

STATE SURPLUS PROPERTY REQUIREMENTS - DISPOSITION OF LEGISLATIVE COMPUTERS

This memorandum is in response to a request for information regarding state surplus property statutes and rules that may be applicable to the disposition of portable personal computers by the Legislative Council and the Legislative Assembly.

SURPLUS PROPERTY DISPOSAL PROCEDURE - STATUTE REQUIREMENTS

North Dakota Century Code (NDCC) Section 54-44-04.6 sets forth the procedures for disposition of state surplus property. That section requires the person in charge of any state department, agency, or institution to inform the director of the Office of Management and Budget or the director's designee if the department, agency, or institution possesses property surplus to its needs. The property must be transferred at fair market value to state agencies, political subdivisions, and nonprofit organizations eligible to receive federal surplus property. Eligible organizations must be notified of the availability of property on a regular basis. Any property that is not disposed through a transfer at fair market value to a state agency, political subdivision, or a nonprofit organization must be sold on sealed bids or at public auction to the highest and best bidder if the property is valued at more than \$3,000 or through negotiation at fair value for property that is valued at less than \$3,000. The proceeds received from the transfer or sale of state surplus property must be deposited into the fund from which the property was originally purchased, less administrative expenses.

SURPLUS PROPERTY TRADE-IN PROCEDURE

North Dakota Century Code Section 54-44-04.6 prohibits a state department, agency, or institution from exchanging items as part of a purchase price of new items until a detailed statement of the value of the items to be exchanged and request for approval have been submitted to the director of the Office of Management and Budget. The director of the Office of Management and Budget may approve the exchange only if the director has determined that the item has been valued at fair value.

SURPLUS PROPERTY DISPOSAL PROCEDURE - MANUAL REQUIREMENTS

The Office of Management and Budget has established a state property disposal manual to identify the

procedures required to dispose of state-owned or acquired property. The disposal manual provides that surplus property must be reported to the Office of Management and Budget regardless of its condition and then disposed according to NDCC Section 54-44-04.6. The Office of Management and Budget has established a form to be used in reporting surplus property to the office. The form allows the disposing agency to note on the form any interest by another agency for the items being reported. If a notation of interest is included on the surplus property form, the Office of Management and Budget will contact the agency to cover the administrative costs of the transfer.

Neither state law nor policies adopted by the Office of Management and Budget specify a time period within which a transfer must be accomplished. However, a representative of the Office of Management and Budget indicated a transfer may be performed almost immediately after the agency submits the surplus property paperwork to the Office of Management and Budget. The representative of the Office of Management and Budget also indicated that the Office of Management and Budget will honor an agency's request to transfer property to another agency and will allow the transferring agency to establish a fee for the transferred property. The Office of Management and Budget charges a \$10 transfer fee to the agency receiving transferred property.

The representative of the Office of Management and Budget stated that the Office of Management and Budget would likely contact computer vendors and conduct Internet research to determine the fair market value for personal computers deemed to be surplus property. However, if the transferring agency establishes a particular price that it desires to receive for the surplus property, the Office of Management and Budget will not sell the item for a lower price without consulting the transferring agency. The representative of the Office of Management and Budget indicated that the Office of Management and Budget does not have experience with transfers of portable personal computers, although desktop computers have been sold as surplus property for amounts ranging from \$50 to \$150. When surplus property is sold, the Office of Management and Budget retains 20 percent of the selling price as its administrative fee.