

	WISCONSIN EMERGENCY MANAGEMENT	
	Directive Number:	3003.6
	Reference Section:	Operations Section
	Subject/Description:	Improper Use of LESO 1033 Program Equipment
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	Approved By:	Brian M. Satula, Administrator

POLICY: Improper use of LESO 1033 Program equipment

I. PURPOSE

The purpose of this policy is to ensure Wisconsin LESO 1033 Program equipment is being used by Wisconsin's law enforcement agencies in accordance with the Defense Logistics Agency (DLA) Law Enforcement Support Office (LESO) guidance/requirements and to identify enforcement action in the event of improper use.

II. REPORTING REQUIREMENTS

Law Enforcement Agencies (LEAs) that participate in the Wisconsin LESO 1033 Program must sign a State Plan of Operations (SPO) and return it to the State of Wisconsin for a State Coordinator signature. A copy of the signed State Plan document will be returned to the LEA. The LEA is required to include a copy in their records for future reference and or possible audits or compliance visits. The SPO provides information regarding the operation of the LESO 1033 Program, including complaints of improper use, and LEA's responsibilities concerning the care and handling of LESO 1033 equipment/ property. The Administrator at Wisconsin Emergency Management (WEM) is designated as the State Coordinator and will investigate and process all incidents of improper use of program equipment.

III. POLICY GUIDANCE

A. SPO General Requirements

1. Property available under this agreement, the SPO is for the current use of authorized program participants;
2. Equipment will not be requested nor issued for speculative use or possible future use by the LEA.

3. Property will not be obtained for the purpose of sale, lease, loan, personal use, rent, exchange, barter, to secure a loan, or to otherwise supplement normal LEA or State/local governmental entities budgets.
4. All requests for property will be based on bona fide law enforcement requirements. Equipment/property acquired by the LEAs being used for personal or other non-law enforcement related activities will not be allowed, and may be subject to suspension or termination from the Program (see Program Suspension and Termination).
5. Under no circumstances will property be sold or otherwise transferred to non-U.S. persons or exported. Loaning to non-participants of the DLA LESO 1033 Program is not authorized.
6. DLA LESO retains permanent title to property with Demilitarization (DEMIL) Codes of B, C, D, E, F, G and Q; and property, regardless of demilitarization code, that was specifically identified in the Law Enforcement Equipment Working Group Report from May 2015, created pursuant to Executive Order 13688 (EO). The Working Group Report mandates that the following items be treated as controlled property:
 - a. Manned Aircraft, fixed or rotary wing
 - b. Unmanned Aerial Vehicles
 - c. Wheeled Armored Vehicles
 - d. Wheeled Tactical Vehicles
 - e. Command and Control Vehicles
 - f. Specialized Firearms and Ammunition Under .50 Cal (excluding firearms and ammunition for service-issued weapons)
 - g. Explosives and Pyrotechnics
 - h. Breaching Apparatus
 - i. Riot Batons
 - j. Riot Helmets
 - k. Riot Shields
7. Property with a DEMIL Code of "A" is also conditionally transferred to the LEA. However, after one year from the Ship Date, the LESO will relinquish ownership and

title to the LEA. Prior to this date, the State and LEA remains responsible for the accountability and physical control of the item(s) and the LESO retains the right to recall the property. Title will not be relinquished to any property with DEMIL Code of "A" that is controlled property identified in Paragraph III E of the SPO.

B. Process for Improper Use

1. When complaints of improper or incorrect use of LESO 1033 Program equipment are received, the State Coordinator and the WEM program and compliance staff will be notified immediately.
2. Historical information on equipment acquired by the LEA in question will be delivered to the State Coordinator and WEM staff will provide a briefing on the situation and preparation for a potential investigation.
3. An investigation may include a meeting with the municipality where the LEA is located to identify what, if anything, the local administration/elected officials know about alleged improper use of program equipment or if there are other reports or complaints.
4. Compliance team will meet with the head official of the LEA to discuss the reported abuse and to determine if there is merit to the complaint(s).
5. If it is determined that misuse has occurred, the State Coordinator will work with the WEM compliance and program staff to determine if the issue can be rectified by the return or transfer of equipment and/or what further steps might be necessary.
6. The State Coordinator may suspend and/or terminate an LEA, as a result of the LEA's failure to properly conduct and/or certify and submit certified inventories, according to the aforementioned requirements.
7. Serious misconduct use may require reporting abuse to the Department of Justice for legal action. In situations where there is no cooperation from the LEA in question, the DLA Inspector General's Office may be called upon to assist in the investigation.
8. If controlled equipment/property is required to be removed from the LEA, it may be transferred to another LEA in the State or returned to the DLA Disposition Services site at the expense of the LEA.

C. Program Suspension and Termination

1. The LEA is required to abide by the terms and conditions of the SPO in order to maintain active status.

2. The State Coordinator and/or DLA LESO shall suspend or terminate an LEA:
 - a. Suspend LEAs in all situations relating to the suspected or actual abuse of LESO 1033 Program property or requirements and/or repeated failure to meet the terms and conditions of the SPO. Suspension may lead to termination.
 - b. Suspend or terminate an LEA(s) and/or LEA POC(s) based upon their findings during internal program compliance reviews and/or spot checks at the state level.
 - c. Require the LEAs to complete and submit results regarding all completed police investigations and/or reports regarding lost, missing, stolen and/or damaged LESO 1033 Program property. The LEA must submit all documentation to the State and LESO upon receipt.
 - d. Initiate corrective action to rectify suspensions and/or terminations placed upon the LEAs for failure to meet the terms and conditions of the LESO Program.
 - e. The State Coordinator will maintain contact (until resolved) with suspended LEA(s) within his/her state to ensure corrective actions are rectified by timeframe provided by the LESO.
 - f. Provide documentation to the state and LESO when actionable items are rectified by the LEA.
 - g. In the event of a LEA termination:
 - i. A plan for disposition of LESO 1033 Program property in the possession of the terminated LEA must be submitted to the State Coordinator for approval.
 - ii. The State Coordinator will make every attempt to transfer the Controlled LESO 1033 Program property of the terminated LEA to an authorized LEA.
 - iii. In cases relating to an LEA termination, the LEA will have 60 days to complete the transfer or turn-in of all LESO 1033 Program property in their possession.
 - h. Request reinstatement via the State Coordinator or designated State Points of Contact (SPOC) to full participation status at the conclusion of a suspension period.

- i. The State Coordinator and/or LESO has final discretion on reinstatement requests. Reinstatement to full participation from a suspension and/or termination is not automatic.

IV. CONCLUSION

The Secretary of Defense is authorized by Title 10 USC § 2576a to transfer to Federal and State Agencies, personal property that is excess to the needs of the Department of Defense (DoD) and that the Secretary determines is suitable to be used by such agencies in law enforcement activities, with emphasis on counter-drug/counter-terrorism activities, under such terms prescribed by the Secretary. The authorities granted to the Secretary of Defense have been delegated to the DLA in determining whether property is suitable for use by agencies in law enforcement activities. DLA defines law enforcement activities as activities performed by government agencies whose primary function is the enforcement of applicable Federal, State, and local laws and whose compensated law enforcement officers have powers of arrest and apprehension.