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## **2021 New Mexico Statutes**

### **Chapter 13 - Public Purchases and Property**

#### **Article 6 - Sale of Public Property**

#### **Section 13-6-1 - Disposition of obsolete, worn-out or unusable tangible personal property.**

**Universal Citation:** NM Stat § 13-6-1 (2021)

A. The governing authority of each state agency, local public body, school district and state educational institution may dispose of any item of tangible personal property belonging to that authority and delete the item from its public inventory upon a specific finding by the authority that the item of property is:

- (1) of a current resale value of five thousand dollars (\$5,000) or less; and
- (2) worn out, unusable or obsolete to the extent that the item is no longer economical or safe for continued use by the body.

B. The governing authority shall, as a prerequisite to the disposition of any items of tangible personal property:

- (1) designate a committee of at least three officials of the governing authority to approve and oversee the disposition; and

(2) give notification at least thirty days prior to its action making the deletion by sending a copy of its official finding and the proposed disposition of the property to the state auditor and the appropriate approval authority designated in Section 13-6-2 NMSA 1978, duly sworn and subscribed under oath by each member of the authority approving the action.

C. A copy of the official finding and proposed disposition of the property sought to be disposed of shall be made a permanent part of the official minutes of the governing authority and maintained as a public record subject to the Inspection of Public Records Act [Chapter 14, Article 2 NMSA 1978].

D. The governing authority shall dispose of the tangible personal property by negotiated sale to any governmental unit of an Indian nation, tribe or pueblo in New Mexico or by negotiated sale or donation to other state agencies, local public bodies, school districts, state educational institutions or municipalities or through the central purchasing office of the governing authority by means of competitive sealed bid or public auction or, if a state agency, through the surplus property bureau of the transportation services division of the general services department.

E. A state agency shall give the surplus property bureau of the transportation services division of the general services department the right of first refusal when disposing of obsolete, worn-out or unusable tangible personal property of the state agency.

F. If the governing authority is unable to dispose of the tangible personal property pursuant to Subsection D or E of this section, the governing authority may sell or, if the property has no value, donate the property to any organization described in Section 501(c)(3) of the Internal Revenue Code of 1986.

G. If the governing authority is unable to dispose of the tangible personal property pursuant to Subsection D, E or F of this section, it may order that the property be destroyed or otherwise permanently disposed of in accordance with applicable laws.

H. If the governing authority determines that the tangible personal property is hazardous or contains hazardous materials and may not be used safely under any circumstances, the property shall be destroyed and disposed of pursuant to Subsection G of this section.

I. No tangible personal property shall be donated to an employee or relative of an employee of a state agency, local public body, school district or state educational institution; provided that nothing in this subsection precludes an employee from participating and bidding for public property at a public auction.

J. This section shall not apply to any property acquired by a museum through abandonment procedures pursuant to the Abandoned Cultural Properties Act [18-10-1 to 18-10-5 NMSA 1978].

K. Notwithstanding the provisions of Subsection A of this section, the department of transportation may sell through public auction or dispose of surplus tangible personal property used to manage, maintain or build roads that exceeds five thousand dollars (\$5,000) in value. Proceeds from sales shall be credited to the state road fund. The department of transportation shall notify the department of finance and administration regarding the disposition of all property.

L. If the secretary of public safety finds that the K-9 dog presents no threat to public safety, the K-9 dog shall be released from public ownership as provided in this subsection. The K-9 dog shall first be offered to its trainer or handler free of charge. If the trainer or handler does not want to accept ownership of the K-9 dog, then the K-9 dog shall be offered to an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 free of charge. If both of the above fail, the K-9 dog shall only be sold to a qualified individual found capable of providing a good home to the animal.

**History:** 1953 Comp., § 6-1-7.1, enacted by Laws 1961, ch. 100, § 1; 1979, ch. 195, § 2; 1984, ch. 47, § 1; 1987, ch. 15, § 1; 1989, ch. 211, § 6; 1995, ch. 181, § 1; 1998, ch. 16, § 1; 2001, ch. 317, § 1; 2007, ch. 57, § 4; 2012, ch. 10, § 1; 2013, ch. 9, § 1.

#### ANNOTATIONS

**Cross references.** — For managing surplus properties, *see* 15-4-2 and 15-4-3 NMSA 1978.

For Section 501(c)(3) of the Internal Revenue Code of 1986, *see* 26 U.S.C.S. § 501(c)(3).

**The 2013 amendment**, effective June 14, 2013, provided for the disposition of state-owned K-9 dogs and added Subsection L.

**The 2012 amendment**, effective May 16, 2012, authorized the department of transportation to dispose of surplus tangible personal property that exceeds five thousand dollars in value, and added Subsection K.

**The 2007 amendment**, effective July 1, 2007, required state agencies to give the surplus property bureau the right of first refusal when disposing of surplus property.

**The 2001 amendment**, effective June 15, 2001, inserted current Subsection E; redesignated the subsequent subsections; inserted "or E" to current Subsection F; inserted "or F" to current Subsection G; and updated the subsection reference in current Subsection H.

**The 1998 amendment**, effective May 20, 1998, substituted "or unusable tangible personal property" for "and unusable personal property" in the section heading; inserted "tangible" preceding "personal" in Subsection A; rewrote Subsection B; at the end of Subsection C, inserted "and maintained as a public record subject to the Inspection of Public Records Act"; in Subsection D, substituted "tangible personal property" for "item" following "the", inserted "to any governmental unit of an Indian nation, tribe or pueblo in New Mexico or by negotiated sale" preceding "or donation", inserted "of the governing authority" following "office" and "if a state agency" at the end of the subsection; and added Subsections E through H, and redesignated former Subsection E as Subsection I.

**The 1995 amendment**, effective June 16, 1995, inserted "or donation" in Subsection D.

**Board member may not purchase.** — A member of a local board of education may not lawfully bid or purchase school property which is offered for sale by a school district, irrespective of whether such property is or is not in excess of \$50.00 in value, and any such contract of purchase would be void as against public policy. 1964 Op. Att'y Gen. No. 64-13.

**Who may dispose.** — If a state agency or department wishes the purchasing agent to dispose of its surplus property, he may do so. If the agency wishes to dispose of such property itself, it may do so. 1962 Op. Att'y Gen. No. 62-26.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 56 Am. Jur. 2d Municipal Corporations, Counties, and Other Political Subdivisions § 549; 72 Am. Jur. 2d States, Territories, and Dependencies § 66.

20 C.J.S. Counties § 149; 63 C.J.S. Municipal Corporations §§ 882 to 892; 81A C.J.S. States § 149.

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