

Central Services Division  
Office of Management and Budget

# Surplus Property Manual

November 2023

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3	Added Game & Fish to specific exemptions list	11/14/2019
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5	Added telework employee's surplus policy	5/3/2021
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7	Added details for the surplus of electronic equipment	4/12/2023
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9	Added details for sanitizing electronic devices requirements	10/12/2023

# Chapter: 1 Introduction

## 1.1 PURPOSE

ND State Surplus Property has a simple mission: Save taxpayer dollars.

This mission is accomplished by:

- Distributing State, Federal, and Department of Defense surplus property to North Dakota government entities and eligible nonprofits
- Selling State surplus property to the public
- Recycling electronic waste
- Disposing of unsaleable property in a safe responsible manner which includes a state contract for [Disposal of Hazardous Material](#)

ND State Surplus Property receives surplus items from a variety of sources. Each type of property has requirements related to who is eligible to obtain the property.

This manual describes how to 1) surplus your property and 2) buy property.

## 1.2 LOCATION

ND State Surplus Property warehouse is located at: **1278 Hemlock St, Bismarck, ND.**

Federal and most State property is stored in the Bismarck warehouse. Some State property is in other cities.

## 1.3 HOURS OF OPERATION

The ND State Surplus Property warehouse is open from 8:00 am – 4:00 pm, Central Time, Monday through Friday and closed on State holidays.

## 1.4 CONTACT INFORMATION

Phone: 701-328-9665, Fax: 701-328-9669

Mailing address: 600 E Boulevard Ave Dept. 15, Bismarck, ND 58505-0608

Physical address: 1278 Hemlock St, Bismarck, ND 58504

Website: [www.omb.nd.gov/surplus](http://www.omb.nd.gov/surplus)

Facebook: [www.facebook.com/ndsurlus](https://www.facebook.com/ndsurlus)

## 1.5 TYPES OF PROPERTY

### **1.5.1 State and Political Subdivision Property**

“State Property” is received from North Dakota government entities. State agencies are required to report their property to State Surplus Property. Political subdivisions may also provide their surplus.

### **1.5.2 Federal Property**

“Federal Property” is surplus property from military bases and the federal government. Federal law authorizes the General Services Administration (GSA) to allocate federal surplus to state agencies and other eligible organizations. State Surplus Property acts as the federal government’s agent to acquire and redistribute federal property [Reference: Federal Property and Administrative Services act of 1949 (Public Law 94-519) as amended].

Federal property acquired is then made available to entities that meet federal eligibility requirements and have completed the application process to become a “Donee.” Some federal property has restrictions on which entities can acquire the items.

Federal property that has not been transferred to a “Donee” within twelve months may be sold to the public using GSA Auctions ([www.gsaauctions.gov](http://www.gsaauctions.gov)). Auction dates are subject to the discretion of the State Surplus Property Manager. Buyers can search for property by location. The GSA Auctions website has instructions for registering as a bidder.

### 1.5.3 LESO Program

“LESO Property” is Department of Defense excess property made available to state and local law enforcement agencies under the LESO Program administered by the federal Law Enforcement Support Office (LESO). This program makes excess federal military property, such as firearms and tactical vehicles, available to law enforcement agencies.

## Chapter 2: Reporting to State Surplus Property

### 2.1 WHO CAN REPORT

[N.D.C.C. § 54-44-04.6](#) requires state agencies, institutions, boards and commissions to dispose their surplus property through ND State Surplus Property. All property must be disposed of through ND State Surplus Property, regardless of what kind of funds were used for the purchase.

Call ND State Surplus Property if you have questions about specific items. The rule of thumb is, “when in doubt, send it out.”

According to [N.D.C.C. § 54-44-04.6](#), Political Subdivisions (Counties, Cities, Townships, Public Schools, Police, Fire, etc.), may turn their items in to ND State Surplus Property.

#### 2.1.1 Exceptions for Reporting Surplus

Some state entities have specific exemptions from state law, related to their surplus property. Trade-ins also have exceptions through the State Procurement Office.

- [N.D.C.C. § 6-09-15 \(6\)](#) related to the Bank of North Dakota
- [N.D.C.C. § 20.1-10-04](#) related to who can sell Game and Fish confiscated property
- Game and Fish dead animals and animal parts (e.g., hides, antler, etc.) are not considered state property that must be reported to OMB Surplus Property, and the agency in possession of the dead animals and animal parts is responsible for proper disposal or utilization. Animal and animal parts that have been made into products are considered state property (e.g., fur rugs, clothing, taxidermy mountings or stuffings).
- [N.D.C.C. § 54-03-26](#) related to legislative management establishing a policy regarding legislators purchasing their assigned computers
- [N.D.C.C. § 24-03-15](#) related to NDDOT obsolete highway equipment
- [N.D.C.C. § 54-44-04.6](#) related to NDDOT advising OMB as to the need to acquire or dispose of State Fleet vehicles. 54-44-04.8. Purchase of state motor vehicles. Repealed by S.L. 1991, ch. 611, § 1
- [N.D.C.C. § 55-01-02 \(3\)](#) related to the ND Historical Board regarding disposal or transfers of articles in their collections.
- [State Contract 915](#) related to a one for one device buy-back program with Verizon.
- [Native American Grave Protection and Repatriation Act \(NAGPRA\)](#) Property in possession of state agencies and institutions of the State Board of Higher Education determined to be subject to the NAGPRA is not required to be reported to ND State Surplus Property under N.D.C.C section 54-44-04.6. Items subject to NAGPRA must be handled in accordance with the federal requirements and are not eligible to be reported to OMB and transferred to entities by OMB.

### 2.2 STATE AGENCIES LIAISON TO ND STATE SURPLUS PROPERTY

Each agency, department and institution must designate a person to be a surplus property liaison. More than one liaison per state agency is acceptable. Each liaison must be entered on the agency's Surplus Property Liaison Designation Form [SFN 61230](#) which is located on the ND State Surplus Property website.

## 2.3 PREPARING PROPERTY FOR SURPLUS

### **2.3.1 Capitalized and Inventoried Property**

If the items are capitalized or on inventory, the disposing agency may make inventory adjustments when the property is reported to ND State Surplus Property, even though the property may remain on the premises until it is transferred or sold. If preferred, the disposing agency may remove the state issued asset tags.

### **2.3.2 Broken, Small Value Items**

Agencies may dispose of non-inventoried small, nominal value items that are broken; such as broken staplers, hand tools, poor condition binders, etc. Please contact ND State Surplus Property if questioning the value of the broken item.

### **2.3.3 Modular Furniture/Office Panels**

Take photos before disassembling cubicles. If available, provide diagrams of modular furniture. Pictures and diagrams assist with redistribution of the property. If modular furniture/office panels cannot be sold, the reporting agency will be charged disposal fees at the published rate.

### **2.3.4 Data Security for Electronics**

Some equipment stores data, and that data could include confidential information. Examples include computers, cell phones, copiers and other office equipment. The ND Information Technology department security policy requires storage media to be wiped before transfer, surplus, or discarding any equipment with storage capabilities. iPhones and iPads must be unlinked from the iCloud, Find Devices on iCloud, Apple ID, iTunes and any other apps that would limit the ability of the phone to be reutilized. After electronic device has been wiped, attach a label to each electronic device that states "State of North Dakota WIPED" before transferring the electronic device to ND State Surplus Property. Email [surplus@nd.gov](mailto:surplus@nd.gov) to request labels.

### **2.3.5 Computer and Software**

As you prepare your computer equipment for surplus, ensure that it does not contain copies of software and that the hard drives contain only the originally installed operating system. If a PC is sent to ND State Surplus Property cleared (hard drive format or partition), indicate the unit's original system.

Agencies are delegated the authority to scrap software and is not required to be reported to ND State Surplus Property. Software no longer needed should be rendered unusable and destroyed along with the manuals and licenses. Many of the computer items at ND State Surplus Property are sold to the general public. Any software left on a hard drive could potentially be retrieved and could lead to conflicts with your agency's software license agreements.

### **2.3.6 Copiers and Multi-functional Devices**

If multi-functional devices have a feature to encrypt the documents in storage and/or wipe the disk area after a document is printed, it should be enabled. Contact the maintenance service provider to professionally wipe copiers and multi-functional devices. After electronic device has been wiped, attach a label to each electronic device that states "State of North Dakota WIPED" before transferring the electronic device to ND State Surplus Property. Email [surplus@nd.gov](mailto:surplus@nd.gov) to request labels.

Not all copiers and multi-functional devices can be re-utilized. The average life span of a machine is normally between 5-7 years. If your machine is no longer functioning, it will be discarded through the electronic waste recycling program.

### **2.3.7 Unsalable Property**

State agencies with property in very poor condition that is unable to be used or sold should contact ND State Surplus Property. ND State Surplus Property will work with the agency to determine whether the property should be disposed of and select an economical disposal method.



State property that does not sell within 30 days may also be deemed as unsalable. The agency may be charged disposal fees at the published rates.

Types of unsalable property include (but not limited to):

- Items where repair or rehabilitation is impossible, impractical or uneconomical
- Items unsuccessfully marketed
- Computer without hard drive or memory
- Obsolete technology

ND State Surplus Property reserves the right to declare any items unsalable.

#### **2.3.8 Electronic Waste Recycling**

Electronics can contain precious metals as well as components that are known to be hazardous. ND State Surplus Property facilitates an electronic waste (e-waste) recycling program. All electronic components that have been designated as scrap must be transferred to ND State Surplus Property for proper disposal. Under no circumstances will state agencies dispose of electronic components as refuse (trash, landfill, etc.).

All ND government entities are eligible to use this program.

- Eligible organizations must call ND State Surplus Property to schedule an appointment to drop off e-waste.
- Any fees will be billed according to the published rates.
- Large quantities of e-waste must be organized by grouping like items together and placing on a pallet. Secure the items using shrink wrap.
- E-waste items with hard drives must be wiped clean prior to being sent to ND State Surplus Property. ND State Surplus Property is not responsible for wiping or destroying hard drives.

#### **2.3.9 Hazardous Materials**

Some hazardous material items, such as paint, varnish, chemicals, oil, and fuel additives, may be suitable for redistribution. If the items being surplused can be sold, the reporting agency will not be charged any disposal fees. If the hazardous material cannot be sold, any fees will be billed at the published rate.

#### **2.3.10 Large Quantities**

Contact ND State Surplus Property prior to the delivery or pickup when large quantities are being surplused. For property that cannot be sold the reporting agency will be charged disposal fees at the published rate.

#### **2.3.11 Vehicles & Heavy Equipment**

Contact ND State Surplus Property to coordinate delivery. The reporting agency must bring the signed vehicle title.

#### **2.3.12 Scrap Metal**

State agencies must report scrap metal to ND State Surplus Property. If the agency or institution sells scrap metal to a recycler, the proceeds must be reported to ND State Surplus Property.

### **2.4 REPORT TRANSFER OF SURPLUS**

Two options are available for reporting property: (1) the AssetWorks online system and (2) Surplus Property Disposal Form [SFN 2426](#). It is the agency's responsibility to ensure that all property either has a Surplus Property Disposal Form [SFN2426](#), or has been entered into AssetWorks and approved before the property leaves their location.

#### 2.4.1 **AssetWorks Online Software**

ND State Surplus Property uses an online inventory system called [AssetWorks](#). This database records items for surplus transfer. Contact ND State Surplus Property to get an AssetWorks account to enter items for surplus transfer.

All state agencies, institutions, and political subdivisions who surplus property should be set up to use AssetWorks. You can save time by reporting your property online using the AssetWorks system. Submit form [SFN 61230](#) to designate roles for your agency account.

#### 2.4.2 **State Surplus Property Disposal Form SFN 2426**

Political subdivisions not registered for AssetWorks online system, may use the Surplus Property Disposal Form [SFN 2426](#). Complete the form as per the instructions printed on the top of the form.

### 2.5 PHYSICAL TRANSFER OF PROPERTY

Based on the location of the property being surplus, the disposing agency has multiple options.

#### 2.5.1 **Interagency Transfer**

Property that is being transferred to another agency does not have to be transported first to the ND State Surplus Property warehouse.

- Communicate to ND State Surplus Property that another agency would like to purchase the property.
- The disposing agency must report the property into AssetWorks (or Surplus Property Disposal Form [SFN 2426](#)).
- ND State Surplus Property will bill the receiving agency for the property at fair market value.

#### 2.5.2 **Deliver to Surplus Property, Bismarck**

- Deliver to the ND State Surplus Property warehouse in Bismarck between 8:00 am and 3:00 pm, Monday through Friday.
- All items delivered must have an AssetWorks label (or Surplus Property Disposal Form [SFN 2426](#)) attached to it.
- Any large quantities should be scheduled with staff before the property arrives.

#### 2.5.3 **Pickup in Bismarck-Mandan**

- ND State Surplus Property picks up from the Capitol Complex loading dock on Thursday mornings at approximately 9:00 am. Agencies within the Capitol Complex may submit a Facilities Management Work Request to determine if OMB Facilities is able to move the property to the loading dock.
- On state holidays, pickups may be cancelled or rescheduled.
- State agencies located outside the Capitol Complex must contact ND State Surplus Property to make transportation arrangements.
- Contact ND State Surplus Property in advance if you are surplussing cubicle furniture, large quantities, heavy equipment, or hazardous materials, as those items may not be eligible for pickup.
- All items should be disassembled and placed by a nearby exit.
  - Referrals for assistance can be provided.

#### 2.5.4 **Outside of Bismarck-Mandan agencies**

State Agencies outside of the Bismarck-Mandan area are not required to transport items to the ND State Surplus Property warehouse. However, all property, regardless of disposal option selected, must be entered into AssetWorks. Below are the options for disposing of items, outside of Bismarck-Mandan.

- Transport the property to the ND State Surplus Property warehouse in Bismarck.
  - Contact a moving company to transport property. The State Procurement Office has [State Contract #266](#) for moving services that can also be used to transport items.

- Any costs involved with transporting the property are the responsibility of the disposing agency.
- ND State Surplus Property may authorize the Agency to sell the property for current market value.
  - Agencies are not able to donate or gift any property.
  - Notify ND State Surplus Property that the property is going to be sold.
  - All funds from the transfer of property must be paid to ND State Surplus Property. Refer to Chapter 4, Proceeds of Sales.
- ND State Surplus Property may authorize the agency to dispose of the property locally. Any costs involved with disposing of the property are the responsibility of the disposing agency.

### **2.5.5 Telework Employees Surplus Items**

Items in the possession of state employees working remotely (from within North Dakota and in other states) are subject to state surplus property laws. State property in possession of teleworkers that becomes surplus must be reported to ND State Surplus Property. Either the employing agency or the teleworking employee must arrange and be financially responsible for return of surplus property to the Bismarck warehouse or the associated agency, as set forth in the telework agreement. ND State Surplus Property has no responsibility for arranging the return of property from teleworkers.

### **2.5.6 Confirmation of Receipt of Property Received at Surplus Property Warehouse**

If the agency disposing of the property uses AssetWorks, the Received Date field will populate when the Surplus staff have received the property. The disposing agency can log into AssetWorks and verify the date received.

If the disposing agency uses the Surplus Property Disposal Form [SFN 2426](#), the ND Surplus Property staff will confirm receipt of property by noting the Item Number on the disposal form. A copy of the disposal form will be returned to the disposing agency. The disposing agency must retain the returned form as proof of disposal for audit purposes.

### **2.5.7 Without a Label or Form Attached**

If ND State Surplus Property receives items that do not have a form or label attached to identify the disposing agency, then:

- The item will be researched using the item description in AssetWorks.
- If the disposing agency can be validated in AssetWorks, ND Surplus Property will receive the property under the correct agency.
- If the disposing agency cannot be validated, the property will be listed as being surplus by ND State Surplus Property.
- The disposing agency may not have an audit trail.

### **2.5.8 Items not Approved in AssetWorks**

When ND State Surplus Property physically receives items that have been entered into AssetWorks but is awaiting approval from that agency approver, ND State Surplus Property staff will approve the transfer in AssetWorks.

## **Chapter 3: Obtaining Items from ND State Surplus Property**

### **3.1 FEDERAL PROPERTY**

#### **3.1.1 Eligibility for Federal Property**

An "Eligible Organization" is an organization that meets the qualifications to receive federal property in accordance with [FMR § 102-37.380](#) but has not yet completed the application process. An

eligible organization becomes a “Donee” upon completion of the application process and approval. The Donee is then enrolled in the federal and state property program by the ND State Surplus Property in accordance with [FMR § 102-37.380](#).

Eligible Organizations can include:

- State agencies and institutions under the jurisdiction of the State Board of Higher Education.
- Political Subdivision: cities, counties, public schools, law enforcement, fire departments, etc.
- Public agencies:
  - An entity with a public purpose such as conservation, economic development, education, parks and recreation, public health, and public safety;
  - Nonprofit educational or public health institutions, including medical institutions, hospitals, clinics, health centers, schools, colleges, universities, schools for the mentally and physically handicapped, childcare centers, providers of services to the homeless, elderly, indigent;
  - Veterans organizations;
  - Services Educational Activities (SEA) such as the Boy Scouts of America.

To become an eligible organization, other than an SBA 8(a) Contractor, complete an Eligibility Application Form [SFN 17726](#). Submit the signed application to ND State Surplus Property.

The following documentation is needed to determine eligibility:

- Completed Eligibility Application Form [SFN 17726](#).
- A comprehensive written description of all programs or services provided.
- If incorporated, include a complete copy of articles of incorporation with all filing certificates and amendments, and a copy of your current by-laws.
- Any applicable licenses (e.g., license for operating a nursing home, licensed day care, etc.).

Eligibility files are maintained for each Donee and are updated periodically according to the Federal Property Management Regulations. Failure to comply with requests for update information may result in a Donee's eligibility to acquire property being deferred.

Applicants will be notified of eligibility determination in writing. When the applicant is approved, a Donee account will be set up.

### **3.1.2 Federal Property and Small Business Administration (SBA) 8a Contractors**

An 8(a) Contractor is a firm owned and operated by socially and economically disadvantaged individuals and eligible to receive federal contracts under the Small Business Administration's 8(a) Business Development Program. These contractors are eligible to purchase federal property.

For Small Business Administration 8(a) application instructions contact your local US Small Business Administration Office. The current contact is [north.dakota@sba.gov](mailto:north.dakota@sba.gov) or 701-239-5131.

When an SBA 8(a) Contractor requests federal property:

- ND State Surplus Property must complete a GSA Standard Form 122, including a justification for the acquisition of property, and submit to SBA North Dakota District Office.
- SBA notifies ND State Surplus Property when the request has been approved.
- ND State Surplus Property will coordinate the transfer of the property to the 8(a) Contractor.
- The contractor must pay for property with business check or business credit card at the time of property pick up.

### **3.1.3 Federal Requirement for Updating Authorization**

There are two primary instances when a new Eligibility Application Form [SFN 17726](#) is required: (1) when there is a change in your agency's administration or (2) every three years [FMR § 102-37.405](#).

ND State Surplus Property will contact organizations every three years when their documents require updating.

#### **3.1.4 Authorized Representatives**

All Donees are required to identify their "Authorized Representatives."

Authorized Representatives are employees or representatives of the agency who are authorized to sign for the purchase of property, obligate funds for the purchase, execute distribution and sales documents, agreeing to terms and conditions, reservations, and restrictions applying to property obtained.

The administrative official for the agency designates Authorized Representatives by submitting a completed State Authorized Representatives Form [SFN 54201](#) to ND State Surplus Property.

To add, delete or change these individuals, a new State Authorized Representatives Form, [SFN 54201](#) must be submitted.

#### **3.1.5 Federal Compliance and Utilization Requirements**

There are Federal requirements related to the use and retention of federal surplus property and these are covered in the Compliance and Utilization Agreement. Failure to comply violates federal statute which constitutes a criminal offense. Failure may also result in the Donee being suspended from the program and may forfeit the property along with any service charges and administrative fees paid. The Compliance and Utilization requirements are identified within the Eligibility Application [SFN 17726](#).

The following are the general terms and conditions related to the Compliance and Utilization of federal property.

- There must be a legitimate need for the property by the Donee organization, and the property must be used for the purpose for which it was acquired. Property cannot be taken for personal use or acquired in anticipating personal use after the restricted period.
- Donee must put property into use within one year of acquisition. The restricted period begins when property has been put into use and may be adjusted if the property is only used seasonally. A Utilization Questionnaire SFN 2788 will be completed by the Donee to ensure this condition.
- Non-expendable items with an original acquisition cost under \$5,000 must be used for a minimum of twelve (12) months. Property is to be used by the Donee as long as it is usable and/or there is a need.
- Property with an original acquisition cost of \$5,000 or more and all vehicles, regardless of original acquisition cost, must be put into use within twelve (12) months of receipt and must be used for a minimum of eighteen (18) months thereafter. The property is to be used by the Donee as long as it is usable and/or there is need and compliance thereto will be tracked.
- The property shall not be sold, traded, loaned, or leased within the restricted period.
- Cannibalization during the restricted period shall not occur without prior written approval from ND State Surplus Property.
- Donees will return to the Program, at their own expense, any donated property:
  - That is not placed in use for the purpose for which it was donated within one (1) year or donation; or
  - Equipment that ceases to be used for such purposes within one (1) year after being placed in use.
- Donees will comply with any conditions imposed by GSA requiring special handling or use limitations on donated property.
- Donees will agree, upon execution of the program distribution document, that it has conditional title only to the property during the applicable period of restriction. Full title to the property will vest in the Donee only after the Donee has met all use requirements for the property in question.

#### **3.1.6 Compliance and Utilization Review by ND Surplus Property**

ND State Surplus Property must conduct reviews to ensure Donees are in compliance with the Federal Compliance and Utilization requirements. The reviews will be conducted during the 12-to-

18-month restriction period and shall include a survey of Donee compliance with any special handling conditions or limitations imposed on the use of the property by GSA. ND State Surplus Property will fully document all compliance efforts and report all instances of noncompliance (misuse or mishandling of donated property) in accordance with [41 CFR 102-37.485](#) through [102-37.495](#).

- For property with an acquisition cost of \$5,000 or more and all vehicles, the Donee will receive a Utilization Questionnaire, SFN 2788, approximately ninety (90) days after receipt of the property. The Donee organization is to complete and return the questionnaire within fifteen (15) days, regardless of whether or not the property has been put into use.
- If Donee indicates the property has not been placed into use, a Utilization Questionnaire will be sent approximately every ninety (90) days until the property has been placed into use or is ready for use.
- The twelve (12) to eighteen (18) month restricted period begins on the date the property was placed into use, as indicated by the Donee organization.
- A final Utilization Questionnaire is mailed to the Donee at the end of the restricted period. Upon receipt of the final questionnaire by ND State Surplus Property and at the end of the restricted period, full title is then passed to the Donee organization.
- If the Donee organization finds the property irreparable after receipt or it becomes unusable during the restricted period, ND State Surplus Property must be notified in writing requesting proper disposal. If authority is granted to dispose of the property, the disposal will be handled in the most feasible manner possible for both parties.

#### **3.1.7 Cannibalization**

Federal surplus property may be obtained for the purpose of disassembly for parts to bring related or unrelated equipment back into operation by following these instructions:

- The Donee will receive the Cannibalization Questionnaire Form, SFN 51957, approximately ninety (90) days after receipt of property. The Donee organization is to complete and return the questionnaire within fifteen (15) days whether or not cannibalization has begun. A cannibalization questionnaire will be sent approximately every ninety (90) days until the property has begun to be cannibalized.
- The twelve (12) to eighteen (18) month restricted period begins on the date the cannibalization of the property has begun, which is indicated by the Donee organization.
- A final cannibalization questionnaire is mailed to the Donee at the end of the restricted period. At the end of the restricted period, and upon receipt of the completed final cannibalization questionnaire by ND State Surplus Property, full title of the property is passed to the Donee.
- The Donee is to continue to cannibalize the property until the requirement for parts no longer exists. If the available parts are gone before the restricted period is up, the Donee may:
  - Retain the remaining property (residue) for use in other eligible areas of the Donees Operation; or
  - If the fair market value is less than five hundred (500) dollars, the Donee may dispose of the residue with permission from ND Surplus Property. Proceeds received from the sale of residue are to be deposited into the account from which the equipment was originally purchased; or
  - Return the property to ND State Surplus Property.

### **3.2 STATE PROPERTY**

Generally, State property is made available in this order of priority:

- State government agencies during first seven (7) calendar days.
- Then to political subdivisions and entities who are eligible to acquire federal property for an additional seven (7) calendar days. Common surplus items, such as older computers and furniture, may be offered for sale immediately to any interested party.
- State property valued under \$3,000 is then made available to the public on a first come, first serve basis.



- State property valued over \$3,000 must be sold to the general public by sealed bid or public auction.

### 3.3 LESO PROPERTY

To apply for the LESO Program, you must be a ND Law Enforcement Agency whose primary function is the enforcement of law. The officers must be compensated and have powers of arrest and apprehension. Preference is given to counter-drug and counter-terrorism activities (Reference: National Defense Authorization Act of 1997).

A Law Enforcement Agency Application for Participation and LESO State Plan of Operation is required. Contact the ND State Coordinator at [surplus@nd.gov](mailto:surplus@nd.gov) or 701-328-9665 for these forms.

## **Chapter 4: General Business Procedures**

### 4.1 PROCUREMENT POLICIES AFFECTING SURPLUS

When replacing equipment, you may trade in your existing equipment toward the purchase of a newer or more efficient replacement piece.

Cell phones may be traded in at the rate of one existing phone toward one new phone. If the agency has multiple items and wishes to apply them all toward the purchase, they must first submit a request to Surplus Property.

### 4.2 SERVICE AND HANDLING CHARGE

ND State Surplus Property is a state agency that must generate revenue to sustain its operation. Service and handling are charged based on the acquisition cost of the property, condition of the property, overhead costs, and other costs (i.e.) transportation, refurbishing costs.

### 4.3 UNSALABLE AND E-WASTE FEES

<b>Category</b>	<b>Description</b>	<b>*Fee</b>
0-24 lbs.	Extra small property, any age, any condition. Includes: laptops, CPUs, keyboards, mice, cell phones, small office machines and supplies, etc.	No Charge
25 lbs. – 49 lbs.	Small property, any age, any condition. Includes: chairs, tables, monitors, small printers, typewriters, etc.	\$5
50 lbs. – 149 lbs.	Medium property, any age, any condition. Includes: desks, televisions, copiers, servers, etc.	\$10
150+ lbs.	Large property, any age, any condition. Includes: stand-alone copiers and printers, large televisions, mailing equipment, etc.	\$30
Large Volume	Extremely large equipment, modular furniture, partial and full truckload shipments of property.	Negotiated based upon state contract rates, location and volume.
Hazardous Materials	Any material determined to be hazardous material, such as chemicals, liquids, ballasts, fluorescent bulbs, etc.	Actual disposal costs

\*Fees are subject to change and are at the discretion of the Surplus Property Manager.

### 4.4 SALES TAX

The ND Tax Department has determined that ND State Surplus Property is not a retailer required to collect sales tax because it is a government agency whose primary purpose is not selling tangible

personal property. Most items are redistributed to government agencies. State surplus items not transferred are then made available to the public. A sales tax will apply to online auctions or third-party sellers.

#### 4.5 PROCEEDS OF SALES

Under subsection 5 of N.D.C.C. § 54-44-04.6, ND State Surplus Property retains all proceeds of property sold for less than \$3,000, unless the proceeds are subject to special requirements for distribution.

State agencies must notify the ND State Surplus Property Manager in writing if property sale proceeds are subject to special requirements for distribution, including the reason. For example, a special fund agency may need to retain the sale proceeds for its operating budget.

Proceeds of property sold for more than \$3,000, less ND State Surplus Property's administrative expenses of the sale, will be returned to the disposing agency. The law requires the agency to deposit the proceeds into the fund from which the property was originally purchased.

#### 4.6 PAYMENT TYPES

Acceptable payment types vary based on customer type and property type.

- Public:
  - Cash
  - Credit/debit card (MasterCard or VISA).
- Donee:
  - Check from organization.
  - Credit card from organization.
  - Bill to account:
    - State Agencies will receive IDB (interdepartmental billing).
    - All other Organizations will receive a monthly statement that can be paid with a check.
    - Must be paid in full by the end of the following month.
- SBA 8A Contractors
  - Business check.
  - Business credit card.

#### 4.7 HOLD POLICY

Generally, ND State Surplus Property will hold state and federal property for state agencies and political subdivisions for five working days, which may be extended upon approval by ND State Surplus Property.

Property cannot be put on hold for the public.

#### 4.8 WANT LIST

Donees may notify ND State Surplus Property of their needs for surplus items. If the items are not available immediately, they can notify ND State Surplus Property of property that they are searching for by sending a request to [surplus@nd.gov](mailto:surplus@nd.gov). Donees will be put on a Want List and notified on a first come, first service basis when the requested items become available.

The Want List is not an available option for the public.

#### 4.9 SOLD PROPERTY REMOVED FROM PREMISES

Property sold to the public must be removed immediately when purchased. Federal property transferred to Donees must be removed within five working days. Any exceptions must be approved by the ND State Surplus Property manager. Buyers are responsible for all transportation costs associated with the removal of such items.



#### 4.10 PROPERTY WARRANTY

Items from ND State Surplus Property are acquired “As Is – Where Is” condition without warranty, expressed or implied, as to the completeness, kind, character, or quality of any property or its fitness for any use or purpose.

Donees may return items, see below.

#### 4.11 RETURN POLICY

- Property purchased by the public is not eligible for return or exchange.
- Property purchased by a state agency or political subdivision may be returned for a full refund within 30 days of purchase. Refunds and credit for returns are at the discretion of the Surplus Property Manager.
- Donees may request a return of State property within thirty (30) days of taking possession of the property. The State property must be returned to the Surplus Property warehouse within the agreed upon timeframe. ND State Surplus Property reserves the right to deduct from the refund if returned property is damaged or missing components.
- Donees may return Federal property, in accordance with [FMR § 102-37.500](#), within thirty (30) days of receipt with the proper authorization from the ND State Surplus Property Manager. Returns for items \$50 and under will not be allowed. The eligible property must be returned at the Donees expense. A credit for the service and handling charge paid will be issued for items returned within 30 days of purchase.

#### 4.12 SALES TO ND SURPLUS PROPERTY EMPLOYEES

ND State Surplus Property employees are ineligible to purchase state or federal surplus property.

In order to prevent the appearance of impropriety, ND State Surplus Property employees and their immediate family members are prohibited from participating in any sale, auction, or transfer of state and federal surplus property to the public. All other state employees are permitted to participate in public sales.

#### 4.13 Sales to State Employees and Officials

ND State Surplus Property will not hold equipment for purchase by state employee or state officials, such as computers, cell phones, furniture, and other items. Surplus Property is made available to eligible Donees first, and then made available for public sales on a “first come, first serve” basis.

## **Chapter 5: North Dakota Century Code**

### 5.1 [NORTH DAKOTA CENTURY CODE 54-44-04.5](#). FEDERAL SURPLUS PROPERTY - OFFICE OF MANAGEMENT AND BUDGET RESPONSIBLE FOR DISTRIBUTION - POWERS AND DUTIES OF DIRECTOR.

1. The Office of Management and Budget is responsible for the fair and equitable distribution, through donation, of all federal surplus property transferred to the state in accordance with the Federal Property and Administrative Services Act of 1949, as amended [63 Stat. 378; 40 U.S.C. 484(j)], hereinafter referred to as the Federal Act.
2. The Director of the Office of Management and Budget, or the Director's designee:
  - a) May receive, investigate, and make recommendations on applications for federal surplus property available under the Federal Act.
  - b) May acquire any federal surplus property transferred to the state under the Federal Act.
  - c) May distribute any federal surplus property pursuant to the Federal Act to:
    - 1) Any public agency for use in carrying out or promoting for the residents of a given political subdivision one or more public purposes; or
    - 2) Nonprofit educational institutions, public health institutions, or organizations which are exempt from taxation under section 501 of the Federal Internal Revenue Code, for purposes of education or public health or research for those purposes.

- d) May store the federal surplus property.
  - e) Shall develop, submit, and implement a state plan of operation for distribution of federal surplus property and comply with the Federal Act and rules and regulations adopted thereunder. Provided, the Director may continue the state plan of operation developed by the Department of Public Instruction.
  - f) May cooperate and enter into agreements with other surplus property agencies and federal agencies to screen and acquire surplus property and exchange property, facilities, personnel, and services.
  - g) May provide information and assistance for acquiring federal surplus property to entities listed in subdivision c.
  - h) May assess and collect service charges from participating recipients to cover direct and reasonable cost of services under this section. The service charges must be deposited with the State Treasurer in a surplus property special fund and used pursuant to the Federal Act. The State Treasurer shall credit all interest earned to the fund if the Director requests the State Treasurer to invest portions of the fund.
  - i) Adopt rules and take other action necessary to distribute federal surplus property pursuant to the Federal Act.
3. The Director of the Office of Management and Budget or the Director's designee may purchase available federal property under applicable federal property management regulations for distribution according to this section.

5.2 NORTH DAKOTA CENTURY CODE 54-44-04.6. STATE SURPLUS PROPERTY - DEPARTMENT HEADS TO INFORM DIRECTOR – DISPOSITION OF PROPERTY - PROCEEDS - EXCHANGE OF PROPERTY.

- 1. The person in charge of any department, agency, or institution of the state shall inform the Director of the Office of Management and Budget or the Director's designee whenever that department, agency, or institution possesses property surplus to its needs, whether originally obtained with state or other funds.
- 2. Political subdivisions may provide their surplus property to the Office of Management and Budget for disposition according to subsections 3, 4, and 5.
- 3. Surplus property must be transferred at fair market value to state agencies, political subdivisions, and nonprofit organizations eligible to receive federal surplus property under the Federal Property Administrative Services Act of 1949, as amended. Eligible organizations must be notified of the availability of property on a regular basis.
- 4. If not disposed of under subsection 3, then by sale on sealed bids or at public auction to the highest and best bidder for property valued at more than three thousand dollars, with no money deposit required prior to sale, or by sealed bids, public auction, or negotiation at fair value for property valued at less than three thousand dollars. The Office of Management and Budget may establish a program for the recycling and disposal of surplus property determined to be unsalable and may assess and collect service charges from the department, agency, institution, or political subdivision from which the property was received to cover direct and reasonable costs of this service.
- 5. All proceeds received from the transfer, sale, recycling, or disposal of surplus property must be deposited with the State Treasurer for deposit in the surplus property operating fund. For each piece of property sold for less than three thousand dollars, all proceeds must be retained in the surplus property operating fund unless the Office of Management and Budget determines the sale proceeds are subject to special requirements for distribution. For each piece of property sold for three thousand dollars or more, the Office of Management and Budget shall transfer to the agency from which the property was received an amount equal to the proceeds of the sale less the administrative expenses of the sale. The agency shall deposit the proceeds into the fund from which the property was originally purchased. At the end of each biennium, the Office of Management and Budget shall transfer all funds in the surplus property operating fund that exceed the amount needed for operating the surplus property function for one year to the general fund.