



New South Wales Government

## **NSW Government Procurement Guidelines**

# **Disposals**

**May 2007**

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These guidelines were prepared by the NSW Department of Commerce for the NSW Government. They are available from the procurement process maps on

<http://www.treasury.nsw.gov.au/procurement/procure-intro.htm>.

For further information on these guidelines contact NSW Procurement help desk by phone 02 9372 8600 or e-mail [gpshep@commerce.nsw.gov.au](mailto:gpshep@commerce.nsw.gov.au).

## Issue log

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## Related Guidelines

[NSW Government Procurement Policy](#)

[NSW Government Code of Practice for Procurement](#)

[NSW Government Tendering Guidelines](#)

## Related Instruments

[Public Sector Management \(Goods and Services\) Regulation 2000](#)

[Protection of Movable Cultural Heritage Act, 1986](#)

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# 1 About this guideline

This guideline provides assistance to government agencies on the disposal of surplus or unserviceable goods (assets), including consumable items. This excludes the disposal of real property (land and buildings) which is covered separately by [2003-03 Property Disposal Reforms](#) and the [Total Asset Management Manual - TAM 2003](#).

As with the acquisition of goods or services, the disposal of goods must achieve value for money. The disposal process is to be conducted in an efficient, effective and open manner and in accordance with the [NSW Government Code of Practice for Procurement](#).

For [Schedule 1 agencies](#) governed by [the Public Sector Management \(Goods and Services\) Regulation 2000](#), the disposal of goods is subject to delegations and directions as approved by [the State Contracts Control Board \(SCCB\)](#). [State Contracts Control Board General Delegation for Schedule 1 Departments – Disposals](#) can be viewed from the [SCCB](#) web page.

For all other agencies, the Chief Executive Officer determines the delegations for the disposal of goods.

## 2 The disposal process

Goods are of value to an agency only if they continue to assist cost effectively in the delivery of the agency's services. Goods that are no longer needed should be disposed of promptly.

The disposal must realise best value for the agency. In addition to price, the disposal process should include consideration of the Government's social, economic and environmental policy objectives, where appropriate.

The disposal process must achieve fair and effective competition to the greatest extent possible and be conducted in an ethical manner.

Agencies should have a disposal program for goods no longer required. Disposal planning offers agencies a means of disposal of unnecessary or non-performing goods timed to minimise disruption to their business and maximise returns by selecting appropriate times in their market cycle to effect disposal. For example, an agency may have a disposal program where goods such as passenger vehicles are disposed of every two years.

Guidance on disposal planning is provided in the Asset Disposal document in the [Total Asset Management Manual - TAM2003](#).

*Figure 1 - Typical disposal process diagram.*

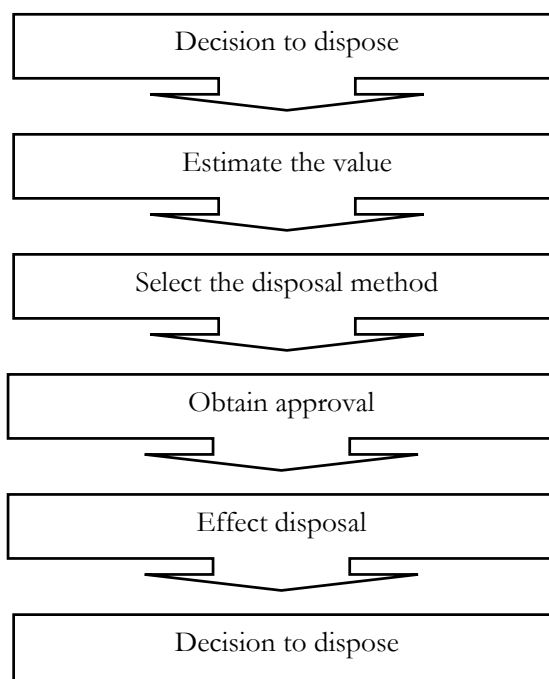


Figure 1 (above) illustrates a typical disposal process.

Agencies may give some steps more or less emphasis, subject to an analysis and consideration of the risks associated with the disposal, and the nature and value of the goods.

Innovative disposal methods can be considered subject to compliance with relevant legislation and government procurement policy. An example of this is the use of on-line auctioning.

Agency staff involved in the disposal process must possess the experience and training to be able to:

- identify when disposal is warranted
- obtain a valuation of the goods
- choose the most appropriate method of disposal
- apply procedures to ensure that disposal is conducted in a manner ensuring probity and fair dealing.

Agencies need to ensure that there are mechanisms for the effective management, supervision and training of staff conducting disposal. Clear internal controls and procedures should be defined to provide transparency and accountability in the disposal process.

### The decision to dispose

The first step in the disposal of goods involves the identification of the good as no longer being required by the agency. This is followed by a number of steps leading to the final disposal of the good.

Before any disposal action is undertaken it is necessary to certify and approve that the goods are appropriate for disposal.

Common criteria for determining that goods may be suitable for disposal include:

- no longer required
- unserviceable or beyond economic repair
- technologically obsolete and operationally inefficient
- surplus to current or immediately foreseeable needs
- part of an asset replacement program.

Costs associated with retaining goods including storage, insurance, security and management should be factored into the decision making process.

The decision to dispose of a good must be approved by the appropriate agency delegate.

### Estimating the value

It is important to obtain an accurate valuation of the goods for disposal. This will assist in selecting the most appropriate method of disposal, and identifying the necessary level of approval.

The value of a good is dependent on:

- the market
- the perceived advantages of the good to buyers in the market.

All disposal actions require an assessment and certification of the value of the goods by an appropriately skilled person.

It is recommended that a professional valuer independently assesses and recommends the most appropriate means of disposal for any goods that may have a high sale value.

Sometimes it may be beneficial to perform minor repairs on some goods prior to disposal. This would be where it will make the goods more saleable and provided the increase in return is greater than the cost of repairs.

### Selecting the appropriate disposal method

An agency must obtain the best possible return for the goods it sells, and the disposal must achieve best value for money. In addition to price, the value for money decision may include consideration of the Government's social, economic and environmental policy objectives.

The disposal method chosen must be appropriate to the nature, quantity and location of the goods, and promote fair and effective competition to the greatest extent possible.

Where practical, a competitive disposal method should be selected, particularly for the disposal of high-value goods or large quantities of similar goods.

For [Schedule 1 agencies](#), the disposal of goods is subject to the [State Contracts Control Board General Delegation for Schedule 1 Departments – Disposals](#).

If a period contract is arranged by [SCCB](#), [Schedule 1 agencies](#) must use the contract for disposing of the goods to which it applies. As an example the [SCCB](#) has arranged a period contract for the disposal of motor vehicles.

Under [Premier's Memorandum 2006-11 NSW Procurement Reform](#), all NSW Government agencies except State Owned Corporations are required to use SCCB period contracts where they are available.

Contact [Contracting Services](#) on (02) 9372 7791 for details of any such period contract.

Common methods used for the disposal of goods include:

- public tender
- public auction
- negotiated sale
- trade-in
- sale or transfer to other agencies
- sale of items to staff
- donation to charities, community or non profit organisations
- writing off the value of goods (recycling or destruction).

Regardless of the method of disposal, probity must be maintained and any changes to the disposal process, terms or conditions must be communicated to all potential participating parties as soon as possible. In addition, terms and conditions of sale should state a time and place for inspection of the goods, and whether the purchaser is required to remove the goods by a certain date.

### **Public tender**

The advantage of a public tender is that it is an open and competitive process. It is an effective way of disposing of goods that are of high value.

While this process provides for public participation in the disposal, it requires that prospective buyers meet the cost of preparing and submitting a tender. A tender process can be resource intensive and the lead time for tender completion and subsequent evaluation may be lengthy.

The public tender process for disposal should reflect the principles and processes of a public tender for the acquisition of goods.

The [Tendering Guidelines](#) outline the procedures to be followed for a tender process.

[Premier's Memorandum 2007-01, Public Disclosure of Information Arising From NSW Government Tenders and Contracts](#), stipulates

the information to be disclosed. It introduces revised guidelines to provide NSW government agencies with a practical model to determine what, how and when specific information arising from government tenders and contracts (including project deeds and other forms of agreements) with the private sector should be publicly disclosed and what information should remain confidential.

### **Public auction**

Disposal by public auction maximises the opportunity for public participation in the disposal process, and is the appropriate disposal method when:

- there is public demand for the items
- alternative disposal methods are unlikely to realise higher revenue
- the costs associated with the auction can be justified in relation to the expected revenue from the sale.

Auctions may be held at an auctioneer's premises, on-line, or on-site if the quantity of goods warrants it. Obtain competitive quotes on a commission basis from potential auctioneers. Clearly convey to the auctioneer that the commission covers all charges such as auctioneers' fees, advertising, insurance, cataloguing, cost of premises, labour, administrative and financial transaction fees and miscellaneous charges. No charges above the agreed commission should be paid.

When selecting an auctioneer, consider:

- the commission rates
- whether the auctioneer is licensed
- whether the auctioneer has adequate premises, at a suitable location
- the past performance and/or industry reputation of the auctioneer.

Prior to the auction ensure that each item or category of items for sale has been valued, and where appropriate ensure that the auctioneer is aware of any reserve prices.

### **Negotiated sale**

Agencies may dispose of items by negotiated sale where:

- the items are of low value

- the costs of disposal are disproportionate to the expected returns
- there is very limited interest.

Officers conducting negotiated sales must have the appropriate authority and must document the negotiation process, including all discussions and agreements. At all times, the approving officer must certify that the accepted prices are fair and reasonable.

Agencies may dispose of items of high value by negotiated sale to an interested party in special circumstances (for example, the negotiated sale of customised machinery). It is necessary to submit a business case for such a proposal for approval by the appropriate delegate.

Agents and brokers offering specialist services may be useful with the disposal of specialised items, for example, marine vessels and medical equipment. The fees are usually a percentage of the selling price. The benefit of using agents or brokers is that they have a professional knowledge of the market and the goods to be sold.

### **Trade-in**

Trading in surplus goods can be an efficient means of disposal, and a convenient way to upgrade equipment. However, unless undertaken appropriately, this method may not provide the best financial return to the agency. An officer who is authorised to make purchases to the gross value of the transaction must approve the trade-in and purchase strategy.

Often, the purchase price may have been inflated to offset the trade-in value offered by the supplier. Explore the option of separately selling the surplus goods and using the revenue to offset the purchase cost of the new equipment, as the net cost for the upgrade may be lower than the trade-in and purchase offer.

### **Sale or transfer to other agencies**

Surplus goods from one government agency often meet the needs of another agency. Consider whether the surplus goods can be used by another government agency before offering them for sale on the open market.

Any item that may be of some use to another agency may be sold at fair market value, or transferred on a no-charge basis if it is more cost effective to do so. Treat such items as goods, and depreciate them in the normal manner.

Details of items that may be suitable for transfer or sale to another agency can be advertised:

- through regional or local co-ordinators; or

- by inclusion in government publications and circulars (eg Public Service Notices).

### **Sale to staff**

As a basic principle, goods should not be internally advertised for sale, or sold to staff, outside a public process. However, for low value items the cost of disposal may be disproportionate to the expected returns. If the net return expected from the sale of the goods to staff is more than the net return expected from alternative disposal methods, a delegated officer could consider approving the sale of low value items to agency staff.

When selling goods to staff, agencies should be aware of the possible adverse public perception and the vulnerability to accusations of partiality and corruption.

There are inherent risks in the sale of assets internally including that:

- the agency may not get best value for money
- goods may be put up for disposal prematurely.

To ensure probity and accountability:

- record the justification for the disposal, and the use of this method of disposal
- advertise available items internally (for example, administrative notices, agency intranet or notice boards) to make sure everyone knows about the sale
- include advice or a clause in the sale contract stating that items will be sold, with any faults, at the buyer's risk
- for individual items set a reserve price at fair market value, possibly by the delegate. Establish fair market value by previous sales and/or tenders from auctioneers or other relevant parties or sources
- keep strictly confidential any reserve prices determined by the delegate until after the bids are opened (the delegate should not participate as a bidder)
- submit offers in a sealed envelope to the delegate or nominated officer. Open the envelopes at a set time and place, under supervision
- accept the highest offer, provided the offer is above the reserve price

- if the successful bidder no longer requires the item, offer it to the next highest bidder until the item is sold, subject to the reserve price.

### **Donation to charities or community or non profit organisations**

Community, charity or work-creation organisations approach the Government from time to time for donations or concessional sales of surplus goods, or agencies may invite them to submit proposals to remove unserviceable goods. Each agency may decide if this disposal method is an appropriate option.

The following factors should be considered:

- the revenue that could otherwise be realised through a sale or auction
- the costs of donation or disposal compared to the benefits
- the creditability and reputation of the charity or organisation.

All community organisations should receive equitable treatment to avoid claims of bias from a government agency.

Agencies may make arrangements for charitable or community organisations to receive and remove items that are not readily saleable (for example damaged desks) on a periodic basis. If donations are made to charity groups, the cost of removing the goods should be borne by the charity.

Obtain a receipt from the recipient when disposing of goods or equipment in this way. Maintain all records relating to the disposal action for audit purposes.

[Premier's Memorandum 03-09](#) gives details on donating redundant computers to the [reconnect.NSW program](#).

### **Writing off the value of goods (recycling or destruction)**

The value of an item may be written off and the item recycled or destroyed if it is deemed:

- to have no value
- to be unserviceable or beyond economical repair
- that the disposal cost is higher than the likely return.

An appropriately qualified person should certify unserviceable equipment beyond economical repair that has no scrap value. For

example, a qualified tradesperson could certify that some items, such as white goods or photocopiers are beyond economical repair.

Consider the nature of the goods and potential environmental impacts, and dispose of such equipment and goods in the most efficient manner. Assess the opportunity for recycling or returning the goods to the manufacturer for refurbishment.

Destruction or disposal of goods must be in an appropriate manner, in compliance with any relevant environmental regulations or guidelines.

### Obtain approval for the disposal process

Having chosen the method of disposal, seek approval from the appropriate delegate for permission to proceed with the disposal. The delegate must be satisfied that the chosen method of disposal is commensurate with the value of the goods, and that it reflects the appropriate level of competition.

### Effect the disposal

Upon approval of the method of disposal, proceed with disposing of the goods. Agencies are to ensure that the goods are properly prepared for disposal, and that it is made clear to potential buyers that the goods are being sold at the buyer's risk.

In addition, terms and conditions of sale should state a time and place for inspection of the goods, and whether the purchaser is required to remove the goods by a certain date.

### Preparing goods for disposal

Agencies should check that goods to be disposed of do not contain material that is not intended for disposal. Neglecting to check may result in legal liability and embarrassment to the agency.

Examples of material that should be removed before disposal include:

- stationery - particularly printed stationery, which could be misused
- software - unauthorised transfer could breach license agreements
- classified information contained in computer hard or floppy disks
- records, files, papers or whiteboards containing information which, if disclosed, could breach privacy legislation, and/or cause embarrassment or problems for the disposing agency

- environmentally sensitive or hazardous stores
- agency logos etc from clothing and equipment.

An agency undertaking the disposal of electronic or information and communication technology (ICT) equipment should consult its Information Technology section for information on how this equipment should be prepared for disposal.

### **Buyer's risk**

Irrespective of the disposal method applied, it is essential that all prospective buyers are advised in writing that items are disposed of, with any faults, at the buyer's risk. Buyers are to rely on their own inquiries regarding the condition and workability of the items. The sale documentation should provide a full and factual description of the goods and also state that no warranty is made as to the quality or the condition of the goods, meaning the Government or the agency does not provide warranties on disposed goods.

### **Evaluate the disposal process**

Review all disposal actions to see if each has achieved its desired outcome. Such a review enables agencies to benchmark and improve their disposal performance to ensure that disposals achieve value for money and are carried out in a fair and effective manner.

In particular, agencies should determine if their estimates of the value of the goods and the cost of administering the disposal are accurate.

## 3 Other considerations

Other factors, apart from the monetary value of the goods, can affect the choice of disposal method. Agencies must also consider and assess the following factors prior to disposal:

- the market available for the goods
- time considerations
- agency resources required to manage the disposal
- costs associated with the different disposal methods, such as administration and transport costs
- the size, portability and number of goods
- benefits of the different disposal methods.

There are special considerations for:

- heritage or cultural-interest items
- arms and controlled defence items
- hazardous or polluting substances.

### Heritage and cultural-interest items

The [Protection of Movable Cultural Heritage Act, 1986](#), as amended, controls the export and import of significant items of Australia's movable cultural heritage, and provides for the return of any cultural property of other nations that has been illegally imported into this country. It places particular emphasis on the protection of Aboriginal and Torres Strait Islander cultural heritage.

There are penalties for breaches of this Act, including fines, imprisonment and forfeiture of protected objects. The Act does not aim to restrict legitimate trade in cultural property, and does not affect an individual's right to own or sell such property within Australia.

If a good may be of heritage or cultural value, the agency proposing the disposal should contact:

**NSW Heritage Office**

Telephone (02) 9873 8500

Facsimile (02) 9873 8599

Email [heritageoffice@heritage.nsw.gov.au](mailto:heritageoffice@heritage.nsw.gov.au)

Website <http://www.heritage.nsw.gov.au>.

The Heritage Office can advise on the nature, heritage significance, and value (heritage and monetary) of the item.

### Arms and controlled defence and related goods

If an agency has for disposal a significant quantity of weapons or controlled defence and related goods, the sale must comply with the Commonwealth Government's policy on foreign defence exports.

Weapons of historical interest (other than automatic and semi-automatic small arms) may be sold to licensed collectors or private museums. Automatic and semi-automatic small arms may also be sold to museums operated by the Commonwealth, State or Territory Governments but must generally be rendered inoperable before sale. The sale of such items must also fully comply with any relevant State or Territory firearm regulations.

Before disposing of these items agencies should contact the:

**NSW Firearms Registry**

Telephone 1300 362 562

Facsimile (02) 6670 8558

Website [http://www.police.nsw.gov.au/community\\_issues/firearms](http://www.police.nsw.gov.au/community_issues/firearms)

### Hazardous or polluting materials

Agencies must ensure that the disposal of goods or materials that are of a hazardous or polluting nature is carried out in a responsible manner, which is consistent with relevant regulations and procedures. Before disposing of these goods or materials agencies should obtain advice from:

**Department of Environment and Conservation**

Telephone (02) 9995 5000

Email [info@environment.nsw.gov.au](mailto:info@environment.nsw.gov.au)

Website <http://www.environment.nsw.gov.au>

### Wastes of concern

The NSW Government's extended producer responsibility (EPR) statement was implemented through the Waste Avoidance and

Resource Recovery Act 2001. Sixteen wastes of concern were identified.

The nine priority wastes of concern are:

- computers
- televisions
- nickel cadmium batteries
- used tyres
- plastic bags
- agricultural and veterinary chemicals and containers
- mobile phones and batteries
- packaging wastes.

The remaining seven wastes of concern are:

- cigarette litter
- office paper
- PVC
- electrical products
- treated timber
- end-of-life vehicle residuals
- household hazardous and chemical wastes.

The Department of Environment and Conservation is the lead agency in implementing the government's EPR policy and is to be contacted when disposing such items.

## 4 Administrative matters

### Accountability and record keeping

Agencies must establish appropriate internal controls to ensure accountability of their disposal programs. In particular, records of disposal decisions must be kept in a manner that facilitates audit and other normal processes of accountability, and retained in accordance with Government and agency requirements.

### Maintain the asset register

For all disposals, irrespective of whether the goods are written off, the asset register must reflect the relevant details, and the accounting records must be adjusted.

### Goods and Services Tax (GST)

As with the treatment for the supply of new goods, the supply of used goods by a registered entity will be subject to GST.

### Revenue from sales

Process any revenue from the disposal of surplus items in accordance with Treasury directives.

In general, the proceeds from sales are to be credited to revenue. If an agreement exists to retain the revenue in line with terms specified in an Appropriation Act, handle the receipts in accordance with the terms of that agreement. Where the goods have been purchased from moneys outstanding to the credit of a trust account, or were produced as a result of operations funded by a trust account, credit the proceeds to that account.

If there is any doubt about the appropriate manner in which revenue from sales is to be handled, consult NSW Treasury.