

CHAPTER 111
DISPOSAL OF STATE PERSONAL PROPERTY

11—111.1(8A) Definitions.

“Agency” or “state agency” means a unit of state government, which is an authority, board, commission, committee, council, department, examining board, or independent agency as defined in Iowa Code section 7E.4, including but not limited to each principal central department enumerated in Iowa Code section 7E.5. However, “agency” or “state agency” does not mean any of the following:

1. The office of the governor or the office of an elective constitutional or statutory officer.
2. The general assembly or any office or unit under its administrative authority.
3. The judicial branch, as provided in Iowa Code section 602.1102.
4. A political subdivision of the state or its offices or units, including but not limited to a county, city, or community college.

“Auction” means a sale of property to the highest bidder. Auctions may be conducted electronically.

“Bid” means to offer a price to purchase an item.

“Bidder” means an individual who offers a price to purchase an item.

“Department” means the Iowa department of administrative services.

“Director” means the director of the Iowa department of administrative services or the director’s designee.

“Hazardous materials” or “hazardous waste” means personal property that requires special handling and a special disposal fee based on state or federal regulations.

“Highest bidder” means an individual who offers the highest price to purchase an item.

“Personal property” means anything of value belonging to the state, other than real property, under the control of the director. Tangible personal property that becomes part of realty is not personal property.

“Scrap” means personal property, such as equipment and supplies, that is to be disposed of because it does not have sufficient value to justify preparing it for reuse or reprocessing. Scrap may be recycled or sold.

“State surplus” or “state property” means items of personal property, such as equipment and supplies, for which state agencies no longer have a business use, but that have some reuse value. “State surplus” does not mean personal property that an agency uses as a trade-in or that is transferred from one agency to another agency when the receiving agency has a business use for the property.

“State surplus property program” means the program authorized under Iowa Code chapter 8A for the director to dispose of state surplus property.

“State vehicle” means any vehicle registered to the state of Iowa, department of administrative services.

“Successful bidder” means an individual who was awarded the sale of an item as the highest bidder.

“Surplus property program agent” means a not-for-profit organization or governmental agency that has entered into an agreement with the department to dispose of state surplus.

“Surplus property staging area” means an area within each building on the capitol complex where surplus property, other than vehicles, is accumulated for pickup.

11—111.2(8A) Disposal of state surplus property. The director shall dispose of all personal property of the state under the director’s control when the personal property becomes unnecessary or unfit for further use by the state. This rule establishes the procedures for inspecting, selecting and removing surplus property from state agencies or from state storage.

111.2(1) Means of disposal. The director may dispose of unfit or unnecessary personal property by auction or other method of sale, trade-in, salvage, recycling, donation or transfer, or may properly and safely dispose of it by other means.

111.2(2) Proceeds from disposal. Except for proceeds from the sale of vehicles and printing equipment or except as otherwise provided by law or rule, proceeds from the sale of personal property by the director shall be deposited in the general fund of the state.

111.2(3) *Transfer.* Personal property may be transferred between state agencies in lieu of other means of disposal when the receiving agency has a business use for the personal property.

111.2(4) *Disposal agreement.* The director may enter into agreements with not-for-profit organizations or governmental agencies to dispose of state surplus. Notwithstanding subrule 111.2(3), when the director disposes of surplus property by donation, the disposal of such property shall be in accordance with an agreement established pursuant to this subrule between the department and a surplus property program agent. A surplus property disposal agreement shall contain, at a minimum, the following components:

a. Identity of parties. The agreement shall be between the department and the surplus property program agent.

b. Purpose. The purpose of the agreement shall be for the disposal of state surplus.

c. Definitions. Terms having special meaning to the agreement shall be defined.

d. Project description. The process utilized for disposal of state surplus and the rights and responsibilities of the parties under this agreement shall be described.

e. Compensation and fees. The agreement shall specify any fees charged by the surplus property program agent for removal and transportation of the state surplus. When the surplus property program agent adds value to the property transferred to it and sells the property, the proceeds from the sale shall be retained by the surplus property program agent and shall not be deposited in the general fund of the state.

f. Geographical or commodity conditions. The agreement shall specify any geographical conditions that may apply and any restrictions on the types of commodities accepted by the surplus property program agent.

g. Title to state surplus property. The agreement shall specify the declaration form required to transfer the surplus property and shall specify that title to the surplus property shall transfer to the surplus property program agent when the surplus property and the declaration form for the surplus property are in the possession of the surplus property program agent.

h. Duration of agreement. The duration of the agreement shall be specified as not to exceed six years, with annual reviews conducted by the parties.

i. Liability and indemnification. The agreement shall specify the liability and indemnification terms, such as parties' responsibilities for damage to state buildings and leased spaces as a result of performance of the agreement.

j. Default and termination. Default and termination conditions shall be specified.

k. Contract administration. The method or procedures for contract administration shall be specified, including provisions for monitoring compliance.

l. Execution. The agreement shall be signed by the director and the surplus property program agent.

111.2(5) *Use of additional disposal agreements.* Where more than one agreement is in place in a particular county or region of the state, state agencies shall utilize the surplus property program agents on a fair and equitable basis.

111.2(6) *Identifying items for disposal.* State agency staff designated by the head of a state agency or designated department staff may identify unused property within state office areas and determine whether the unused property is scrap or salvageable surplus property.

111.2(7) *Removal of surplus property.*

a. Requests from agencies to remove surplus property may be processed through the department on the capitol complex.

b. Requests from agencies to remove surplus property may be sent directly to the surplus property program agent.

c. State agencies or designated department staff may remove surplus property from a building's office area or state storage to the building's surplus property staging area.

111.2(8) *Disposal of hazardous waste.* When the director or director's designee concludes that personal property provided for disposal is contaminated, contains hazardous waste, or is hazardous

waste, the state agency providing such property for disposal is responsible for the hazardous waste disposal fees.

111.2(9) *Surplus property sale by state agencies.* The director may authorize one or more individuals within a state agency to sell surplus property located outside Polk County by public auction when the director determines this is the most cost-effective method of disposal. The net proceeds from the sale shall be deposited in the general fund of the state.

111.2(10) *Disposal of printing equipment.* The director may dispose of presses, printing equipment, printing supplies, and other machinery or equipment used in the printing operation pursuant to Iowa Code section 8A.341. The receipts from the sale of presses, printing equipment, printing supplies, and other machinery or equipment used in the printing operation shall be deposited in the printing revolving fund established in Iowa Code section 8A.345.

111.2(11) *Disposal of surplus office modular components, furniture and equipment.* Disposal of surplus office modular components, furniture and equipment shall be carried out pursuant to 11—subrule 100.6(7).

11—111.3(8A) State vehicle auctions. Public auctions of state vehicles under the control of the director shall be held in accordance with the standards set forth in this rule. Auctions may be conducted electronically.

111.3(1) *Eligibility to bid.* All bidders must register before making a bid. Bid numbers shall be available prior to and during the sale. All bidders must be 18 years of age or older to bid or purchase items at the auction.

111.3(2) *Settlement of purchases.* All sales are final. Final settlement may be made on the date of the sale, but must be completed by the date specified at the time of the sale. Removal of purchased items is at the expense of the successful bidder.

111.3(3) *Guarantees and warranties.* All items are sold to the highest bidder as is, with no guarantees or warranties.

111.3(4) *Sales tax.* Iowa sales tax and any applicable local option tax shall be collected at the auction, unless the item sold is a vehicle subject to registration.

111.3(5) *Public property.* Individuals tampering with or pilfering public property shall be subject to prosecution.

111.3(6) *Office hours.* Office hours for completing final settlement in person and taking possession of the purchased item are as specified in the terms and conditions of the sale.

111.3(7) *Announcements.* Any announcements, corrections or revisions of sale item descriptions or bid reservation policy announced by auction officials during the course of the sale shall take precedence over sale item descriptions and bid reservation policy in printed materials.

111.3(8) *Liability.* The state does not accept any responsibility or liability for damages done to person or property once the successful bidder takes possession of the purchased item. If the item is damaged while still in the possession of the state, upon the request of the successful bidder the state shall return the bidder's payment and void the transaction. The state of Iowa, department of administrative services, the auctioneers and their employees are not responsible for any accidents.

111.3(9) *State vehicle auctions—exceptions.* All used motor vehicles turned in to the director shall be disposed of by public auction, with the following exceptions:

a. In the case of a used motor vehicle of special design, the director may, instead of selling the vehicle at public auction, authorize the trade of the vehicle for another vehicle of similar design.

b. If a motor vehicle sustains damage and the cost of repair exceeds the wholesale value of the vehicle, the director may dispose of the vehicle by obtaining two or more written salvage bids and selling the vehicle to the highest responsible bidder.

111.3(10) *Advertisement of sales.* A public auction of state vehicles under the control of the director shall be advertised in a newspaper of general circulation as defined in Iowa Code section 618.3, subsection 1, in the area of the sale one week in advance of the sale. Public auctions will also be advertised on the department's Web site.

111.3(11) *Dates and times to examine vehicles.* Prospective buyers may examine a vehicle, start the engine and operate accessories on an auction vehicle during times and dates specified in the terms and conditions of the sale, but are prohibited from over-revving the engine. Only those individuals aged 18 or older in possession of a valid operator's, chauffeur's, or commercial driver's license will be permitted to start engines and operate accessories of the auction vehicles. Under no condition will an individual other than personnel authorized by the department move a vehicle from its sale position.

111.3(12) *Bid deposit.* A successful bidder must make a \$200 deposit to hold an item for final payment. The deposit must be in the form of cash, traveler's check, postal money order, cashier's check, or a certified check from a savings and loan, credit union, or bank for each vehicle or other item purchased, made payable or endorsable to the State of Iowa. Political subdivisions are the exception to this rule and may use either a requisition or purchase order in lieu of the deposit.

111.3(13) *Personal checks.* No personal or company checks will be accepted for any \$200 deposit or final settlement for the purchase of a vehicle, unless accompanied by a letter from the issuing financial institution guaranteeing the amount of the check.

111.3(14) *Bid default.* Bidders are cautioned to bid only on those items the bidder is prepared to pay for and remove in accordance with the terms and conditions of the sale. All items awarded the highest bidder contractually belong to the highest bidder and must be paid for and removed within the time period allowed by the terms and conditions of the sale. The successful bidder agrees that, in the event the property is not paid for or removed within the prescribed period of time, the state of Iowa, at its election and upon notice of default, shall be entitled to retain or collect as liquidated damages a sum equal to the greater of either 20 percent of the total purchase price of the item on which the default has occurred or \$200 if the successful purchase price is less than \$1,000.

111.3(15) *Settlement of vehicle purchases.* Deposits may be forfeited if the balance due is not paid by the date specified at the time of the sale. A penalty of \$25 per workday per item will be assessed beginning at the close of business on the date specified at the time of the sale for any final settlement still owed to the state of Iowa. Payments must be received timely and in the terms specified in subrule 111.3(2). In the event that a final settlement is not concluded by the date specified at the time of the sale, deposits held against items sold will be forfeited to the state of Iowa.

111.3(16) *Vehicle storage.* Vehicles purchased at state auction may be stored on state of Iowa premises at no charge until the close of business on the date specified in the terms and conditions of the sale. Vehicles remaining after that time and date will be assessed a \$25 per calendar day storage fee, which must be paid in full prior to release of vehicles and title documents.

111.3(17) *Title transfer.* Title transfer is made at the time of final settlement. Use tax for vehicles subject to registration will be paid by the successful bidder to the county treasurer at the time of application for a vehicle license. The director or designee shall furnish an in-transit paper license plate to the successful bidder. Requests for duplicate titles will be processed for a fee of \$25 per title.

111.3(18) *Window notations.* Any mechanical defects or disrepair conditions that are determined by the director, or of which the director is made aware, are noted on the windshield of each vehicle. Obvious damage such as, but not limited to, body dents or rust perforation, tire wear, cracked windshields, or exhaust system deterioration may or may not be noted. Accident damage will be noted on the windshield if any single accident caused repairs in excess of \$1,500 while the vehicle was owned and operated by the state of Iowa.

111.3(19) *Vehicle proceeds.* Proceeds from the sale of state vehicles sold by the director shall be deposited in the depreciation fund to the credit of the state agency that purchased the vehicle.

These rules are intended to implement Iowa Code sections 8A.321(5), 8A.324, 8A.362(6) and 8A.365.

[Filed 11/12/04, Notice 4/28/04—published 12/8/04, effective 1/12/05]

[Filed 6/15/05, Notice 4/27/05—published 7/6/05, effective 8/10/05]