

Disposal Guideline

Purpose

This Guideline provides information and practical advice regarding the disposal of assets. It provides an understanding of the disposal process, including methods of disposal.

This Guideline refers to the definition of an asset as defined in Treasurer's Instructions 18 Procurement.

The sale of real property (land and buildings), and the sale or lease of government businesses, are excluded from the scope of this guideline¹.

Public authorities will dispose of assets in a manner that is lawful, efficient, economical and ethical².

Key Principles for Disposals

Value for money

Value for money should be the key consideration of the disposal process. This means public authorities should select a disposal method that obtains the best possible return for any assets. In addition to price, the disposal process should consider the social, economic and environmental impacts.

Probity, accountability and transparency

The disposal of assets inherently comes with the risk of corruption. It is important that assets are managed and disposed of in accordance with effective internal controls and procedures, thus ensuring high standards of probity, accountability and transparency. Where appropriate, an up-to-date asset register is important in this regard as is the documenting of relevant approvals.

Fair and ethical competition

The disposal method chosen should promote fair and effective competition and be conducted in an ethical manner. Public authorities undertaking the sale of assets should avoid engaging in conduct that is misleading and deceptive. Public authorities should not make representations to prospective purchasers concerning standard, quality or value of assets; nor provide a warranty as to the condition of the assets being disposed of.

Capability

Persons involved in the disposal of assets should have suitable skills and experience in undertaking the disposal process as outlined in the competency standards of the *Public Sector Training Package – Disposal of Assets* module.

¹ [this is covered by the Premier and Cabinet Circular PC114 Government Real Property Management.](#)

² Contract Management Policy

Disposal Guideline

The Disposal Process - Key Steps



Step 1 Decision to Dispose

The decision to dispose of assets may arise for various reasons which could include assets that:

- are no longer required by the public authority or is surplus to needs
- are unserviceable
- are obsolete from a technical perspective
- are part of an asset replacement program
- have reached an optimal selling time.

Public authorities are encouraged to develop an overarching disposal program which provides for an orderly approach to the disposal of assets. Public authorities will then be able to develop a specific disposal plan for the assets which identifies associated risks and outlines a disposal method to obtain the best possible net return for the assets identified.

Step 2 Estimate the Market Value

Public authorities should determine the estimated gross and net market value of the assets to be disposed of. In some instances, it may be necessary for a professional valuation to be undertaken, for example, for high value or complex assets. Identification of residual liabilities associated with the assets is required prior to sale and full disclosure made to the purchasing entity or individual.

Disposal Guideline

Determining the approximate gross (value received for the assets) and net (value received for the asset after all relevant preparation and disposal costs are considered) market value of the assets assists the public authority in selecting an appropriate method of disposal. This process requires the costs of disposal (for example, decommissioning, transport, auction fees, agent commissions, evaluation resources) as well as the costs of not disposing of the assets (for example, continuing storage costs) to be considered.

The gross value for disposal of an asset must include a determination of any potential revenue that will be lost to the public authority as a result of the disposal of the asset.

If disposal costs were considered as part of the initial procurement of the asset, that consideration should be reviewed as part of the disposal process. The results of the disposal process may represent a lesson learned for the procurement.

Consideration for adding value to assets prior to their sale, such as pre-sale removal, cleaning, painting, repairs, should also be assessed before any resources are expended.

Step 3 Select an Appropriate Disposal Method

To ensure a public authority achieves value for money in the disposal of assets, careful consideration should be given to the disposal method chosen to maximise the return. Stakeholders should be consulted, and their feedback considered in developing the disposal strategy, where appropriate.

The government's social, economic and environmental policy objectives and the promotion of fair, ethical and effective competition should also be considered when determining the disposal method.

Information Technology Devices

It is imperative that disposal of information technology devices assets take into account information security principles, privacy principles and any residual capital value of these goods.

Public authorities should refer to their ICT business area for advice on relevant policies, acceptable practices and standards relating to disposal and sanitation of ICT equipment and devices. The *South Australian Cyber Security Framework* (SACSF) also sets out requirements relating to maintaining the confidentiality of government information including the need for:

- processes for disposing of information assets;
- ensuring cyber security is considered throughout the acquisition lifecycle (including disposal); and

Disposal Guideline

- technical and procedural controls are in place to address risks (including disposal risks) associated with the use of mobile devices including mobile phones, smartphones, tablets, laptops, portable electronic devices, portable storage and other portable internet-connected devices.

Further advice on disposal considerations for information technology devices may be sought through the Office for Cyber Security, Department of the Premier and Cabinet.

Vehicles

Public authorities are required to dispose of passenger³ and light commercial⁴ vehicles in accordance with arrangements established by Fleet SA⁵.

Firearms

Public authorities wishing to dispose of firearms, for destruction, are required to do so through arrangements established by South Australia Police (SAPOL).

In the event that a public authority intends to dispose of a firearm through the sale or transfer of ownership of a firearm, then the public authority's Chief Executive is responsible for ensuring that any principles under the *Firearms Act 1977*, for the sale or transfer of a firearm, are complied with and any risks and liabilities are adequately addressed.

Hazardous Goods

Public authorities needing to dispose of hazardous goods are required to do so in a manner that safeguards against environmental risks and addresses any health and safety issues. For further advice public authorities should contact the Environment Protection Authority.

Disposal Methods

Some disposal methods, which may be used, are outlined below.

Transfer to another State Government Entity

Public authorities may wish to purchase, sell and exchange assets between each other or with another state government entity. Public authorities should consider whether the assets can be utilised by another state government entity prior to considering other methods of disposal.

Trade-In

Public authorities may wish to dispose of assets by trade-in. Trade-in may be an effective way of achieving cost savings through a reduced price on new assets.

³ A motor vehicle (except a motor cycle or similar vehicle) primarily designed to carry passengers only, generally up to five-passenger capacity. This class includes passenger cars and station wagons.

⁴ A specific purpose vehicle, other than one with a principal purpose of carrying up to five passengers, that is under 3.5 tonne gross vehicle mass. This class includes four-wheel drives, sport utility vehicles (SUVs), utilities, vans, people movers and passenger buses.

⁵ <https://www.safa.sa.gov.au/fleetsa/fleet-services>

Disposal Guideline

Trade-ins allow for upgrading of equipment where existing technology may be outdated and is no longer cost effective. In some cases, provision can be made in the contract to have the assets disposed of at the end of their life by the supplier.

Prior to deciding whether to trade-in assets, public authorities should consider the value which would be achieved through the sale of the assets, and purchase of updated equipment separately.

Tender or Written Quote

Public authorities may wish to sell assets by tender or written quote. Sale by tender can be an effective option for the sale of high value or unusual assets.

Public authorities should ensure that any tender process is undertaken with the same key principles as an invitation for the acquisition of assets.

Public Auction

Sale by public auction may be a cost-effective method of selling assets whilst maximising the opportunity for public participation. Public authorities should consider any costs associated with undertaking an auction in relation to the expected revenue.

Public authorities should use any established contracts with auction houses, where these exist, when disposing of assets via auction.

Donations

Public authorities may dispose of assets by way of donation to not-for-profit community organisations or other similar initiatives as deemed appropriate by the public authority.

Public authorities should be aware that the transfer of ownership of assets through the act of a donation does not necessarily remove any liability associated with its continued use. Public authorities should seek appropriate advice from the Crown Solicitor's Office on the risks faced by the public authority as a result of continued use of the assets by other parties prior to making a donation.

When disposing of assets, public authorities should consider using any government donation programs currently in place⁶.

Destruction/Recycling

Public authorities can dispose of assets through destruction/recycling if no future social, economic or environmental benefits are expected from its use or disposal.

This could include if the assets are deemed:

- to have no value;
- to be unserviceable or beyond economical repair; or

⁶ For example, the [Digital Government Donation Program](#)

Disposal Guideline

- that the disposal cost is higher than the likely return.

Public authorities should consider the use of environmentally sustainable methods of destruction/recycling.

Employees

Employees should not derive an advantage through purchasing assets and, as such it is recommended that the decision to dispose of assets directly to a government employee should only be made by the public authority's Chief Executive (or authorised person), in accordance with the public authority's Internal Procurement Framework or other appropriate departmental policy. All decisions (and reasons for the decisions) should be documented and stored in the public authority's records management system.

Increasingly, personal and government information is stored on information technology devices, particularly on mobile phones. This creates issues around how to appropriately separate personal and government information once a staff member leaves a public authority. There may be individual instances where the sale of an information technology device to a staff member may be the most secure, practical or fair and reasonable manner of disposal.

Step 4 Obtain Approval

Once an appropriate method of disposal has been selected, a disposal plan should be prepared seeking approval to proceed from the authorised person within the public authority. Approval authority is based on the estimated **gross** market value of the disposal (i.e. before accounting for any related disposal costs and expenses) as determined in Step 2. For complex or high-risk assets, the disposal plan should include:

- a description of the assets;
- background information including a brief history of use and comments on the condition of the assets;
- any risks identified (including hazards, environmental and public safety) and mitigation strategies;
- any identified costs of the disposal process;
- market research undertaken and analysis of disposal options (including advice received from experts and feedback from stakeholders where relevant);
- an explanation of the chosen disposal strategy (including opportunities for value maximisation where relevant);
- endorsements and approvals required;
- project management arrangements including the person responsible for undertaking the disposal; and
- a recommendation for the authorised person to approve.

Disposal Guideline

Chief Executives have the authority to dispose of assets up to any value. The Chief Executive may delegate this authority within their public authority. Public authorities are responsible for ensuring that appropriate accounting treatments have been adhered to as part of the disposal process.

Step 5 Undertake and Evaluate Disposal

Disposal Contracts and Disclaimers

A disposal contract may be appropriate depending on the complexity, risk and value of the disposal. Public authorities should contact the Crown Solicitor's Office for advice in relation to these contracts.

Warranties

Public authorities should ensure that potential purchasers are aware that the South Australian government provides no warranty as to the condition of the assets it sells. It may be necessary for the purchaser to sign a disclaimer that includes a warranty clause, to demonstrate consent to its terms. An example is provided below:

(example)

1. *Subject to clause 2, the buyer expressly acknowledges and agrees that:*
 - (a) *the seller is not liable for any claims or damages arising from the sale including, but not limited to, claims for faulty design, negligence or misleading advice, damages arising from loss or use of goods, and any indirect, special or consequential damage or injury to any person*
 - (b) *the seller does not make any express or implied representation or warranty regarding the goods or any matter which is or might be relevant to the buyer buying or selling the goods*
 - (c) *all warranties, terms and conditions in relation to the state, quality or fitness of the goods and of every other kind are excluded*
 - (d) *the buyer has been given the opportunity to conduct a thorough examination of the goods*
 - (e) *the buyer has not made known to the seller expressly or impliedly any particular purpose for which it wishes to acquire the goods.*
2. *This disclaimer does not exclude or restrict any condition, warranty, right or remedy expressly given by statute, however, all terms and conditions implied by law are expressly excluded.*

Faulty Assets

Assets which are known to be faulty should not be sold unless with an express and complete disclosure of the fault. Furthermore, there are certain legally binding obligations which public authorities cannot void through a contract and as such, a blanket 'exclusionary' statement will not in all cases limit or exclude certain obligations. Public authorities are encouraged to seek advice from the Crown Solicitor's Office where the standard disclaimer is not considered appropriate or sufficiently specific. Public authorities seeking to dispose of any assets are responsible for determining if they are bound by the *Competition and Consumer Act 2010*, or the *Fair Trading Act 1987*, which may give rise to statutory liability.

Disposal Guideline

Records Management

When disposing of assets, public authorities should ensure compliance with records management policies and where appropriate, record the disposal in the public authority's asset register.

Public authorities should consider information security when disposing of record storage assets (such as an ICT device or office equipment) and ensure any data, installed software and physical records are removed prior to disposal.

Evaluate Disposal

At the conclusion of the process, the disposal action should be documented and evaluated against the expected outcomes including the forecast gross and net market value of the assets.