

Chapter 2 Division of Purchasing and General Services

Part 1 General Provisions

63A-2-101 Creation.

There is created the Division of Purchasing and General Services within the Department of Administrative Services.

Amended by Chapter 252, 1997 General Session

63A-2-101.5 Definitions.

As used in this chapter:

- (1) "Division" means the Division of Purchasing and General Services created under Section 63A-2-101.
- (2) "Federal surplus property" means surplus property of the federal government of the United States.
- (3) "Information technology equipment" means equipment capable of downloading, accessing, manipulating, storing, or transferring electronic data, including:
 - (a) a computer;
 - (b) a smart phone, electronic tablet, personal digital assistant, or other portable electronic device;
 - (c) a digital copier or multifunction printer;
 - (d) a flash drive or other portable electronic data storage device;
 - (e) a server; and
 - (f) any other similar device.
- (4) "Person with a disability" means a person with a severe, chronic disability that:
 - (a) is attributable to a mental or physical impairment or a combination of mental and physical impairments; and
 - (b) is likely to continue indefinitely.
- (5) "Property act" means the Federal Property and Administrative Services Act of 1949, 40 U.S.C. Sec. 549.
- (6) "Purchasing director" means the director of the division appointed under Section 63A-2-102.
- (7) "Smart phone" means an electronic device that combines a cell phone with a hand-held computer, typically offering Internet access, data storage, and text and email capabilities.
- (8) "State agency" means any executive branch department, division, or other agency of the state.
- (9) "State surplus property":
 - (a) means state-owned property, whether acquired by purchase, seizure, donation, or otherwise:
 - (i) that is no longer being used by the state or no longer usable by the state;
 - (ii) that is out of date;
 - (iii) that is damaged and cannot be repaired or cannot be repaired at a cost that is less than the property's value;
 - (iv) whose useful life span has expired; or
 - (v) that the state agency possessing the property determines is not required to meet the needs or responsibilities of the state agency;
 - (b) includes:
 - (i) a motor vehicle;

- (ii) equipment;
- (iii) furniture;
- (iv) information technology equipment; and
- (v) a supply; and
- (c) does not include:
 - (i) real property;
 - (ii) an asset of the School and Institutional Trust Lands Administration, established in Section 53C-1-201;
 - (iii) a firearm or ammunition; or
 - (iv) an office or household item made of aluminum, paper, plastic, cardboard, or other recyclable material, without any meaningful value except for recycling purposes.
- (10) "State surplus property contractor" means a person in the private sector under contract with the state to provide one or more services related to the division's program for the management and disposition of state surplus property.

Amended by Chapter 98, 2015 General Session

63A-2-102 Director of division -- Appointment.

- (1) The executive director shall appoint the director of the Division of Purchasing and General Services with the approval of the governor.
- (2) The purchasing director is also the state's chief procurement officer.

Amended by Chapter 98, 2015 General Session

63A-2-103 General services provided -- Subscription by state departments, state agencies, and certain local governmental entities -- Fee schedule.

- (1) The purchasing director:
 - (a) shall operate, manage, and maintain:
 - (i) a central mailing service; and
 - (ii) an electronic central store system for procuring goods and services;
 - (b) shall, except when a state surplus property contractor administers the state's program for disposition of state surplus property, operate, manage, and maintain the state surplus property program;
 - (c) shall, when a state surplus property contractor administers the state's program for disposition of state surplus property, oversee the state surplus property contractor's administration of the state surplus property program in accordance with Part 4, Surplus Property Services; and
 - (d) may establish microfilming, duplicating, printing, addressograph, and other central services.
- (2)
 - (a) Each state agency shall subscribe to all of the services described in Subsection (1)(a), unless the director delegates the director's authority to a state agency under Section 63A-2-104.
 - (b) An institution of higher education, school district, or political subdivision of the state may subscribe to one or more of the services described in Subsection (1)(a).
- (3)
 - (a) The purchasing director shall:
 - (i) prescribe a schedule of fees to be charged for all services provided by the division after the purchasing director:
 - (A) submits the proposed rate, fees, or other amounts for services provided by the division's internal service fund to the Rate Committee established in Section 63A-1-114; and

- (B) obtains the approval of the Legislature, as required by Section 63J-1-504;
 - (ii) ensure that the fees are approximately equal to the cost of providing the services; and
 - (iii) annually conduct a market analysis of fees.
- (b) A market analysis under Subsection (3)(a)(iii) shall include a comparison of the division's rates with the fees of other public or private sector providers if comparable services and rates are reasonably available.

Amended by Chapter 98, 2015 General Session

63A-2-104 Delegation of general services to departments or agencies -- Writing required -- Contents -- Termination.

- (1) The purchasing director, with the approval of the executive director, may delegate, in writing, the purchasing director's authority to perform or control any general services function to another state agency by contract or other means authorized by law, if:
- (a) in the judgment of the executive director, the state agency has requested the authority; and
 - (b) the state agency has the necessary resources and skills to perform or control the functions.
- (2) The purchasing director may delegate the purchasing director's authority only when the delegation would result in net cost savings or improved service delivery to the state as a whole.
- (3) The written delegation shall contain:
- (a) a precise definition of each function to be delegated;
 - (b) a clear description of the standards to be met in performing each function delegated;
 - (c) a provision for periodic administrative audits by the department; and
 - (d) a date on which the agreement shall terminate if not previously terminated or renewed.
- (4) An agreement to delegate functions to a state agency may be terminated by the department if the results of an administrative audit conducted by the department reveal lack of compliance with the terms of the agreement.

Amended by Chapter 98, 2015 General Session

63A-2-105 Director to approve certain purchases.

- (1) A state agency that intends to purchase any mail-related equipment or copy machine shall submit a purchase request to the purchasing director.
- (2) The purchasing director shall review a request under Subsection (1) to ensure that:
- (a) the authority to perform those functions has been appropriately delegated to the state agency under this part;
 - (b) the equipment meets proper specifications; and
 - (c) the benefits from the state agency's purchase of the equipment outweigh the benefits of having the same functions performed by the division.

Amended by Chapter 98, 2015 General Session

Part 4
Surplus Property Service

63A-2-401 Utah surplus property program -- Administration.

- (1) The division shall determine the appropriate method for disposing of state surplus property.

- (2) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the division may contract with one or more state surplus property contractors to assist with the disposition of state surplus property by:
 - (a) online auction;
 - (b) live auction;
 - (c) pick up, sale, and disposal;
 - (d) disposal;
 - (e) destruction; or
 - (f) another method approved by the purchasing director.
- (3)
 - (a) A state agency shall use the services of the state surplus property contractors under contract with the division for the disposition of state surplus property unless the purchasing director authorizes an exception in writing.
 - (b) Justification for an exception under Subsection (3)(a) includes:
 - (i) a security issue;
 - (ii) the need for restricted public access to the state surplus property;
 - (iii) a lack of adequate storage space; and
 - (iv) an issue specific to the state agency, as approved by the purchasing director.
- (4)
 - (a) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing a surplus property program that meets the requirements of this chapter by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (b) The rules under Subsection (4)(a) shall include:
 - (i) procedures and requirements for transferring state surplus property directly from one state agency to another;
 - (ii) procedures and requirements governing division administration requirements that a state agency is required to follow;
 - (iii) requirements governing purchase priorities;
 - (iv) requirements governing accounting, reimbursement, and payment procedures;
 - (v) procedures for collecting bad debts;
 - (vi) requirements and procedures for the disposition of firearms;
 - (vii) the elements of the rates or other charges assessed by the division for services and handling;
 - (viii) procedures governing the timing and location of public sales of state surplus property;
 - (ix) procedures governing the disposition of information technology equipment; and
 - (x) procedures governing the transfer of information technology equipment by state agencies directly to public schools.
 - (c) Except as it relates to a vehicle or federal surplus property, the rules described in Subsection (4)(b)(i) may not require approval by the division, the purchasing director, or any other person, for a state agency to transfer state surplus property directly to another state agency.
- (5) The division may:
 - (a) establish facilities to store state surplus property at appropriate locations throughout the state;
 - (b) hold public sales of state surplus property at geographically dispersed locations throughout the state;
 - (c) after consultation with the state agency requesting the sale of state surplus property, establish the price at which the surplus property shall be sold; and

- (d) as provided in Title 63J, Chapter 1, Budgetary Procedures Act, transfer proceeds generated by the sale of state surplus property to the state agency requesting the sale, reduced by a fee approved in accordance with Subsection 63A-2-103(3) to pay the division's costs of administering the state surplus property program.
- (6) Except as otherwise expressly provided in this part, or by explicit reference to this part, each state agency shall divest and acquire state surplus property only by participating in the division's program.
- (7) A state agency may declare property owned by the state agency to be state surplus property by making a written determination that the property:
 - (a) is excess property that is no longer being used;
 - (b) has exceeded its useful life;
 - (c) is no longer usable;
 - (d)
 - (i) is damaged; and
 - (ii)
 - (A) cannot be repaired; or
 - (B) cannot be repaired at a cost that is less than the property's value; or
 - (e) is no longer required to meet the state agency's needs or responsibilities.

Amended by Chapter 98, 2015 General Session

63A-2-402 State surplus property program -- Participation by institutions of higher education.

The Board of Regents shall:

- (1) implement a policy requiring each institution of higher education to submit to the division a listing of surplus property available for sale outside the institution, at least 15 days prior to the intended sale date;
- (2) supervise and assist compliance by the institutions of higher education with the requirement of this part; and
- (3) encourage institutions of higher education to acquire federal surplus property from the division to reduce expenditures.

Renumbered and Amended by Chapter 207, 2011 General Session

63A-2-404 Acquisition of federal surplus property -- Powers and duties -- Advisory boards and committees -- Expenditures and contracts -- Clearinghouse of information -- Reports.

- (1) The division may:
 - (a) acquire from the United States under and in conformance with the property act any federal surplus property under the control of any department or agency of the United States that is usable and necessary for any purposes authorized by federal law;
 - (b) warehouse federal surplus property if it is not real property; and
 - (c) distribute federal surplus property within this state to:
 - (i) tax-supported medical institutions, hospitals, clinics, and health centers;
 - (ii) school systems, schools, colleges, and universities;
 - (iii) other nonprofit medical institutions, hospitals, clinics, health centers, schools, colleges, and universities that are exempt from taxation under Section 501(c)(3) of the United States Internal Revenue Code of 1954;
 - (iv) civil defense organizations;

- (v) political subdivisions; and
 - (vi) any other types of institutions or activities that are eligible to acquire the federal surplus property under federal law.
- (2) The division may:
- (a) receive applications from eligible health and educational institutions for the acquisition of federal surplus real property;
 - (b) investigate the applications;
 - (c) obtain opinions about those applications from the appropriate health or educational authorities of this state;
 - (d) make recommendations about the need of the applicant for the property, the merits of the applicant's proposed use of the property, and the suitability of the property for those purposes; and
 - (e) otherwise assist in the processing of those applications for acquisition of real and related personal property of the United States under the property act.
- (3) The division may appoint advisory boards or committees.
- (4) If required by law or regulation of the United States in connection with the disposition of surplus real property and the receipt, warehousing, and distribution of surplus personal property received by the division from the United States, the division may:
- (a) make certifications, take action, and make expenditures;
 - (b) enter into contracts, agreements, and undertakings for and in the name of the state including cooperative agreements with the federal agencies providing for use by and exchange between them of the property, facilities, personnel, and services of each by the other;
 - (c) require reports; and
 - (d) make investigations.
- (5) The division shall act as the clearinghouse of information for public and private nonprofit institutions, organizations, and agencies eligible to acquire federal surplus real property to:
- (a) locate both real and personal property available for acquisition from the United States;
 - (b) ascertain the terms and conditions under which that property may be obtained;
 - (c) receive requests from those institutions, organizations, and agencies and transmit to them all available information in reference to that property; and
 - (d) aid and assist those institutions, organizations, and agencies in every way possible in those acquisitions or transactions.
- (6) The division shall:
- (a) cooperate with the departments or agencies of the United States;
 - (b) file a state plan of operation;
 - (c) operate according to that plan;
 - (d) take the actions necessary to meet the minimum standards prescribed by the property act;
 - (e) make any reports required by the United States or any of its departments or agencies; and
 - (f) comply with the laws of the United States and the regulations of any of the departments or agencies of the United States governing the allocation of, transfer of, use of, or accounting for any property donated to the state.

Amended by Chapter 151, 2013 General Session

63A-2-405 Charges and fees assessed for surplus property.

If approved in accordance with Sections 63J-1-410 and 63J-1-504, the division may:

- (1) assess charges and fees for the acquisition, warehousing, distribution, or transfer of state surplus property or of federal surplus property to cover the division's costs of handling,

- acquiring, receipting, warehousing, distributing, or transferring state surplus property or federal surplus property; and
- (2) reduce or eliminate charges on state surplus property or federal surplus property that is found not to be usable for the purpose for which it was procured.

Amended by Chapter 98, 2015 General Session

63A-2-408 Authority of state or local subdivision to receive property -- Revocation of authority of officer.

- (1) Notwithstanding any other provision of law, the governing board or the executive director of any state department, instrumentality, or agency that is not a state agency, or the legislative body of any city, county, school district, or other political subdivision may by order or resolution give any officer or employee the authority to:
 - (a) secure the transfer of state surplus property or federal surplus property through the division under the property act; and
 - (b) obligate the state or political subdivision and its funds to the extent necessary to comply with the terms and conditions of those transfers.
- (2) The authority conferred upon any officer or employee by an order or resolution remains in effect until:
 - (a) the order or resolution is revoked; and
 - (b) the division has received written notice of the revocation.

Amended by Chapter 98, 2015 General Session

63A-2-409 Disposal of certain surplus property.

This part does not apply to disposition by:

- (1) the legislative branch of surplus property that is information technology equipment, if the Legislative Management Committee, by rule, establishes its own policy for disposition, by the legislative branch, of surplus property that is information technology equipment; or
- (2) the Department of Transportation of surplus personal property that was acquired as part of a transaction or legal action by the Department of Transportation acquiring real property for a state transportation purpose.

Amended by Chapter 98, 2015 General Session

63A-2-410 State surplus property contractor -- Deposit of proceeds.

- (1) The division may, as the purchasing director determines, issue a solicitation under Title 63G, Chapter 6a, Utah Procurement Code, and award a contract to a person in the private sector to provide services necessary to administer the state's program for disposition of state surplus property.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules pertaining to the process and procedures relating to services provided by a person awarded a contract under Subsection (1).

Amended by Chapter 98, 2015 General Session

63A-2-411 Disposal of state surplus property with minimal value.

- (1) As used in this section, "minimal value" means a value of less than \$100.

- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules that permit a state agency to dispose of property with a minimal value that the state agency has declared to be state surplus property as provided in Subsection 63A-2-401(7).
- (3) The division's rules under Subsection (2) shall permit a state agency to dispose of state surplus property with a minimal value by:
 - (a) destroying the property;
 - (b) disposing of the property as waste; or
 - (c) donating the property to:
 - (i) a charitable organization; or
 - (ii) an employee of the state agency.
- (4) Property of a state agency is presumed to have a minimal value if the property is not purchased after the state agency offers the property for sale to the public at a price above \$100 for at least seven days:
 - (a) through an online auction;
 - (b) through a live auction;
 - (c) at a retail location managed by the division; or
 - (d) through another sale method approved by the director.

Repealed and Re-enacted by Chapter 98, 2015 General Session