APO) or Center Executive Designate

1. The APO/Center Executive Designate is responsible for the oversight of a component's Report of Survey process and inter-agency coordination of the process, including properly updating the asset record in the Property Management Inventory System (PMIS) upon completion of the Report of Survey.
2. Upon receipt of the Report of Survey document from the PCO or supervisor, reviews the document for completeness and signs in the designated signature block.
3. The extent of losses based on stolen, lost, or damaged equipment should be monitored by the APO/Center Executive Designate, who is responsible to

coordinate corrective action plans with the accountable office or division directors.

6. RECORDS RETENTION

A. Program Support Center (PSC)

The PSC shall maintain the central repository for all original copies of FDA Reports of Surveys.

B. Accountable Property Officer (APO) or Center Executive Designate

The APO/Center Executive Designate shall maintain copies of their respective component's Reports of Surveys.

7. NON-PUBLIC INFORMATION

- A. In the event that an employee or supervisor has knowledge that a stolen, lost, or damaged property item contained or contains non-public information, the employee or supervisor, in addition to completing a Report of Survey, shall notify the Office Director, the Center Director, or the Regional/District Director of the information breach.
- B. All information which is exempt from disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. (b) (1-9). Examples of such non-public information include a business trade secret or confidential information, intra-agency or inter-agency memorandum or letters, an individual's private personal information, and the government's law enforcement records

8. SUBMISSION REQUIREMENTS

FDA components are required to submit Reports of Surveys to the Director, PMO and all other designated offices not later than five calendar days from the date of the incident.

9. EFFECTIVE DATE

This delegation was signed by William Collinson, Director - Office of Financial Management, effective March 1, 2010.

10. Document History -- SMG 2620.5, Report of Survey System

STATUS (I, R, C)	DATE APPROVED	LOCATION OF CHANGE HISTORY	CONTACT	APPROVING OFFICIAL
Initial	05/04/2010	N/a	OC/OA/ OFO/OFM	William Collinson, Director, OFM
Change	07/06/2016	Sec.4.G.; Sec.8	OO/OFEMS/ PMO	James Sawyer, Director, PMO

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ATTACHMENT B

SAMPLE COLLECTION LETTER

TO: _____
(Name of Employee)

FROM: Determining Authority

SUBJECT: Loss/Destruction of Government Property

This is to advise you of my final determination that you have been found pecuniarily liable for the following equipment:

FDA Barcode No.	Description	Cost	Acquisition Year	Replacement Year

The amount of liability \$ _____ is based on the acquisition cost less accumulated depreciation. Depreciation is calculated on the straight-line method (i.e., acquisition cost divided by years of life expectancy = depreciation per year).

Prompt payment is requested by check or money order, payable to the Food and Drug Administration. Failure to comply will result in a collection action and may include salary-offset procedures.

An alternative to cash payment would be replacement of the equipment, even if at a lesser cost, provided the replaced equipment is similar and functional, and approved in advance by the Administrative Officer or myself.

In either case, the matter must be resolved within 30 days of this notice.

/s/
Determining Authority

cc: Administrative Officer