

4.02.20.00 Disposal of Surplus Personal Property



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Policy/Guideline Area

Business and Finance Policies

Applicable Divisions

TCATs, Community Colleges, System Office

Purpose

The following policies and procedures concerning the disposal of surplus personal property shall be followed by all institutions governed by the Tennessee Board of Regents.

Definitions

- Surplus personal property - means that personal property which has been determined to be obsolete, outmoded, unusable or no longer usable by the institution, or property for which future needs do not justify the cost of maintenance and/or storage. Such property must be declared "surplus personal property" by the president, or designee of the transferring institution; provided however, property need not be declared surplus when disposition is through the trade-in method.

Policy/Guideline

I. General Rules

- A. Surplus personal property is either usable property, which shall be transferred or sold, or unusable property, which may be disposed of or destroyed, as hereinafter provided:
 1. Surplus personal property which is perishable food may be destroyed without delay or notification.

2. Surplus mattresses may be destroyed or may be otherwise disposed of only upon compliance with T.C.A. § 12-2-403.
 3. Surplus personal property which is determined to be not usable by the institution and of little or no salvage or other economic value may be disposed of or destroyed by an appropriate method.
 4. The institution shall follow the procedures described in Section II.C of this policy, prior to disposal of all other surplus personal property.
- B. Surplus personal property in which the Federal Government or other entity has a legal interest should be transferred to such entity when no longer needed.
- C. It is unlawful for any state official or employee, including System employees, to purchase from the state except by bid at public auction any surplus property during the tenure of his office or employment, or for six (6) months thereafter. A purchaser who violates this provision is guilty of a misdemeanor under T.C.A. § 12-2-412.
- D. For all sales to individuals except at public auctions (public auctions include internet auctions), the transferring institution conducting the sale shall obtain from the purchaser a signed disclaimer certifying the purchaser is not a state or System employee and that the purchaser is not buying the property for or on behalf of any state or System employee.
- E. All employees of the Tennessee Board of Regents System and their immediate families shall be ineligible to bid for or purchase surplus personal property except by bid at public auction (public auctions include internet auctions).
- F. Possession of surplus personal property sold to the general public under any method prescribed under Section II.C of this policy shall not pass until payment is made. If the payment is made by check the institution, at its discretion, may not transfer possession until the check is honored by the drawee bank.

- G. Possession shall pass to System institutions, political subdivisions of the state, and other governmental entities upon receipt, by the institution, of purchase vouchers of such institutions, political subdivisions, or other governmental entities. Title to motor vehicles sold as surplus property to political subdivisions and other governmental entities shall be closed as to transferee when title is passed.

II. General Disposal Procedures

- A. The president of each institution or their designee shall declare personal property to be surplus personal property prior to disposition as such; provided however, property need not be declared surplus when disposition is through use of the trade-in method.
- B. The president or their designee shall designate the department or individual at the institution responsible (hereinafter referred to as "responsible authority") for the disposal of surplus personal property, and the communications and procedures concerning the disposal of surplus personal property.
- C. No article of personal property may be disposed of as surplus except by one of the following methods:
 - 1. Trade-in, when such is permitted due to the nature of the property or equipment and subject to the provisions of T.C.A. § 12-2-403 and the rules of this policy;
 - 2. Sale or donation to other institutions within the Tennessee Board of Regents system;
 - 3. Sale or donation to other state agencies;
 - 4. Sale to eligible political subdivisions of the state and other governmental entities;
 - 5. Public auction, publicly advertised and held;
 - 6. Sale under sealed bids, publicly advertised, opened and recorded;

7. Negotiated contract for sale, at arm's length; but only in those instances in which the availability of the property is recurring or repetitive in character, such as marketable waste products;
 8. Disposition through the Department of General Services as provided in the Department Rules and Regulations;
 9. Sale or donations to a public school or public school system;
 10. Sale by Internet auction.
- D. If the president, or designee declares the property to be surplus personal property, the method of disposal shall be determined by the responsible authority from the alternatives set forth in Section II.C of this policy. Written documentation for the selection of method of disposal shall be maintained.
- E. The trade-in method, when property is of the nature appropriate for trade-in, and sale or donation to other institutions in the Tennessee Board of Regents System shall be the first and second priority methods, respectively, for disposal of surplus personal property, except for waste products which shall be disposed of as further provided in this policy.
- F. In the selection of other methods of disposal, the following criteria shall be considered:
1. The character, utility and functionality of the property;
 2. The economics of disposal in light of all relevant circumstances attendant the proposed disposal, including the condition and climate of the potential market and present estimated market value of the property, transportation costs, and other cost factors associated with disposal; and
 3. Sound fiscal and budgetary policy and practices.
- G. The method of disposal selected in the preceding section shall be implemented pursuant to the specific procedures set forth in this policy for such disposition.

- H. The responsible authority at the institution shall be responsible for the maintenance of accountability documentation on all items of surplus personal property, and shall ensure that adequate audit and inventory trails on all items of surplus personal property are maintained.
- I. Such authority shall make the final determination of the fair market value of surplus personal property for purposes of calculating reimbursements to the selling institution and to determine whether property may be destroyed pursuant to Section I.A.3.
- J. Nothing shall prohibit an institution from simultaneously providing notice of an intended disposition of surplus personal property to all System institutions and all state agencies as specified in Section IV.A and V.A below.
- K. In such event, if no System institution has requested the property within seven (7) days of the initial notice, the first state agency which had requested the property within such time shall be entitled to receive the property upon reimbursement as provided in Section V. below.

III. Trade-In on Replacement

- A. Items that must be replaced may, subject to the requirements of this section, be traded in on replacement property.
- B. The responsible authority of the institution shall perform the following functions in connection with the trade-in method of disposal:
 - 1. Issue invitations to bid asking for bids with trade-in and without trade-in and receive and review bids;
 - 2. Make an evaluation of the condition and fair market value of the property to be disposed of; Through comparisons of bids and the evaluation prepared, make a determination whether it is in the best interests of the institution to dispose of the property by trade-in or by one of the other methods of disposal.

IV. Sale or Donation to System Institutions

- A. Except when the trade-in method is utilized or when the property is to be disposed of as a waste product, the responsible authority at the institution shall provide to the president, or designee, or appropriate departments and/or individuals at all other institutions in the System and to the offices of the Tennessee Board of Regents, a notice of intended disposition which shall include;
 - 1. The name of the individual to contact for additional information;
 - 2. The location of the property for inspection;
 - 3. A description of the property;
 - 4. The condition of the property; and
 - 5. The asking price of the property as determined by the responsible authority, if the item is being offered for sale as opposed to donation.
- B. The initial notice of available surplus personal property may be made at periodic intervals for the purpose of consolidating notices on numerous items of such property for convenience.
- C. The first institution which makes a written request for the available surplus personal property shall be entitled to receive such property.
- D. In the event that no institution requests transfer of available surplus personal property within seven (7) days of the date of the initial notice, the property may be disposed by means of another appropriate method of disposal.

V. Sale or Donation to Other State Agencies

- A. When sale to other state agencies is the method of disposal selected; the responsible authority of the institution shall provide notice of the intended disposition to the commissioner or chief executive officer of all state agencies which shall include all information specified in the notice required by Section

IV.A. Donations may be made directly to specific agencies based on known need.

- B. The first state agency which makes a written request for the available surplus personal property shall be entitled to receive such property.
- C. In the event that no state agency requests the available surplus personal property within seven (7) days of the date of the initial notice, the property may be disposed by means of another appropriate method of disposal.

VI. Sale of Surplus Property to Governmental Entities

- A. Political subdivisions of the state and other eligible governmental entities may purchase surplus personal property by submission of sealed bids for such property to the responsible authority of the institution no later than two (2) days prior to a public auction held for disposal of such property.
 - 1. Such bids shall be opened two (2) days prior to such public auction and the highest bid shall be selected unless the responsible authority decides that the highest bid does not represent the fair market value.
 - 2. The responsible authority may reject such bids and may negotiate with the political subdivisions of the state and other entities which have submitted bids in order to obtain a fair market value. In the event negotiation does not result in a fair market value, such property shall be disposed of by public auction.
- B. Political subdivisions of the state and other governmental entities shall retain possession of surplus property purchased from System institutions for at least one (1) year unless disposal is approved by the Board of Standards. Any profit realized from the resale of such property shall revert to the state or the System as their interests may appear.
- C. Any sale of automobiles by a System institution to a county, municipality or other political subdivision or governmental entity shall become null and void and

such property shall revert to the state, or the System as their interests may appear, in the event that such political subdivision or governmental entity does not transfer the registration of title to such automobile to its name within seven (7) days after the sale.

VII. Public Auctions and Sales Under Sealed Bids

A. Public auctions and sales under sealed bids, as provided in this policy, shall be publicly advertised and publicly held.

1. Notice of intended disposal by public auction or sale under sealed bid shall be entered by the responsible authority of the institution in at least one (1) newspaper of general circulation in the county or counties in which the disposal is to be made reasonably describing the property and specifying the date, time, place, manner, and conditions of the disposal.
2. The advertisement shall be entered in the public notice or equivalent section of the newspaper and shall run not less than three (3) days in the case of a daily paper and not less than twice in the case of a weekly.
3. The disposal shall not be held sooner than seven (7) days after the last day of publication nor later than fifteen (15) days after the last day of publication of the required notice, excluding Saturdays, Sundays and holidays.
4. Prominent notice shall also be conspicuously posted for ten (10) days prior to the date of disposal, excluding Saturdays, Sundays and holidays, in at least two (2) public places in the county or counties where the disposal is to be made.
5. Notice shall be sent to the county court clerks of the county in which the sale is to be made, and all contiguous counties in Tennessee, except when the fair market value of all the property to be sold is determined in writing by the president or designee to be less than \$500.00.

- B. A mailing list shall be developed for mailing to eligible governmental entities and potential buyers of surplus items.
- C. No person, firm or corporation shall be notified of any public auction or sale except as provided by this policy.
- D. Each institution should attempt to include as many items in each sale as is practical and feasible.
- E. All notices of sales of such property shall provide that the property is to be sold "as is" with transportation costs assumed by the purchaser. The notice shall state that the only warranty provided, expressed or implied, is the seller's right, title and interest in the property sold.
- F. All sales by bid or auction shall be with reserve, and when bids received are unreasonably below the fair market value as determined by the responsible authority of the institution or school, all bids shall be rejected and the property shall be thereafter disposed of pursuant to other acceptable methods of disposal.

VIII. Disposal of Waste Products

- A. Marketable waste products such as paper and paper products, used lumber, bottles and glass, rags, and similar materials of nominal value classified as scrap may be sold directly to dealers at the going market rate without soliciting bids. Each institution shall keep a record of the volume and unit price of such materials sold on the scrap market.
- B. Waste products which are subject to storage and are normally accumulated until such quantities are available to make a sale economically feasible shall be sold under sealed bids as follows:
 - 1. Invitations to bid shall be mailed to known buyers of the particular item;
 - 2. Three firm bids shall be secured when possible;

3. Sealed bids shall be publicly opened and recorded ten (10) days, excluding Saturdays, Sundays, and holidays, after the invitations to bid are mailed;
 4. The highest bidder shall be awarded the contract and shall be notified of the date for removal of the property and the method of payment which will be acceptable;
 5. A file shall be maintained for each disposal for the purpose documenting the sale and should include all documents and information pertinent to the disposal.
- C. Anything to the contrary notwithstanding, surplus personal property which is determined to be unusable and of little or no salvage or other economic value may be destroyed by an institution or school as provided in Section I.A.3.

IX. Disposal of Livestock

- A. The Head of the Agriculture Program is responsible for the administration of sales or other disposition of all livestock. The Head of the Agriculture Program shall also ensure that adequate inventory records are maintained. Exceptions must be approved by the President of the Institution.
- B. As applicable for the method of sale, documentation that supports the method of sale, advertisements, invitations to bid, bids received, authorization, minimum prices, and price received should be maintained by the Head of the Agriculture Program.
- C. Consistent with the best interest of the institution, as recommended by the Head of the Agriculture Program, livestock may be sold by the following methods:
 1. Disposition by Public Auction or Sealed Bid - Unless it is in the best interest of the institution to proceed otherwise, livestock shall be sold by invitation of sealed bids or by public auction (i.e., local livestock auctions).

2. Special Auction/Private Treaty Sales - These methods are used for superior breeding animals, show animals, pedigreed and/or high quality specialty animals.
 - a. Prior to advertisement, a responsible faculty member or farm manager shall submit a list of superior animals to be sold at auction or private treaty and obtain written approval from the Head of the Agriculture Program.
 - b. The animal(s) available for sale will be advertised through the departmental website, relevant industry publications, or newspaper at least two (2) weeks in advance. A responsible point of contact, who is able to provide information on animal offerings and participate in the selling/bidding process, should be included in the advertisement.
 - c. The Agriculture Program will establish minimum sale prices. The farm manager or faculty member in charge of the respective species' research/teaching program shall determine sale prices for each animal. Value shall be based on the genetic, phenotypic, and performance merit of the animal compared to the average of the population.
 - d. Sale of the animal will be to the highest bidder at or above the minimum established sale price. In cases of tie bids, a random draw will determine the successful bidder.
3. Where the price for "commercial" (non-pedigree/non-specialty) livestock can easily be established, the institution may sell directly to "order-buyers" based on current prices when viewed as being in the best interest and most profitable to the institution.
4. Disposition by Slaughter - Prices for livestock being sold for slaughter shall be based on the National Yellow Sheet prices. The "Yellow Sheet"

publication updates prices daily based on a national average. An acceptable alternative for obtaining slaughter animal prices are current USDA Livestock Market Reports.

X. Sale by Internet

- A. Notice of intended disposal by Internet auction shall be posted on the Internet. Such notice shall specify and reasonably describe the property to be disposed of, the date, time, manner and conditions of disposal, all as previously determined by the responsible authority.

XI. Exceptions

- A. Exceptions to this policy which are consistent with state law may be granted by the Chancellor or designee upon request by the president of the transferring institution, or their designees.
- B. The Chancellor or designee may not approve a method of disposal which is not specified in Sections I.A. or II.C. of this policy.

Sources

Authority

T.C.A. §§ 49-8-203, 12-2-403, 12-2-412

History

TBR Meetings, June 29, 1979; September 30, 1983; March 7, 1997; September 26, 2003; June 29, 2007; June 24, 2011; March 29, 2012; Dec 13, 2012; TBR Board Meeting June 19, 2015; Revisions approved by Board on December 13, 2018.