

Background on the 1033 Program

1 Summary of the 1033 Program

In 1989, Congress amended the National Defense Authorization Act to permit the Secretary of the Department of Defense (DoD) to transfer surplus federal property to state and local law enforcement free of charge through the 1208 Program. Under the terms of the 1208 Program, the DoD was authorized to transfer equipment, vehicles and aircrafts for the specific purpose of aiding state and local law enforcement in counterdrug activities.

In 1996, Congress amended the National Defense Act to replace the 1208 Program with the 1033 Program (the “Program”). The 1033 Program gave the DoD broader authority to transfer federal property to state and local law enforcement by removing the restriction that the property be used for counterdrug activities. Under the 1033 Program, all law enforcement activities are eligible for the receipt of property, but a preference is given to counterdrug and counterterrorism activities.

2 Administration of the 1033 Program

The 1033 Program is administered by the Defense Logistics Agency (DLA) through the Law Enforcement Support Office in Virginia. The DLA is authorized to adopt regulations, restrictions and procedures to run the 1033 Program. The DLA requires that each state participating in the 1033 Program sign a Memorandum of Agreement (MOA), which sets forth the rules of participation in the Program. A participating state is required to submit a plan of operation to the DLA that is in compliance with the MOA and the governor of the state appoints a state coordinator that is in charge of approving or denying requests for property by local or state agencies. The state coordinators are expected to ensure that requesting law enforcement agencies comply with the terms of the Program, maintain records, and report violations. There is also a set process for a state requesting property to screen and acquire that property. The DLA requires that a state use any property transferred under the Program within one year of receipt. The DLA has prohibited the stockpiling of property for future use, or selling or leasing the property without permission.

3 Eligible Equipment

Eligible equipment that may be transferred through the 1033 Program is very broad and includes mine-resistant, ambush-protected vehicles (MRAPs), assault rifles, grenade launchers, bayonets, combat knives, night-vision equipment, bomb detonator robots, airplanes, helicopters, camouflage gear, medical equipment, building materials, musical instruments, and toiletries.

4 Vermont’s Participation in the 1033 Program

The appointed State coordinator in Vermont is the Adjutant General for the National Guard, Major General Stephen Cray. Data obtained by NPR¹ through a FOIA request to the Pentagon indicates that every county in Vermont received property under this program except for Grand Isle. Washington County has received the most property through the program and it is also the only county in Vermont to obtain an MRAP.

¹ The date range for the NPR FOIA request was 2006 to April 23, 2014.

5 Other State Participation in the 1033 Program

Based on the NPR data, it appears that every state has obtained property through the 1033 Program, as well as Puerto Rico, Guam, the Virgin Islands and Washington D.C. Since 2006, more than 600 MRAPs have been sent to almost local law enforcement agencies in almost every state. According to the NPR data, the DoD has transferred approximately \$700 million in vehicles, \$343 million in aircrafts, and \$182 million in communications and detection equipment to state and local law enforcement agencies. The other top property transfers include property categorized as clothing, weapons, medical equipment and tractors. In total, NPR estimates that \$4.2 billion worth of property has been distributed since 1990.

6 Administrative Oversight of the 1033 Program

The 1033 Program has limited federal oversight because the state coordinator is charged with reporting violations in his or her state, but the DoD has taken some administrative actions against state and local law enforcement agencies for failing to comply with the terms of the Program. In 2012, the DoD temporarily halted the distribution of firearms through the 1033 Program after an audit showed that several agencies (primarily in Arizona) had misused the Program by transferring equipment to non-law enforcement agencies and selling equipment. The DoD has also suspended 184 state and local law enforcement agencies from participating in the 1033 Program for missing weapons or failure to comply with other guidelines. The Office of the Inspector General has also investigated law enforcement agencies in Florida and is currently investigating an agency in Missouri, which had previously been suspended from the Program.

Other instances of enforcement actions include a sheriff in Illinois that was accused of lending M-14 rifles to unauthorized friends, and a firearms manager in North Carolina that pleaded guilty in April 2013 for stealing M-14 and M-16 assault rifles and other weapons and selling them on eBay.

In June 2014, a bill was introduced in the U.S. House to halt the 1033 Program, but it was defeated. President Obama recently ordered a review the distribution of military property to state and local law enforcement agencies.

In September 2014, the New Jersey Legislature introduced S. 2365, requiring Attorney General oversight of the transfer of federal surplus military equipment to local law enforcement agencies. As of January 12, 2015, the bill was passed out of the Senate and was favorably reported out of the Assembly Law and Public Safety Committee. H. 8 is based off of this New Jersey legislation.