

Flathead County – Disposal of County Surplus Property

Purpose: This policy seeks to establish procedures for the disposition of surplus county real and personal property in accordance with MCA 7-8-22. “Acquisition, Transfer, and Management of County Property.”

Scope and Applicability: This policy is applicable to all county departments. Departments may apply additional requirements as long as they are equal to or more restrictive than the procedures and standards established in this policy. All computer-related hardware and software disposal is subject to equipment & software purchase & disposal policy and will be managed by the IT department.

Administration: Elected Officials & Department heads are responsible for the implementation of this policy within their departments and for establishing procedures to demonstrate compliance.

General Guidelines:

Boards of County Commissioners have the power to sell, trade, or exchange any real or personal property, however acquired, belonging to the county that is not necessary to the conduct of county business or the preservation of its property. All surplus property valued over \$100 must be declared by the Board of Commissioners using the “Request for Declaration of Surplus Property” form. (A copy of the final approved form must be forwarded to the finance department.) When county equipment is declared “surplus property” and considered no longer needed to conduct county business, the Commissioners have the discretion on the type of disposal. Discretion may be delegated to department heads so long as it remains in compliance with this policy.

Items with a fair market value of less than \$100 may be disposed of in the manner that is in the best interest of the County. (A second opinion on FMV must be obtained from the finance department prior to disposal.) The disposal method will be at the discretion of the elected official/department head. Employees or employee family members cannot benefit from any disposal (including discarded items), unless purchased at a public auction. (See page 2 of this document – County Employee participation.)

If the county owns property containing a historically significant building or monument, the county may sell or give the property to nonprofit organizations or groups that agree to restore or preserve the property. The contract for the transfer of the property must contain a provision that:

- 1) Required the property to be preserved in its present or restored state upon any subsequent transfer; and
- 2) Provides for the reversion of the property to the county for noncompliance with conditions attached to the transfer.

Methods of Disposition – Personal Property:

- 1) **Transfer between departments** – Departments are encouraged to reuse surplus property through a transfer to another Flathead County department. Prior to using another method of disposal, the elected official/department head should make a reasonable effort to determine if another county department has a need or use for the item.
- 2) **Trade-in** – Departments should evaluate the benefits of a trade-in on a case by case basis.
 - a. Purchase of property with a value greater than \$2,500 needs to have documented a fair market value prior to trade-in.

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- b. Trade-ins are recommended if the allowance given is of sufficient value to outweigh the likely net proceeds obtained through sale to a third party.

3) **Sale**

If the property to be sold is **valued at less than \$2,500**, it may be sold at a public sale determined to be in the best interest of the county. If the property is sold at public sale, notice must be given as provided in MCA 7-1-2121.

If the property is **valued in excess of \$2,500**, must be sold at public action, competitive sealed bid, posted prices, electronic online auctions or established markets. There must, before any sale, be an appraisal of the property at a price representing a fair market value of such property. Such appraised value shall be stated in the notice of sale. No sale shall be made of any property unless it has been appraised within 3 months prior to the date of the sale. Departments must document the methods used to establish the appraised value. A valid appraiser must be someone that is an expert in appraising that type of property. There can be no appearance of, or direct conflict of interest by the appraiser.

NOTE: Auctioneers conducting the public sale must be bonded (a copy of the bond must be given to the finance department) and selected through the competitive process.

Terms of Sale – All sales must be for cash. Title to any property sold may not pass from the county until the purchaser has paid the full amount of the purchase price.

A sale may not be made for less than 90% of the appraised value.

If no bid or offer is made for any property offered for sale at public auction, the board of county commissioners may, at any time after the auction, sell the property at private sale and may at the private sale accept as the purchase price an amount not less than 70% of the appraised value of the property. (MCA 7-8-2213)

Use of Proceeds – At the discretion of the Board of County Commissioners, proceeds derived from the sale of disposed property may be credited back to the fund that purchased the property. Remaining proceeds with unidentified funding sources will be credited to the general fund.

County Employee participation – County employees are permitted to participate in the purchase of surplus personal property, but only in the same manner as the public at large. No county employee shall be given any consideration or privilege that might be construed as conferring advantage in the outcome of the sale. Employees of the selling department, or any immediate family members of such employees, shall not participate in any sale conducted through a sealed bid if they influence the maintenance, decision to surplus, determination of appraised value, or any aspects involving the disposition of the item.

Grant funded assets: Prior to the disposal of property obtained with federal grant funds, the department shall consult grant documents to determine compliance procedures for such disposal.

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- 4) **Scrapped/Recycled** – If surplus property is damaged or reduced to a state beyond repair (destroyed), the item should be disposed of as salvage or scrap. Proceeds of scrap material must be deposited in the county funds.
- 5) **Cannibalization** – A department may determine that the best use of a surplus item is to cannibalize it for the serviceable components. Any residual parts should be recycled or disposed of as salvage or scrap.
- 6) **Sale/trade to another Government Entity:** - The board of county commissioners shall have the power to sell directly to another government entity, without the necessity of a public auction, any real or personal property, however acquired, belonging to the county and which is not necessary to the conduct of the county's business or the preservation of its property, for its appraised value, which shall represent a fair market value of such property. If the value is in excess of \$2,500, notice of the sale shall be given by publication as provided in MCA 7-2-2121. The Board of Commissioners must first pass a resolution of intent and have it entered in the minutes of the regular or special meeting. A trade of property with another government entity does not require an appraisal of the property traded or purchased. (MCA 7-8-101 (3) a)
- 7) **Donations:** Donations of surplus property are not permissible.

Methods of Disposition – Real Property:

Any (not subject to \$2,500 value) sale, trade, or exchange of real property must be accomplished under the provisions of MCA 7-8-2211. In an exchange of real property, the properties must be appraised, and an exchange of county property may not be made unless property received in exchange for the county property is of an equivalent value. If the properties are not of equivalent values, the exchange may be completed if a cash payment is made in addition to the delivery of title for property having the lesser value.

All the other conditions of the sale of personal property listed above apply to real property.

NOTE: Finance must be notified when any asset is disposed of regardless of the method of disposal!