

## CHAPTER 1260

### DEPARTMENT OF ADMINISTRATION

### FEDERAL SURPLUS PROPERTY DIVISION

### FEDERAL SURPLUS PROPERTY

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#### 1260.0100 AUTHORITY AND SCOPE.

The Federal Surplus Property Division, Department of Administration, was created and operates pursuant to Minnesota Statutes, sections 16B.28 and 16B.29. The Federal Surplus Property Division maintains a distribution center for federal surplus property made available by the federal government, or any department or agency thereof, for transfer to governmental or nonprofit organizations for any purpose authorized by federal and state law and in accordance with any rules and regulations promulgated thereunder.

**Statutory Authority:** *MS s 16B.04, subd 1*

#### 1260.0200 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 1260.0100 to 1260.0900, the following terms shall have the meaning given them.

Subp. 2. **Acquisition cost.** "Acquisition cost" means original purchase price of property paid by the federal government.

Subp. 3. **Donee.** "Donee" means public agency or nongovernmental organization qualified or authorized to acquire federal surplus property as provided in part 1260.0300.

Subp. 4. **FPMR.** "FPMR" means federal property management regulations.

Subp. 5. **FSP activity.** "FSP activity" means the Minnesota Federal Surplus Property Section, 5420 Highway 8, Arden Hills, Minnesota 55112.

Subp. 6. **Utilization restriction.** "Utilization restriction" means restrictions on the use and disposition of federal surplus property, including required use for one or more public purposes and nondisposal restrictions for stated period of time, as required pursuant to federal and state law, and rules and regulations promulgated pursuant thereto.

Subp. 7. **Federal surplus property utilization and sales coordinator.** "Federal surplus property utilization and sales coordinator" means FSP activity person designated to audit the utilization of federal surplus property acquired by donees and to coordinate sales of property that has no further utility value.

Subp. 8. **General Services Administration.** "General Services Administration" means the federal agency responsible for the transfer of federal surplus personal property.

**Statutory Authority:** *MS s 16B.04 subd 1*

#### 1260.0300 ELIGIBILITY.

Subpart 1. **Standards.** Standards and guidelines for the determination of eligibility are established pursuant to the requirements of FPMR 101-44.207. Eligibility to acquire federal surplus property may include public agencies involved in carrying out or promoting for the residents of a given political area one or more public purposes, including, but not limited to, conservation, economic development, education, parks and recreation, public health, and public safety; or to nonprofit educational or public health institutions or organizations, such as medical institutions, hospitals, clinics, health centers, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, child care centers, radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations, museums attended by the public, and libraries serving free all residents of a community, district, state, or region, which are exempt from

taxation under section 501 of the Internal Revenue Code of 1954, as amended, for purposes of education or health, including research for any such purpose. Interested participants shall request on forms obtainable for the FSP activity, a determination of eligibility from the FSP activity at the address listed in part 1260.0200, subpart 5.

**Subp. 2. Written determination.** The FSP activity within a reasonable period of time of receipt of request shall make a written determination of eligibility pursuant to federal and state laws and rules, and such determination shall be sent to the applicant.

**Statutory Authority:** *MS s 16B.04 subd 1*

#### **1260.0400 FINANCING AND SERVICE CHARGE.**

**Subpart 1. Fund.** A revolving fund, established pursuant to Minnesota Statutes, section 16B.28, subdivision 3, shall finance the acquisition, storage, and distribution of surplus federal property. The fund shall be maintained by the collection of service and handling charges.

**Subp. 2. Determination of charges.** Service charges shall be assessed at a rate taking into consideration costs involved in acquiring, storing, and distributing surplus property as required by Minnesota Statutes, section 16B.28. Factors considered in determining service charges shall be original acquisition costs, present value, screening cost, quantity, condition, desirability of property, transportation cost, loading and unloading cost, packing and crating, administrative cost, repair and rehabilitation, utilization and compliance, and delivery to donees when required.

**Subp. 3. Special costs.** When special or extraordinary costs occur, such costs will be added to the service charge. Costs which shall be added are as follows:

- A. Direct costs for rehabilitating property shall be added to the service charge.
- B. Additional direct costs for returning overseas property may be added to the service charge.
- C. Charges for major items with unusual costs may be added to the service charge.
- D. An additional charge may be made for dismantling, packing, crating, shipping, delivery, and other extraordinary handling charges.
- E. Extraordinary costs incurred in screening property may be added.

**Subp. 4. Direct transfer of property.** Where direct transfer of property to eligible donee is made, the service charge may be reduced taking into consideration savings made because of direct shipment to donee or other savings in the above-listed cost categories.

**Subp. 5. If program ends.** In the event the program is terminated, assets shall be converted to cash in accordance with these rules and all funds not used to pay outstanding obligations of the FSP activity shall revert to the general fund of the state of Minnesota.

**Statutory Authority:** *MS s 16B.04 subd 1*

#### **1260.0500 TERMS AND CONDITIONS ON DONABLE PROPERTY.**

**Subpart 1. Items worth \$2,000 or more.** The following general conditions, in conjunction with conditions imposed by the terms of an individual sale of items, are imposed by the state of Minnesota and are applicable to items with a unit acquisition cost of \$2,000 or more:

A. There shall be a period of utilization restriction which shall expire after the property has been used for the purpose for which acquired for a period of four years, except that all state of Minnesota agencies shall be required to manage federal surplus property in accordance with statewide inventory management programs.

B. From the date it receives the property, the donee shall not sell, trade, lease, lend, bail, cannibalize, encumber, or otherwise dispose of such property or remove it permanently for use outside the state, without prior written approval of the FSP activity, until expiration of all utilization restrictions.

C. If at any time from the date it receives the property until expiration of utilization restrictions, any of the property is no longer suitable, usable, or further needed by the donee, the donee shall promptly notify, in writing, the FSP activity and shall be directed, in writing, by the FSP activity to return the property to the FSP activity, release the property to another donee or another state agency, sell, or otherwise dispose of the property.

D. In the event that any property acquired through the FSP activity is sold, traded, leased, loaned, bailed, cannibalized, encumbered, or otherwise disposed of contrary to state

or federal law or regulation, relating but not limited to the General Services Administration special handling or use regulations, the donee shall pay the FSP activity the proceeds of the disposal or the fair market value or the fair rental value of the property at the time of such disposal as determined by the FSP activity. "Fair market value" and "fair rental value" as used herein shall mean the value of obtaining a like item in the local industrial, retail, or other market.

E. The proceeds from any authorized sale or transfer shall be reimbursed pursuant to part 1260.0800, subparts 1 to 3.

Subp. 2. **Items worth less than \$2,000.** The following conditions are imposed by the state of Minnesota, applicable to items with a unit acquisition cost of less than \$2,000:

A. Appropriate inventory controls shall be established by each donee to ensure optimum property utilization and control in conformance with federal and state law and rules.

B. Except as listed in item C, property with acquisition cost of less than \$2,000 which is no longer needed or suitable for use in the federal surplus program may be sold or junked by the donee possessing such property, consistent with any laws and internal policies and procedures governing such disposition. Donees shall be authorized to retain all revenues derived from such sale of surplus property, assuming that all aforementioned criteria have been met.

C. Consistent with federal statutory requirements, all property must be placed in use within one year and be used for one year after being placed in use. Donees in violation of this requirement shall return such property to the FSP activity.

Subp. 3. **Penalty.** Failure to comply with all terms, conditions, and provisions of state and federal law and regulation may subject donee to removal from FSP eligibility.

**Statutory Authority:** *MS s 16B.04 subd 1*

#### 1260.0600 FAIR DISTRIBUTION.

Subpart 1. **Who will receive property.** Factors considered in the distribution of property are based on relative needs, relative resources, and ability to utilize the property and include the following:

A. In considering requests of potential recipients, the criteria for determining the relative needs shall be size and type of program conducted; contemplated use and frequency of use; economic condition of agency, activity, or institution; critical or urgent need; geographical location (urban, suburban, or rural); and interest and expression of need on the part of the donee in the property available.

B. In considering requests of potential recipients, the criteria for determining relative resources shall be funding source and availability (grants, donations, taxes, etc.); and equipment availability.

C. In considering requests of potential recipients, the criteria for evaluating ability to utilize property shall be length of time of contemplated usage; date by which item can be put in use; availability of funds to repair or maintain property in use; ability of the donee to select and remove property from the distribution center or federal activity on a timely basis; and type and quantity of property received by the donee to date.

Subp. 2. **Distribution center.** The FSP activity shall operate a distribution center to serve the eligible donees in the distribution of available property. Any donee may submit, in writing, a list of major items needed by the donee, such as vehicles, construction equipment, materials handling equipment, machine tools, generators, air compressors, business machines, boats, aircraft, large electronic, and scientific type items. FSP employees shall be guided by these requests in their search for and selection of property. This equipment shall be distributed as outlined in subpart 1. Donee shall be notified by telephone by the FSP activity when a listed major item is acquired.

Subp. 3. **Help yourself plan.** Small miscellaneous items, less than \$20 per item in value, will be available on the "help yourself plan," with quantity limited to any one donee depending upon the total quantity on hand.

Subp. 4. **Bulletins.** Federal Surplus Property Bulletins listing property available for distribution shall be mailed to all donees registered pursuant to part 1260.0300.

Subp. 5. **Screening donees.** The FSP activity shall recommend to General Services Administration the certification of donee screeners, as qualified and needed.

The FSP activity will, insofar as practical, economical, and equitable select that property requested by the donees, and the FSP activity will arrange for direct pickup or shipment of the property to the donee if requested to do so.

**Subp. 6. Disaster victims.** Donees which suffer or experience a local disaster and/or major loss of property due to fire, flood, tornado, etc., may apply for a temporary priority for all requested items of property by telephoning the FSP activity or writing the FSP activity at the address noted in part 1260.0200, subpart 5. Special efforts shall be made to locate and distribute needed property to such donees.

**Statutory Authority:** *MS s 16B.04 subd 1*

#### **1260.0700 COMPLIANCE, USE, AND DISPOSITION.**

**Subpart 1. Field audits.** In order to obtain optimum federal surplus property utilization within Minnesota, obsolete and surplus property liability and utilization procedures have been established for statewide application. In order to ensure the integrity of the statewide property utilization program, donee field audits shall be periodically conducted by the FSP activity of the Materials Management Division. All donees shall cooperate with auditors and all audit requests or be subject to removal from FSP eligibility.

**Subp. 2. Reporting obsolete or surplus property.** When property becomes obsolete or surplus to a donee's needs, it shall be reported to the FSP activity on forms provided by the FSP activity, as required in part 1260.0800, subpart 1.

**Subp. 3. Evaluating obsolete or surplus property.** Property reported as obsolete or surplus by donee on forms provided by the FSP activity shall be evaluated by the federal surplus property utilization and sales coordinator to determine the most feasible means of disposition. If the property is considered to have further utility value within the utilization restriction period, this information shall be circulated to all donees via the Federal Surplus Property Bulletin, published periodically, and made available pursuant to part 1260.0600, subpart 4.

**Statutory Authority:** *MS s 16B.04 subd 1*

#### **1260.0800 PROPERTY SALES.**

**Subpart 1. General.** All obsolete, surplus, and recyclable personal property which no longer provides any utility value to the federal surplus property program shall be sold. Local sale of personal property may be authorized, in writing, by the FSP activity or sales shall be conducted centrally by the state Surplus Property Sales Section pursuant to parts 1255.0200 to 1255.0700.

**Subp. 2. Procedure.** Personal property sales may be transacted via the sealed bid process, public auction, or on a negotiated basis. All local personal property sales shall be authorized in writing, by the FSP activity, Division of Materials Management. Application forms for local sale shall be provided by the FSP activity.

**Subp. 3. Reimbursement.** The FSP activity shall determine the maximum amount of reimbursement allowed the donee selling the property pursuant to part 1260.0500, subpart 1, item E. Any revenue from such sale in excess of the authorized reimbursement amount, shall be submitted to the FSP activity, accompanied by a copy of the forms required by the FSP activity for reporting disposition results, a buyer-acknowledged (signed) copy of the sales receipt, and a copy of the donee deposit form. Reimbursement to donee shall be on a prorated basis for the following expenses:

- A. service charge paid to the FSP activity;
- B. transportation charges paid by the donee in initially acquiring the property;
- C. initial costs of repair required to make the items usable; and
- D. administrative costs incurred in the sale or transfer of such property.

**Subp. 4. Sealed bid sales.** Locally authorized bid sales may be used by all donees in the sealed bid sale of federal surplus property when authorized, in writing, by the FSP activity pursuant to subpart 2.

Whenever practicable, at least three competitive bids shall be solicited in the sale of federal surplus personal property via the sealed bid process.

Sealed bid sales which are not authorized locally shall be processed by the FSP activity pursuant to part 1255.0500.

Any employee directly involved in the sales process shall not be eligible to purchase surplus property for which they have specific responsibility.

Subp. 5. **Auction sales.** The FSP activity shall coordinate all federal surplus personal property auction sales for all donees of the state.

When a donee has reported property, pursuant to subpart 2, to the FSP activity, which cannot be transferred to another donee, the FSP activity shall determine the most effective means of disposal. If an auction sale is warranted, the auction sale shall be processed pursuant to part 1255.0400.

Subp. 6. **Negotiated sales.** Pursuant to Minnesota Statutes, section 16B.07, subdivision 7, sale of federal surplus personal property estimated to be \$5,000 or less may be made either upon competitive bids or in the open market. All negotiated sales shall receive prior approval, in writing, from the FSP activity.

Whenever practicable, at least three competitive bids shall be solicited in the sale of federal surplus personal property via the negotiated process.

No employee of any donee organization may purchase federal surplus property via the negotiated sale process.

The disposition of all negotiated sales shall be reported to the FSP activity on the form provided by the FSP activity, accompanied by a buyer acknowledged (signed) sales receipt and a copy of the donee deposit form.

A copy of the buyer-acknowledged signed sales receipt shall be maintained in the donee(s) files for seven years from the date the sales transaction was consummated.

**Statutory Authority:** *MS s 16B.04 subd 1*

#### **1260.0900 CONSULTATION WITH ADVISORY GROUPS, PUBLIC AND PRIVATE GROUPS.**

The FSP activity shall consult with advisory bodies and public and private groups which can assist in determining relative needs and resources. A private or public body wishing to be a party to the above consultation, shall, in writing, contact the FSP activity manager, 5420 Highway 8, Arden Hills, Minnesota 55112.

**Statutory Authority:** *MS s 16B.04 subd 1*