ALABAMA DEPARTMENT OF ECONOMIC AND COMMUNITY AFFAIRS
OFFICE OF SURPLUS PROPERTY DIVISION
ADMINISTRATIVE CODE

CHAPTER 305-9-1
SURPLUS PROPERTY DIVISION PROCEDURES

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305-9-1-.01 Background.

(1) The Surplus Property Division was originally created under the Alabama State Board of Education's area of responsibility as the Surplus Property Division of State and Federal Property Assistance. Governor Jim Folsom, Sr., issued Executive Order No. 11 on May 28, 1956, directing that the Surplus Property Division be the official state agency to receive all federal and state surplus property. The Surplus Property Division was then transferred to the Department of Finance when Governor Fob James issued Executive Order No. 39 on March 3, 1981. It is now located under the Department of Economic and Community Affairs, by way of Executive Order No. 11 issued by Governor George C. Wallace on August 22, 1983.

(2) Acts of Alabama No. 84-249, No. 87-584, and No. 93-748 comprise the state law governing the disposition of surplus personal property owned by the State of Alabama. Federal surplus property disposition is governed by the Federal Property and Administrative Services Act of 1949, as amended, the Federal

Property Management Improvement Act of 1988, and the Federal Property and Administrative Services Act of 1988.

(3) The Surplus Property Division is given full authority to handle the transfer of government surplus personal property, as well as the transfer of personal property from any other institutions both public and private within the State of Alabama, and to handle the fair and equitable distribution of all property transferred to the State.
Author: Shane T. Bailey
Statutory Authority: Code of Ala. 1975, §41-23-6.
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305-9-1-.02 Purpose.

(1) The Surplus Property Division provides essential property disposition services to most state departments, boards, bureaus, commissions, Special Education Activities, Small Business Administration's Section 8A businesses, institutions, corporations, agencies, and some non-public or non-profit entities as provided by law. The division shall continually seek to develop improved methods for the most effective utilization, distribution, and disposal of federal and state surplus personal properties. The division is required to establish appropriate rules, regulations, and guidelines which will deliver quality service to all state agencies and other surplus property program eligible entities.

(2) The Surplus Property Division screens and can request property which is declared to be surplus by the federal government on federal installations anywhere in the world. The Division is responsible for removing all property approved for transfer to the State from the federal holding facility in a timely and economical manner. Such federal surplus property is then to be dispensed to eligible donees in a fair and equitable manner based on needs, resources, and ability to utilize the property.
Author: Shane T. Bailey
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305-9-1-.03 Definitions.

(1) Approved or accredited nonprofit educational or public health institution or organization. This term shall be broken down into the following meanings:

(a) "Approved" means recognition and approval by the State Department of Education, State Department of Health, or other

appropriate authority where no recognized accrediting board, association, or other authority exists for the purpose of making an accreditation. For an educational institution or an educational program, approval must relate to academic or instructional standards established by the appropriate authority. An educational institution or program may be considered approved if its instructions and credits therefore are accepted by an accredited or state-approved institution, or if it meets the academic or instructional standards prescribed for public schools in the state; i.e., the organizational entity or program is developed primarily to approved academic, vocational (including technical or occupational), or professional study and instruction which operates primarily for educational purposes on a full-time basis for a minimum school year as prescribed by the state and employs a full-time staff of qualified instructors. For a public health institution or program, approval must relate to the medical requirements and standards for the professional and technical services of the institution established by the appropriate authority. A health institution or program may be considered as approved when a state body having authority under law to establish standards and requirements for public health institutions renders approval thereto whether by accreditation procedures or by licensing or such other method prescribed by state law. In the absence of an official state approving authority for a public health institution or program or educational institution or program, the awarding of research grants to the institution or organization by a recognized authority such as the National Institute of Health, the National Institute of Education, or by similar national advisory council or organization may constitute approval of the institution or program.

(b) "Accredited" means approval by a recognized accrediting board or association on a regional, state, or national level, such as the state Board of Education, state Board of Health, the American Hospital Association, a regional or national accrediting association for universities, colleges, or secondary schools, or another recognized accrediting association.

(c) “Licensed” means recognition and approval by the appropriate State or local authority approving institutions or programs in specialized areas. Licensing generally relates to established minimum public standards of safety, sanitation, staffing, and equipment as they relate to the construction, maintenance, and operation of a health or educational facility, rather than to the academic, instructional, or medical standards for these institutions.

(d) "Nonprofit tax-exempt" means an institution or organization, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder

or individual, and which has been held to be tax-exempt under the provisions of Section 501 of the U.S. Internal Revenue Code of 1954.

(e) "Educational Institution" means an approved, accredited, or licensed public or nonprofit institution, facility, entity or organization conducting educational programs (including research for any such programs), such as a:

1. child care center, public or nonprofit facility, where educational, social, health, and nutritional services are provided to children through age 14 or as prescribed by State law, and which is approved or licensed by the State or other appropriate authority as a child day care center or child care center.

2. school (except school for the mentally retarded and school for the physically handicapped) which is a public or nonprofit approved or accredited organizational entity devoted primarily to approved academic, vocational, or professional study and instruction, which operates primarily for educational proposes on a full-time basis for a minimum school year and employs a full-time staff of qualified instructors.

3. school for the mentally retarded which is a public or nonprofit facility or institution operated primarily to provide specialized instruction to students of limited mental capacity; operates on a full-time basis for the equivalent of a minimum school year prescribed for public school instruction of the mentally retarded, and has a staff of qualified instructors and demonstrates that the facility meets the health and safety standards of the school or local governmental body.

4. school for the physically handicapped, public or nonprofit, organized primarily to provide specialized instruction to students whose physical handicaps necessitate individual or group instruction; operates on a full-time basis for the equivalent of a minimum school year prescribed for public school instruction for the physically handicapped; has a staff of qualified instructors and demonstrates that the facility meets the health and safety standards of the state or local governmental body.

5. college which is an approved or accredited public or nonprofit institution of higher learning offering organized study courses and credits leading to a baccalaureate or higher degree.

6. university which is an approved or accredited public or nonprofit institution for instruction and study in the

higher branches of learning empowered to confer degrees in special departments or colleges.

7. educational radio station, public or nonprofit, licensed by the Federal Communications Commission and operated exclusively for noncommercial educational purposes.

8. educational television station, public or nonprofit, licensed by the Federal Communications Commission and operated exclusively for noncommercial educational purposes.

9. museum (public or nonprofit institution) which is organized on a permanent basis for essentially educational or aesthetic purposes and which, using a professional staff, owns or uses tangible objects, whether animate or inanimate; cares for these objects; and exhibits them to the public on a regular basis (at least 1000 hours a year). As used in this section, the term "museum" includes, but is not limited to, the following institutions if they satisfy all other provisions of this definition: Aquariums and zoological parks; botanical gardens and arboretums; nature centers; museums relating to art, history (including historic buildings), natural history, science, and technology; and planetariums. For the purposes of this definition, an institution uses a professional staff if it employs at least one full-time staff member or the equivalent, whether paid or unpaid, primarily engaged in the acquisition care, or public exhibition of objects owned or used by the institution. This definition of museum does not include any institution that exhibits objects to the public if the display or use of the objects is only incidental to the primary function of the institution.

10. library, public or nonprofit, which provides library services free to all residents of a community, district, State, or region.

(f) "Public health institution" means an approved, accredited, or licensed public or nonprofit institution, facility, entity, or organization conducting a public health program or programs, such as a:

1. medical institution which is approved, accredited, or licensed public or nonprofit institution, facility, entity or organization the primary function of which is the furnishing of public health and medical services to the public at large or promoting public health through the conduct of research for any such purposes, experiments, training or demonstrations relating to

cause, prevention and methods of diagnosis and treatment of diseases and injuries.

2. hospital which is an approved or accredited public or nonprofit institution providing public health services primarily for inpatient medical or surgical care of the sick and injured and includes related facilities such as laboratories, outpatient departments, training facilities, and staff offices.

3. clinic which is an approved public or nonprofit facility organized and operated for the primary purpose of providing outpatient public health services and includes customary related services such as laboratories and treatment.

4. health center which is an approved public or nonprofit facility utilized by a health unit for the provision of public health services, including related facilities such as diagnostic and laboratory facilities and clinics.

5. nursing home which is a public or non-profit institution providing skilled nursing care and related medical services to individuals admitted because of illness, disease, or physical or mental infirmity. A nursing home may be considered as a qualified public health institution if it is:

(i) operated in connection with a hospital;

(ii) a facility for long-term care of convalescents, chronic disease patients, or other persons who require skilled nursing care and related medical services in which the nursing care and medical services are prescribed by or are performed under the general direction of persons licensed to practice medicine or surgery in the State; or

(iii) certified to provide health services to medicaid or medicare patients under the provisions of the Social Security Act.

6. geriatric center, public or nonprofit, which furnishes public health and medical services to the aged.

7. alcohol or drug abuse treatment centers, public or nonprofit, which are clinics or medical institutions providing for the diagnosis, treatment, and rehabilitation of alcoholics and drug addicts. These centers should have available professional medical staffs on a regular visiting basis.

(2) Property Manager. That officer or employee who shall be designated by the head of each department, board, bureau, commission, institution, corporation, or agency of the state, in writing, to the Surplus Property Division, to be the personal property management coordinator.

(3) Eligible Donee. Eligible donee means:

(a) any entity as listed in paragraph 305-9-1-.03.

(b) Any city, county, board of education, volunteer fire department, civil defense agency, or state department, board, bureau, commission, Small Business Administration, Service Education Activity, non-profit organization, or agency that is not found to be in violation of Surplus Property Division rules and regulations during the 12 months immediately preceding the intended purchase of state surplus property.

(4) Fair market value. The price in cash, or its equivalent, that the property would bring at the time of purchase, considering its highest and most profitable use, if it is offered for sale in the open market in competition for sale with other similar properties at or near the location of the property acquired.

(5) Federal surplus personal property. Surplus properties made available by the federal government (specifically, the General Services Administration) under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, the Federal Property Management Improvement Act of 1988, and the Federal Property and Administrative Services Act of 1988, to institutions, organizations, and agencies eligible to receive such properties.

(6) Homeless agency. A public agency or a nonprofit tax-exempt institution or organization that operates a program which provides assistance such as food, shelter, or other services to homeless individuals. Property acquired through the donation program for such institutions or organizations must be used exclusively in their program(s) for providing assistance to homeless individuals.

(7) Listing of available surplus property. A list or lists of all surplus property available for transfer. Such list is prepared, published, and distributed by the Surplus Property Division through the internet and posted at the Surplus Property office in Montgomery, Alabama, and Eva, Alabama.

(8) List of prospective buyers. A mailing list of prospective buyers of surplus state property, which is maintained by the Surplus Property Division. Such list is updated annually or as required by the Division.

(9) Public auction. A sale at auction to the highest bidder for which notice or invitation is given to the public so that they may

have the opportunity to engage in competitive bidding on the property up for sale, and the auction is held at a place to which the public has access.

(10) Public purpose. Public purpose means any:

(a) conservation program or programs carried out or promoted by a public agency for public purposes involving directly or indirectly the protection, maintenance, development, and restoration of the natural resources of a given political area. Such resources include but are not limited to the air, land, forests, water, rivers, streams, lakes and ponds, minerals, and animals, fish, and other wildlife.

(b) economic development program or programs carried out or promoted by a public agency for public purposes which involve directly or indirectly efforts to improve the opportunities of a given political area for the successful establishment or expansion of industrial, commercial or agricultural plants or facilities, and which otherwise assist in the creation of long term employment opportunities in the area, or primarily benefit the unemployed or those with low incomes.

(c) education program or programs to develop and promote the training, general knowledge or academic, technical and vocational skills and cultural attainments of individuals in a community or other given political area. Such programs may be conducted by schools, including pre-school activities and child care centers, colleges, universities, schools for the mentally retarded or physically handicapped, educational radio and television stations, libraries and museums. Public educational programs may include public school systems and such supportive facilities as centralized administrative or service facilities.

(d) park and recreation program or programs carried out or promoted by a public agency for public purposes which involve directly or indirectly the acquisition, development, improvement, maintenance and protection of park and recreational facilities for the residents of a given political area. Such facilities include but are not limited to parks, playground and athletic fields, swimming pools, golf courses, nature facilities, and nature trails.

(e) public health program or programs to promote, maintain, and conserve the public's health by providing health services to individuals and by the conduct of research, investigations, examination, training and demonstrations. Public health services may include but are not limited to the control of communicable diseases, immunization, maternal and child health programs, sanitary engineering, sewage treatment and disposal, and sanitation inspection and supervision, water purification and distribution, air pollution control, garbage and trash

disposal and the control of and elimination of disease-carrying animals and insects.

(f) public safety program or programs carried out or promoted by a public agency for public purposes involving, directly or indirectly, the protection, safety, law enforcement activities, and criminal justice system of a given political area. Public safety programs may include but are not limited to those carried out by public police departments, sheriff's offices, the courts, penal and correctional institutions including juvenile facilities, state and civil defense organizations, fire departments and rescue squads, including volunteer fire departments and rescue squads supported in whole or in part with public funds.

(g) program for older individuals carried out or promoted by a state or local government agency which receives funds appropriated for programs for older individuals under the Older Americans Act of 1965, as amended, under Title IV or Title XX of the Social Security Act, or under the Economic Opportunity Act of 1964.

(11) Retail store. State property, which has been in inventory over 60 days and offered at a fixed price. Operating times will be set by the Surplus Property Division Director.

(12) Sale of surplus property. Sales of state property which are conducted by the Surplus Property Division for the general public.

(13) Sealed bid. An offer made by an intending purchaser to pay a designated price for property which is to be sold at auction, such offer to be contained in a sealed envelope, and all such bids are opened at the same time with the highest responsible bid being the one accepted. The Surplus Property Division reserves the right to withdraw any item from the auction listing.

(14) Spot bid. An offer made by an intending purchaser to pay a designated price for property being sold at auction, such offer to be made in the presence of the public at such auction, and the award of bid going to the highest responsible bid. The Surplus Property Division reserves the right to refuse any and all bids deemed not responsible.

(15) Fixed price. Price determined by the Surplus Property Division Director or his designee based on experience and value of similar items in the market place.

(16) State surplus personal property.

(a) Any non-consumable equipment, supplies, or other items owned by the state which are no longer needed by the owning agency and meeting the requirements of inventorial personal

property, and the estimated usable life of which is one year or more and the unit acquisition cost is $500.00 or more.

(b) That property declared by the property management coordinator of each state department, bureau, board, commission or agency to be surplus and so designated in writing to the Surplus Property Division Director.

(16) Successful bidder. The intending purchaser whose bid on the property for sale is accepted as the highest responsible bid.

(17) Surplus property center. The multi-purpose property disposal site located in Montgomery at 4401 Northern By-pass, on the North Boulevard just west of U.S. Highway 231. This center serves in the capacity of receiving surplus personal property from the various state agencies, providing a centralized inspection facility for state agencies and program eligibles, screening for needed items, and serving as a final sale site where public auctions or sealed bids may be conducted. A satellite center is located in Eva, Alabama, at 3445 Eva Road.

(18) Surplus Property Division. The Surplus Property Division of the Alabama Department of Economic and Community Affairs.

(19) Want list. A list of major items of property needed by donees. Such list is maintained by the Surplus Property Division and is comprised of specialized items and items in large quantities. Requests should be deleted after going one year unfilled.

Author: Shane T. Bailey
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305-9-1-.04 Adoption Of Federal Rules By Reference.

(1) For the purpose of effective implementation under the Alabama Administrative Procedure Act of the specific federal surplus property program responsibilities administered by the Surplus Property Division, the following federal acts and regulations are hereby adopted by reference:

(a) Federal Property and Administrative Services Act of 1949, as amended, June 30, 1949, Chapter 288, 63 Stat. 377; 40 U.S.C. §§471 through 760, 41 U.S.C. §§251 through 260, 44 U.S.C. §§2101 through 2110.

(b) Federal Property Management Improvement Act of 1988, Public Law 100-612.

(c) Federal Property and Administrative Services Act of 1988, Public Law 100-656.

(d) Implementing regulations under Surplus Government Property found in 41 Code of Federal Regulations §§101-44, et seq.

(2) Copies of these federal acts and regulations have been properly filed with the Legislative Reference Service, where they may be available for inspection.
Author: Shane T. Bailey
Statutory Authority: Code of Ala. 1975, §41-23-6.
History: New Rule: Filed November 25, 2002; effective December 30, 2002.

305-9-1-.05 General Description Of Organization And Operation.

(1) Organization. The Surplus Property Division is a division of the Alabama Department of Economic and Community Affairs.

(a) Director. The Director of the Department of Economic and Community Affairs shall be responsible for the distribution, transfer, or disposal of all surplus property owned by the state and all right, title, interest, and equity in said property shall be transferred to the department for such purpose. The Director shall maintain full authority over the Surplus Property Division in its functions, duties, responsibilities and obligations under both the federal and State surplus property laws and regulations, and other laws, rules, directives, and policies.

(b) Division Director. The Division Director of the Surplus Property Division shall be the administrative head of the Division. The Division Director shall supervise and control the distribution or disposal of the surplus property under the Division's domain. The Division Director shall also direct, supervise, and control the implementation and enforcement of any law, rule, regulation, policy, or directive with which the Division is charged or the performance of any of its functions or duties.

(c) Administration. The Department Director and Division Director may issue such rules, directives, and policy guidance for in-house administration of the Surplus Property Program at the state level and within the Division. Each rule, directive, and policy guidance issued for in-house administration shall remain in effect until specifically superseded or rescinded. Copies of such issuances shall be maintained in the office of the Surplus Property Division and shall be made available for public inspection during normal working hours upon reasonable or timely request. Also, copies of any such issuance may be obtained by written request which describes the particular

rule, directive, or policy so requested, and accompanied by a twenty-five cents ($.25) per page fee for photocopying and mailing expenses. Written requests may be addressed to the Surplus Property Division, Alabama Department of Economic and Community Affairs, P.O. Box 210487, Montgomery, Alabama 36121-0487, Telephone Number (334) 277-5866.

(2) Operation. The Surplus Property Division operates to dispose of all surplus state personal property; and operates the federal surplus property donation program within the State of Alabama. The Division is charged with administering the promotion, shipment, storage, public auction, public sales, and length of retention of surplus property. To fulfill its responsibilities, the Surplus Property Division may conduct the following activities.

(a) Administrative office.

1. The Surplus Property Division operates two surplus property distribution centers, and may establish other centers of receiving and distributing surplus properties made available by the federal government and the various state agencies. The two centers are open five days a week, Monday through Friday, excluding state holidays, from 8:00 a.m. to 4:30 p.m. State surplus property may be turned in at the Montgomery Center or at the Eva Center with prior approval of the Surplus Property Division Director.

2. The administrative office and main surplus property distribution center are located in Montgomery. The address is:

ADECA
Surplus Property Division
4401 Northern By-Pass
P.O. Box 210487
Montgomery, Alabama 36121-0487
Phone: (334) 277-5866
FAX: (334) 223-7320

The Surplus Property Center shall serve as a centralized inspection site for state agencies and other eligible entities, and as a centralized location where public auctions and sealed bids will be conducted from time to time.

3. The Division also has a satellite warehouse at the following address:

ADECA
Surplus Property Division
3445 Eva Road
Eva, Alabama 35621; or

P.O. Box 67, Eva Alabama 35621
Phone: (256) 796-4434
FAX: (256) 796-4437

(b) Transfer of property. The Division will promote and authorize transfers and sale of state and federal surplus personal property among state agencies and other eligible entities. In the case of federal surplus property, the Division will screen and request only that property which is declared to be surplus by the Federal Government, and report such needs and uses to the General Services Administration for allocation. The Division is responsible for removing all federal surplus property approved for transfer to the State from the federal holding activity within fifteen (15) calendar days from the date notice is received that the property is available for pickup. If removal is not accomplished, the holding activity is authorized to make other disposal of the property. The right to possession is only granted to the Surplus Property Division. Title to the property remains in the United States of America until such time as it is received for by an authorized eligible entity or its designated representative. It is the responsibility of the Surplus Property Division to dispense all federal surplus property received to eligible entities in a fair and equitable manner based on their relative needs, resources, and abilities to utilize the property.

(c) Sales to the general public. Pursuant to §41-16-123(19), the Division will offer for sale to the general public that state surplus property which has been held for a period of not less than 60 days and has been determined by the Division Director or his designee to be appropriate for such sales to the general public.

(d) Public auctions and sealed bids. The Division will conduct public auctions and sealed bid sales to accomplish competitive selling at the fair market value of state and federal surplus personal property that has been held by the Division for no less than sixty (60) days for state property and nine (9) months for federal property.

(e) Destruction of property. The Division may authorize the destruction of worthless state and federal surplus personal property if the condition of the property warrants such action. Such requests for destruction must be signed by the Property Manager and his/her supervisor.

Author: Shane T. Bailey
Statutory Authority: Code of Ala. 1975, §41-23-6.
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305-9-1-.06 Rules And Procedures For The Declaration, Disposal, Delivery, Transfer, Receipt, Listing, And Sale Of Surplus Personal Property.

(1) How to declare state surplus personal property. A state entity which owns property must first declare it to be surplus before the Surplus Property Division can dispose of it. This declaration of surplus property must be made by the entity's designated coordinator or other authorized representative, and can be accomplished by one of the following two ways:

(a) The property may be declared surplus by issuing or completing an SD-1 disposition form which proclaims the listed items as surplus. Instructions for completion are on the reverse of the SD-1.

1. The disposition form should be utilized when the method of disposal is to occur on site at the agency. The agency may request the Surplus Property Division to conduct a sealed bid at the agency's site, or the agency may request authorization to destroy any item(s) of no value. The agency shall be responsible for any preparation costs and/or any advertising expenses.

2. The disposition form is found in the State Auditor’s Manual, which is hereby referenced and made a part of these rules by reference.

(b) The property may be listed on a "Non-consumable Personal Property Receiving/Transfer/Invoice" form.

1. The "Non-consumable Personal Property/Receiving/ Transfer/Invoice" form should be utilized when items are being transferred to the Surplus Property Center, when items are being transferred to an eligible state agency, or when the entity requests the Surplus Property Division to let bids or contracts on the sale of used tires, batteries, scrap material, etc.

2. The "Non-consumable Personal Property Receiving/ Transfer/Invoice" form must include the following information.

(i) The complete name and address of the entity owning the property shall be stated in the "Transferred From" column.

(ii) The complete name and address of the Surplus Property Division shall be stated in the "Transferred To" column.

(iii) The Surplus Property Division will supply the information in the "Transaction Number" column.

(iv) The total number of like items being turned in on that line to the Surplus Property Division shall be stated in the "Quantity" column.

(v) The make, model, serial number, inventory number, nomenclature, and other similar identifying information of the property shall be stated in the "Description" column.

(vi) The cost of the item when it was originally purchased by the entity shall be stated in the "Cost" column.

(vii) The present condition of the property (e.g., new, good, fair, poor, or scrap) shall be entered in the "Condition" column.

(viii) The percentage of state funds and federal funds used by the entity to initially purchase the item shall be entered in the "Funding Information" column. If no federal funds or earmarked state funds are involved, then "none" is the term assigned to identify such property. If an item has a unit acquisition cost of over $1,000.00 and is purchased at least in part with federal funds, then the percentage of such funds must be indicated in this column.

(ix) The Surplus Property Division will supply the information in the "Final Disposition" column.

(x) The Division Director of the Surplus Property Division or his designated representative shall supply the signature for the "Approved" signature space.

(xi) The entity's coordinator shall supply the signature for the "Released By" signature space, as well as the coordinator's title and date.

(xii) The agency receiving the property or, if in the case of an individual, the individual listed on the Surplus Property Division's eligibility file, shall supply the signature for the "Received By" signature space. If the person designated to receive this property wishes to delegate this signatory duty, then he or she shall submit a letter addressed to the Division Director of the Surplus Property Division, which names the person who has the delegated authority to sign for receipt of the surplus

property. Such letter must be signed by the Coordinator, and must contain the delegation of authority and a sample of the person's signature that has been delegated this authority.

(3) Methods for disposal of state surplus personal property. The following are authorized methods for the Surplus Property Division to dispose of state surplus personal property.

(a) The agency which owns the property may transfer its excess property to another state department, agency, board, bureau, commission, institution, etc., upon obtaining the permission of the Surplus Property Division. The Surplus Property Division will charge a transfer fee comparable to fair market value to defray the expenses of completing the paperwork. This may be a set dollar amount per transaction.

(b) The agency which owns the property may transfer its excess property to the Surplus Property Division.

(c) Once any property is in the possession of the Surplus Property Division, the Division may then sell it to an eligible donee, sell it by competitive bid, or cannibalize or destroy it.

(d) The method of disposal of state surplus personal property shall be determined by the Surplus Property Division, and such determination will be based on what is in the state's best interest.

(4) Delivering and transferring surplus property to the Surplus Property Center. Once an entity declares property to be surplus, the following process shall be followed for the delivery and transfer of the property to the Surplus Property Center.

(a) The entity releasing the property shall make arrangements with the Surplus Property Center personnel prior to the transportation of the property from the entity's location to the Surplus Property Center. All deliveries will be accepted at the Center at anytime during normal working hours. It is the donee's responsibility to arrange for transportation of its surplus items to the Center.

(b) All surplus property being delivered to the Surplus Property Center must be listed on the "Non-consumable Personal Property Receiving/Transfer/Invoice" form. All information provided on the form shall be typed.

(c) A completed "Non-consumable Personal Property Receiving/ Transfer/Invoice" form shall accompany each surplus property item when it is delivered to the Surplus Property Center. Upon its receipt by the Center's personnel, the item shall be checked against this form, signed in the "Received By" column,

and assigned a transaction number. A copy of this form will be given as a temporary receipt to the person who delivered the property to the Center.

(d) If the surplus property consists of motor vehicles, then the entity releasing such vehicles shall remove the license plates and any decals or lettering which would identify the vehicles as state property. A certificate of title for each vehicle must accompany the vehicle before it can be received at the Surplus Property Center. A parts only title must accompany any vehicle which has been wrecked before it can be received the Surplus Property Center. All keys to each vehicle's doors, trunk, and ignition shall accompany the vehicle, regardless of the vehicle's age and condition. (NOTE: Vehicles which were manufactured in 1975 or later are required by law to have certificates of title.) Vehicles should be listed on SD-1 form separate from other types of property.

(e) When property is received at the Surplus Property Center, the entity releasing the property will be issued a copy of the "Non-consumable Personal Property Receiving/Transfer/ Invoice" form. This shall serve as the entity's authority to make the necessary deletion from its inventory records.

(f) An entity's failure to comply with any of the instructions stated in subparagraphs (4)(a) through (d) may warrant the rejection of the property by the Surplus Property Center personnel.

(5) Obtaining and receiving surplus property from the Surplus Property Center. All surplus items located at the Surplus Property Center are available for inspection and transfer to state agencies and other authorized recipients. Any eligible entity seeking to obtain and receive surplus personal property from the Surplus Property Center shall follow the following process.

(6) Listing of available surplus property. The Surplus Property Division will periodically prepare and make available a listing of any surplus property that is available for transfer.

(7) Sale of State surplus property to the general public. The Surplus Property Division shall periodically conduct sales of State surplus property to the general public. Such sales shall be conducted by public auction, spot bid, or sealed bid. The sale should be conducted in accordance with the following process.

(a) Advertisement of sale.

1. Proposals to make a sale of state surplus property will be advertised by the Surplus Property Division for a period of at least two weeks in advance of the date fixed for receiving bids. The Surplus Property Division shall advertise in a newspaper of general circulation in the

county where the sale is to be made at least once a week for two consecutive weeks such proposal(s) of sale. A copy of such proposal of sale will simultaneously be posted on a readily accessible public bulletin board at the main office of the Surplus Property Division.

2. Advertisements shall generally describe the item(s) to be sold, by its class and description. They shall state the location of the property, and the date(s), time, and place where the property may be inspected prior to sale. They shall also state the date, time, and place of auction or opening of sealed bids.

3. No sealed bid shall be received or considered after the time stated in the advertisements.

(b) Inspection, bids, and failure to accept the bid award.

1. All bidders shall be afforded an opportunity to inspect property for a period of 48 hours (during normal state office hours) prior to sale.

2. All sealed bids for the sale of surplus property will be taken, or opened, at the Surplus Property Division office by the Division Director on the date and at the time specified in the advertisement of sale. All bidders or their designated representative (s) shall be entitled to be present. Awards to successful bidders will be made within 72 hours after the taking/opening of bids.

The successful bid will be so marked, and the unsuccessful bids will be so marked (in the case of sealed bids), and placed on file. These bids will be open to public inspection and shall become matters of public record.

3. If a successful bidder fails to accept an award of contract on the property, then such bidder will be permanently prohibited from bidding at future sales.

4. The Division Director may sell all items by lot or by individual item, whichever method the Division Director determines will bring the highest return for the items.

5. If all of the bids received for the individual item or the lot are less than the estimated market value of the property, then the Division Director will reject all of those bids, and then re-advertise and re-bid the property.

(c) Payment by the general public successful bidders.

1. Payment by the general public shall be made by cashier's check, bank draft, certified check, U.S. currency, or by a notarized bank letter stating that the holder may purchase surplus property and also stating a maximum dollar amount. Property sold by auction must be paid for within 48 hours after auction day. Sealed bid payment must be made within period proscribed in advertisement.

(d) List of prospective buyers. The Surplus Property Division shall maintain a mailing list of prospective buyers of state surplus property. If a prospective buyer on this list does not participate in three consecutive state surplus property sales, then such prospective buyers shall be deleted from the list. Also, buyers of surplus property who failed to pay the amount due on that property, who fail to remove that property within the time limit prescribed, or who incur other irregularities on their part, shall be permanently removed from the list. This list shall be updated by the Division on a quarterly basis.

Author: Shane T. Bailey
Statutory Authority: Code of Ala. 1975, §41-23-6.
History: New Rule: Filed November 25, 2002; effective December 30, 2002.

305-9-1-.07 Compliance, Certification, And Utilization Responsibilities For Surplus Property.

When an eligible entity receives federal or state surplus property, the entity must certify to the Surplus Property Division that the property will be used in accordance with the following certifications and agreements as stated in CFR 41 CR 101 and listed on the reverse of the invoice.

Author: Shane T. Bailey
Statutory Authority: Code of Ala. 1975, §41-23-6.
History: New Rule: Filed November 25, 2002; effective December 30, 2002.

305-9-1-.08 Penalties For Violations.

(1) A violation of any of the provisions of this manual shall constitute a Class B misdemeanor punishable as described by state law.

(2) Any sale of tangible personal property or standing timber of the state made in violation of terms of these rules shall be null and void, and the person or persons responsible for the violation shall be subject to liquidated damages of not less than $1,000.00 nor more than $10,000.00, which may be recovered for the State of

Alabama by the attorney general by civil action in the circuit court of Montgomery County. Any moneys recovered by the attorney general under this section shall be equally divided between the office of the attorney general and the state general fund.
Author: Shane T. Bailey
Statutory Authority: Code of Ala. 1975, §41-23-6.
History: New Rule: Filed November 25, 2002; effective December 30, 2002.

305-9-1-.09 Administration Funding.

(1) The income received from the receipt of service charges assessed and collected by the Surplus Property Division in its implementation of these rules is utilized to operate the Division and to ensure its continued efficient operations.

(2) The Division shall establish three accounts within the state treasury for the purpose of operating the surplus property function. The accounts and their respective funds deposited into these accounts shall operate as follows.

(a) Federal surplus property account. This account shall have deposited into it all funds received from the sale and distribution of donated federal surplus personal property. The funds may be expended from time to time by the Department. At no time shall the funds in this account revert to the state general fund. This account shall be perpetual.

(b) State surplus property account. This account shall have deposited into it all funds received from the sale and distribution of state-owned surplus personal property, and any funds appropriated from the state's general fund for the operation of the surplus property function. The funds may be expended from time to time by the Department on a fiscal year basis. On September 30 of each fiscal year, any unencumbered funds remaining in this account, up to an amount equal to the operating expenses of the quarter ending on September 30 of the perspective year shall be set aside for use during the following quarter beginning on October 1. Any remaining funds in this account shall revert to the state general fund.

(c) Revolving account. Use for purchase of GSA vehicles.

(3) Surplus property that was purchased with either earmarked state funds or restricted federal funds, and then is sold by the Surplus Property Division, shall have the proceeds from the sale (less any administrative costs) deposited within 60 days from the receipt of the proceeds.
Author: Shane T. Bailey
Statutory Authority: Code of Ala. 1975, §41-23-6.

History: New Rule: Filed November 25, 2002; effective December 30, 2002.

305-9-1-.10 Forms.

(1) The following forms correspond and are submitted with these rules.

(a) Non-consumable Personal Property Receiving/ Transfer/ Invoice form

(b) Temporary Permit form

(c) Restrictions (Federal Surplus) form

(d) Bill of Sale form

(e) Federal service charge formula

(2) The Surplus Property Division may revise these forms from time to time in order to meet the needs of the surplus property program.

(3) Copies of these forms may be obtained at the Surplus Property Division.
Author: Shane T. Bailey
Statutory Authority: Code of Ala. 1975, §41-23-6.
History: New Rule: Filed November 25, 2002; effective December 30, 2002.

305-9-1-.11 Voluntary Nonprofit Rescue Squad And Voluntary Nonprofit Ambulance Service State Surplus Property Loan Program.

(1) This rule applies to voluntary nonprofit ambulance services and voluntary nonprofit rescue squads which are operated as a public service for the benefit of the citizens of the state and establishes a procedure for loaning state-owned surplus property to these entities.

(a) Pursuant to the Alabama Code §41-4-33.2(b), state-owned surplus property will be made available for screening by the Ambulance Advisory Board and the Alabama Association of Rescue Squads for the ambulance/rescue loan program beginning forty-five (45) days prior to an auction and terminating ten (10) days thereafter.

(b) The dates of auctions will be made available to the Ambulance Advisory Board and to the Alabama Association of

Rescue Squads at least sixty (60) days prior to the date of an auction.

(c) The state Board of Health Ambulance Advisory Board (the Board) and/or the Alabama Association of Rescue Squads, Inc., (the Association) shall screen state-owned surplus property for volunteer ambulance services and volunteer rescue squads for use in ambulance and rescue purposes exclusively.

(d) The Board and the Association may designate up to five (5) screeners each and shall identify the designated screeners by name in a letter from the Board or the Association to the Division Chief of the Surplus Property Division of ADECA.

(e) The Board and/or the Association shall determine what state-owned surplus property may be of use by the volunteer ambulance services or volunteer rescue squads respectively.

(f) The Board or the Association shall submit a letter of intent of usage to ADECA Surplus Property Division and in the letter of intent shall identify the property and the entity who will receive the property.

(g) In order to be eligible to receive state surplus property under the loan program, each volunteer rescue squad must be an Association member in good standing for a period of not less than one year and must meet the requirements of being an eligible nonprofit organization.

(h) Rescue squads which have been deemed eligible under the previous paragraph must complete a state-owned surplus property conditional loan transfer document for each parcel of property. They must maintain an inventory of all such property along with current pictures and submit the inventory to the Surplus Property Division on an annual basis.

(i) Forms for use in the loan program shall be developed by the Surplus Property Division of ADECA and amended from time to time as necessary.

Author: Burt Brownell
Statutory Authority: Code of Ala. 1975, §§41-16-120, 41-4-33.2.
History: New Rule: Filed May 15, 2012; effective June 20, 2012.