



# METROPOLITAN TRANSPORTATION AUTHORITY

## ALL-AGENCY GUIDELINES FOR THE DISPOSAL OF PERSONAL PROPERTY

*Adopted by the Board on March 28, 2012*

These guidelines, which have been adopted by the Board of the Metropolitan Transportation Authority (“MTA”), address the disposal of personal property, including obsolete, unneeded, and outdated personal property, by the MTA and its subsidiary and affiliated agencies in accordance with Public Authorities Law (“PAL”) §§ 2895 – 2897 and other applicable provisions of law. These guidelines shall **not** apply to the disposition of real property which is governed by the MTA Real Estate Department Policies and Procedures for the Leasing-out and Sale of Real Property.

The purpose of these guidelines is to:

1. Ensure that disposal of MTA personal property is undertaken in compliance with governing laws;
2. Define the means for identifying obsolete, unneeded, or otherwise outdated personal property, including but not limited to furniture, equipment, computer equipment, and automobiles;
3. Provide cost-savings to the MTA by outlining a procedure for the transfer of surplus personal property;
4. Recover value from surplus personal property through its sale, either for reuse or for scrap; and
5. Minimize disposal and storage costs by providing means for the donation of surplus personal property with negligible resale value.

These guidelines apply to the MTA and current and future affiliated and subsidiary agencies of the MTA (each, an “MTA Agency”). The MTA subsidiary and affiliated agencies consist of:

Triborough Bridge and Tunnel Authority  
New York City Transit Authority  
Manhattan and Bronx Surface Transit Operating Authority  
The Long Island Rail Road Company  
Metro-North Commuter Railroad Company  
Staten Island Rapid Transit Operating Authority  
MTA Bus Company  
Long Island Bus Company  
MTA Capital Construction Company

For purposes of these guidelines, the terms below are defined as follows:

**Contracting Officer(s)**: The Contracting Officer is the officer or employee of each MTA Agency who is designated by resolution to be responsible for the supervision and direction of the

disposition of such MTA Agency's Surplus Property.

**Dispose or disposal:** Transfer of title or any other beneficial interest in Surplus Property in accordance with the methods of disposition described herein. The act of disposition may include the acts of transferring, trading-in, selling, donating or destroying goods that are of no further use to the MTA.

**Fair Market Value:** The price at which the item of Surplus Property would change hands in a competitive and open market under conditions requisite to a fair sale between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both acting prudently and having reasonable knowledge of the relevant facts.

**Furniture:** Office furnishings and fixtures including but not limited to desks, tables, chairs, lamps, modular wall units, and partitions.

**Metropolitan Transportation Authority or "MTA" or "MTA Agency":** For purposes of this Policy, the terms "MTA" and "MTA Agency" include the Metropolitan Transportation Authority and/or its current and future subsidiaries and affiliates.

**MTAHQ:** MTA Headquarters.

**Not-For-Profit Organization:** An organization incorporated for educational, charitable, or cultural purposes and recognized as tax-exempt under article 501(c) (3) of the Internal Revenue Code.

**Personal Property:** Tangible property, other than real property. Personal Property is physical and movable, subject to ownership, with exchangeable value. Examples of tangible personal property include, but are not limited to, furniture, supplies, automobiles or other vehicles, computer equipment, and commercial "off-the-shelf" software that is transferable pursuant to the software's licensing agreement.

**Qualifying Surplus Property:** Surplus Property with a value in excess of \$5,000, and any inchoate or other interest in such Surplus Property, to the extent that such interest may be conveyed to another person, other than an MTA Agency, for any purpose, excluding an interest securing a loan or other financial obligation of another party.

**Surplus Property:** Personal Property (i) that does not have a useful purpose for a particular department of the MTA or has been deemed to be no longer useful to the MTA; or (ii) the disposition of which has been determined by the Agency's Contracting Officer to be in the best interest of the MTA or the MTA Agency.

**Surplus Property Officers:** Regular employees to whom an MTA Agency or Agency department or division head has delegated responsibility for the identification and release of Surplus Property within that agency and/or department or division.

## **Section 1: General Provisions**

### **1.1 Compliance with Laws and Guidelines.**

- a. Disposals of Qualifying Surplus Property (i.e. Surplus Property with a Fair Market Value in excess of \$5,000) shall comply with applicable provisions of PAL §§ 2895 - 2897, the MTA's enabling legislation, any other applicable law for the disposal of Personal Property, and the provisions of these guidelines.

- b. Disposals of Surplus Property having a Fair Market Value equal to or less than \$5,000 and disposals of Surplus Property, regardless of Fair Market Value, to an MTA Agency are not subject to the disposition requirements set forth in PAL §§ 2895 – 2897. Disposition of such Surplus Property should be undertaken in compliance with the provisions of these Guidelines, other than Section 2 (addressing the requirements of PAL §§ 2895 – 2897).

1.2 Responsibility for Compliance. The Contracting Officer(s) and Procurement Department(s) of the MTA and the MTA Agencies are responsible for ensuring MTA's compliance with and enforcement of these Guidelines.

1.3 Surplus Property. Surplus Property shall be disposed of as promptly as possible in a manner that returns as much value as possible to the MTA. Value may be returned through internal transfer of items, thereby reducing expenditures; through sale of items to outside buyers, thereby producing revenue; or through donation or other disposal without direct income, thereby avoiding the costs associated with carrying excess inventories or disposal costs of items of negligible value.

1.4 Responsibilities of Surplus Property Officers. Surplus Property Officers shall be responsible for periodically identifying Surplus Property as defined above.

User departments will periodically review their inventory of Personal Property such as furniture, office equipment, computer equipment, and security equipment and determine whether such Personal Property is Surplus Property that should be disposed of.

1.5 Computer Equipment/ Telecommunications Equipment. The Information Technology Departments for each MTA Agency will be responsible for the review of the continued usefulness of computer equipment and telecommunications communications equipment in their agency and may, in conjunction with the department or division to which such equipment is assigned, identify such equipment as Surplus Property.

1.6 Automobiles. Each MTA Agency shall review the continued usefulness of that MTA Agency's automobiles, and may, when appropriate, identify automobiles as Surplus Property and shall dispose of such vehicles in compliance with these guidelines and their agency's vehicle usage policies and procedures.

1.7 Estimation of Value.

a. If the method of disposal of Surplus Property is not planned to be by publicly advertised bid (see Section 5.1), the user department responsible for such Surplus Property shall estimate the Fair Market Value of such Surplus Property. In estimating the Fair Market Value of such Surplus Property, reference shall be made to identifiable active markets for such property and information concerning additional factors may also be considered, which may include but are not necessarily limited to:

- Original purchase cost;
- Depreciation;
- Residual Value;
- Estimated Replacement Value; and/or
- Current condition of the item.

- b. If the estimated Fair Market Value of such Surplus Property is in excess of \$15,000, it must be disposed of by publicly advertised bid unless it is otherwise eligible for disposition through negotiation or public auction (PAL § 2897(6)(c); see Section 2.1(b)).
- c. If because of its unique nature or the unique circumstances of the proposed transaction, Qualifying Surplus Property is not readily valued by reference to an active market for similar property, an independent appraisal must be performed prior to disposing of such Qualifying Surplus Property (except in circumstances in which the Surplus Property is being designated for transfer to another MTA Agency user).

## **Section 2: Compliance with Public Authorities Law §§ 2895 - 2897**

2.1 Permitted Methods of Surplus Property Disposal: Publicly Advertised Bid or Negotiation. Under the Public Authorities Law, Surplus Property valued in excess of \$5,000 and being disposed of to other than an MTA Agency (“Qualifying Surplus Property”) either must be disposed of

- a. in accordance with publicly advertised bid procedures (as set forth in Section 5.1 below), or,
- b. through negotiation or by public auction, subject to obtaining such competition as is feasible. Disposal by negotiation or by public auction may be used only when at least one of the following conditions is satisfied:
  - (i) the Qualifying Surplus Property involved has qualities separate from the utilitarian purpose of such property, such as artistic quality, antiquity, historical significance, rarity, or other quality of similar effect, that would tend to increase its value, or the Qualifying Surplus Property is to be sold in such quantity that, if it were disposed of by publicly advertising for bids, would adversely affect the state or local market for such property, and the estimated Fair Market Value of such property and other satisfactory terms of disposal can be obtained by negotiation;
  - (ii) the Fair Market Value of the Qualifying Surplus Property does not exceed fifteen thousand dollars;
  - (iii) bid prices after advertising therefore are not reasonable, either as to all or some part of the Qualifying Surplus Property, or have not been independently arrived at in open competition;
  - (iv) the disposal will be to the state or any political subdivision, and the estimated Fair Market Value of the Qualifying Surplus Property and other satisfactory terms of disposal are obtained by negotiation;
  - (v) under those circumstances described in Section 2.3 below; or
  - (vi) such action is otherwise authorized by law.

2.2 Advance Explanatory Statement Requirement for Certain Qualifying Surplus Property Disposals. PAL § 2897(6)(d) requires that MTA Agencies prepare and disseminate to certain public officials ninety days in advance of a Qualifying Surplus Property disposal, an explanatory statement for (i) disposals by negotiation of any Qualifying Surplus Property with an estimated Fair Market Value in excess of \$15,000; or (ii) a disposal of Qualifying Surplus Property by exchange, where the exchange involves disposal of real property together with related Surplus Property (regardless of value). The explanatory statement shall be sent by the MTA Agency preparing it to the comptroller, the director of the budget, the commissioner of general services, the legislature and the independent authorities budget office at least 90 days before making the disposal. A copy of the statement shall be preserved in the MTA Agency's files.

2.3 Less than Fair Market Value Disposals. The MTA may dispose of Qualifying Surplus Property for less than Fair Market Value, pursuant to PAL § 2897(7), if:

- a. the transferee is a governmental or other public entity and the transfer terms require that ownership of the asset will remain with the governmental entity, or
- b. the transfer is within the purpose, mission or governing statute of the MTA.

Where a proposed transfer of Qualifying Surplus Property is for less than Fair Market Value but does not satisfy either of the above two criteria, the proposed transfer may not proceed without the MTA Agency first providing written notice to the governor, the speaker of the assembly and the temporary president of the senate. Such proposed transfer shall be subject to denial by the governor, the senate or the assembly. The governor, senate or assembly has 60 days from receipt of the notice to act if the notice is received between January and June; if the notice is received between July and December, the senate or assembly has 60 days from the following January in which to act on the notice.

2.4 Board Information and Approval Requirements: Proposed Less than Fair Market Value Disposal. If a below Fair Market Value Qualifying Surplus Property transfer is proposed, the following information must be provided to the MTA Board and to the public, in accordance with PAL § 2897(7)(b):

- a. a full description of the Qualifying Surplus Property;
- b. an appraisal of the Fair Market Value of the Qualifying Property and any information establishing the Fair Market Value;
- c. a description of the purpose of the transfer and a statement of the kind and amount of the benefit to the public resulting from the transfer;
- d. a statement of the value received compared to the Fair Market Value;

- e. the names of any private parties participating in the transfer; and
- f. the names of other private parties who made an offer for the asset, the amount offered, and the purpose for which the asset was sought.

Before proceeding with such a proposed disposal, the MTA Board shall consider the information required to be provided and make a written determination that there is no reasonable alternative to the proposed below market transfer that would achieve the same purpose of the transfer.

### **Section 3: Compliance with Federal Transit Administration Circular 5010.1D – Federally Funded Property**

In addition to complying with PAL §§ 2895 - 2897, the MTA must also comply with Federal Transit Administration (“FTA”) Circular 5010.1D which governs the disposal of Federally-funded Property with an acquisition value in excess of \$5,000. That Circular requires grantee agencies such as the MTA to obtain FTA approval prior to disposing of such property if the disposition occurs before the end of the asset’s useful life, as determined under the Circular. In addition, upon disposition, the MTA must reimburse the FTA its share of any remaining Federal interest in the asset, as calculated pursuant to Circular 5010.1D.

### **Section 4: Reassignment or Transfer of Surplus Property to Other MTA Agencies**

Prior to disposing of Surplus Property, the MTA Agencies should attempt to reassign it to other departments/divisions within that MTA Agency and/or transfer the Surplus Property to another MTA Agency.

4.1 **Reassignment.** The Surplus Property Officer for each MTA Agency will notify its departments/ divisions of the availability of Surplus Property and will facilitate the transfer of same among departments/divisions if such transfer will result in a cost savings to the MTA. Such notification shall take place at least once per year, by publication of an inventory of Surplus Property, and may be supplemented by informal notification of departments on an ad hoc basis. In the event that more than one department or division expresses interest in the reassignment of Surplus Property, the MTA Agency’s Surplus Property Officer and Contracting Officer shall determine the recipient, based on their judgment of which reassignment would be most beneficial to the MTA. Whenever possible, reassignment of Surplus Property shall be accomplished directly, minimizing the number of times an item must be moved.

4.2 **Transfer to a Constituent Agency.** Each Surplus Property Officer will circulate to the MTA Agencies on a periodic or ad hoc basis as appropriate, notice of the availability of Surplus Property. The inspection and, upon acceptance, physical transfer of such property shall be the responsibility of the MTA Agency accepting it.

In the event that more than one MTA Agency expresses interest in the same Surplus Property, the Surplus Property Officer and Contracting Officer shall determine the recipient, based on his judgment of which reassignment would be most beneficial to the MTA. Whenever possible, reassignment of Surplus Property shall be accomplished

directly, minimizing the number of times an item must be moved.

## **Section 5: Disposal of Surplus Property With Estimated Fair Market Value in Excess of \$5,000**

5.1 Sale by Publicly Advertised Bid. Qualifying Surplus Property (i.e. valued in excess of \$5,000) should periodically be offered by MTA for sale by the competitive process of publicly advertised bid, which is the preferred method of disposal.

The following requirements of PAL § 2897(6)(b) must be observed:

- a. The advertisement for bids shall be made at such time prior to the disposal through such methods and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the Qualifying Surplus Property;
- b. All bids shall be publicly disclosed at the time and place stated in the advertisement; and
- c. The award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the MTA, price and other factors considered; provided, that all bids may be rejected when it is in the public interest to do so.

5.2 Disposal of Property by Negotiation or Public Auction. Surplus Property may be disposed of by negotiation or public auction when (i) the Fair Market Value of such Surplus Property does not exceed \$15,000 or (ii) where any of the other criteria listed in Section 2.1(b) above for such disposal is satisfied.

## **Section 6: Disposal of Surplus Property With a Fair Market Value of \$5,000 or Less**

6.1 Sale. The preference is to sell property having an estimated or appraised Fair Market Value of \$5,000 or less, in an effort to recover value from Surplus Property for MTA.

6.2 Contribution. Items with an estimated or appraised value of \$5,000 or less may be offered to a not-for-profit organization if, in the judgment of the MTA Agency's Surplus Property Officer and Contracting Officer, such property may have value if returned to use in such an organization, such a disposal by contribution will minimize disposal and storage costs to MTA, and the Surplus Property either has negligible resale value or the costs of MTA conducting a sale of such Surplus Property relative to the resale value that could likely be obtained are such that proceeding by contribution is deemed warranted. In such circumstances, physical transfer of the property will be the responsibility of the receiving organization. Such an offering shall be conducted at the convenience of the MTA, and at minimal expense to the MTA.

## **Section 7: Disposal as Waste**

Surplus Property that the Surplus Property Officer determines has no net monetary value (taking

into account costs of storage) and has been unable to dispose of through reassignment, transfer, sale, or donation as outlined above should be disposed of as waste in the most cost-effective means consistent with all relevant laws and regulations.

## **Section 8: Inventory Management/Internal Controls**

Each MTA Agency shall maintain adequate inventory controls and accountability systems for all individual items of Personal Property.

## **Section 9: Regulatory Disclosure**

- 9.1 MTA Agency Reporting. Each MTA Agency's Contracting Officer shall annually provide a report to MTAHQ of all Surplus Property under its custody and control as well as a list and full description of all Surplus Property disposed of during the previous calendar year with the price received and the name of the purchaser.
- 9.2 Format and Timing. The report shall be provided in a format and at such time as requested by the MTA Corporate Compliance to facilitate required reporting of sale information.
- 9.3 Annual Report. MTAHQ shall annually publish, in accordance with PAL § 2896(3), a report with a full description of all Qualifying Surplus Property disposed of during the previous calendar year by all of the MTA agencies with the price received and the name of the purchaser. MTAHQ shall send copies of such report to the comptroller, the director of the budget, the commissioner of general services, the legislature, and the independent authorities budget office.

## **Section 10: Procedures**

Each MTA Agency shall create written policies and procedures as needed for the implementation of these guidelines. Such written policies and procedures, once executed, shall be filed with MTA Corporate Compliance.