

FAQ



FAQ on Disposing of Surplus Property

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FAQ – Disposing of Surplus Property

Cities own property – often, a significant amount of property. Whether land, equipment, office supplies, vehicles, or landscaping tools, the types of property owned by city governments are as varied as the services that cities provide. Sometimes, a city may purchase property with certain expectations for its use, but then finds that circumstances changed and the property is no longer needed. Excess, or “surplus” property can be a financial detriment to cities due to a variety of costs, including storage, inventory, administrative and maintenance. Thus, cities often look to sell or donate surplus property to reduce those costs and recoup capital.

This FAQ poses some common questions about the disposal of surplus property and provides generally applicable answers. Individual cities may have their own policy goals and preferences, and thus may need to tailor their surplus property programs to meet those goals. Further, different cities may have their own local rules regarding the disposal of surplus property. The following advice is meant to be a general starting point, and city officials should consult local ordinances. Cities with further questions are encouraged to speak with their city attorney or contact LOC staff.

1. What is “Property”?

The term “property” can encompass many different things: land, equipment, and patents are all forms of property. Land and developments made to land are categorized as “real property.” Real property examples include: City parks, the public rights of way, and the city hall building. On the other hand, equipment, vehicles, clothing, and cash are generally categorized as “personal property.” Personal Property examples include: Office supplies, fire trucks, police cruisers and laptop computers. Copyrights, trademarks, patents and trade secrets are “intellectual property.” Also, remember that property “owned” by the city is owned by the public and is used for the public good.

2. What is “Surplus” Property?

Property is considered “surplus” when the property no longer serves the needs of the city and, therefore, the public. Surplus property should be disposed of when doing so is in the public interest.

3. Who Decides when Property is Surplus?

Deciding when property is surplus may be the responsibility of a city manager or city department heads, such as the public works director, fire chief, or parks director. Different cities may have different processes for deciding when property is surplus and ready for disposal.

4. What Does it Mean to “Dispose” of Property?

Typically, “disposing” of something means throwing it away. Disposing of surplus property, however, usually means selling, leasing, or donating the property. Only when none of those options are feasible should a city consider recycling or throwing away public property.

5. Do Any State Laws Control How Cities Should Dispose of Surplus Property?

In short, no. State statutes and administrative rules do prescribe the means of disposing of surplus *state* property, but those laws do not apply to surplus city property. Cities can, however, look to state law for an example of how to structure a surplus property program. ORS 279A.250 – 279A.290 regulates the disposition of state surplus property. The Oregon Department of Administrative Services administers the surplus property program through administrative rules. See OAR 125-050-0100 to 125-040-0400.

6. Does the League Have Any Model Rules for Cities to Use?

LOC's Model Policy for Public Contracting & Purchasing (May 2017) contains a section dealing with surplus property. The model policy is available on the [LOC website](#), in the Reference Library under the Resources Materials tab.

7. How Should a City Dispose of Surplus Personal Property?

Cities generally dispose of surplus personal property through a transfer to another government, a competitive bidding process, a public auction, a liquidation sale, or by donation. Which of those methods of disposal is preferable depends on the type of property, the value of the property, administrative costs, and other factors. In other words, each disposal will require a new evaluation to determine which method represents the greatest benefit to the public.

8. Can City Employees Purchase Surplus Property?

That depends on the city's own rules. Under the LOC Model Policy for Public Contracting & Purchasing, city employees are disqualified from participating in a competitive bid or an auction for surplus property. Some cities, however, allow city employees to submit a bid or participate in an auction for surplus property, as long as the purchase conforms with the Oregon Code of Ethics as set forth in ORS Chapter 244 (see, e.g., Roseburg Code of Ordinances § 3.16.030).

9. Are There Any Restrictions on Using the Proceeds of a Sale of Surplus Property?

Again, that depends on the city's own rules. Generally, the proceeds from the disposal of surplus property, if any, should first be used to recoup the city for storage, notice, publication fees and other costs associated with the storage and sale of the surplus property. Any net proceeds can then be deposited in the city's general fund or another fund, especially if another fund was used to purchase the property in the first place.