

# Disposal of Government Assets

Tasmanian Government Agencies and other impacted entities

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## Introduction

Agencies and entities subject to the *Financial Management and Audit Act 1990*, (either by virtue of that Act or by virtue of other legislation), are required to comply with the Treasurer's Instructions issued under section 23 of that Act.

Instruction I301 requires agencies to conduct the disposal of:

- surplus real property in a manner that is consistent with relevant legislation; and
- all other Government assets in such a manner that the disposal meets relevant legislative requirements, or where no legislative requirements apply, so that it achieves the best return to Government.

All disposals must be undertaken in accordance with the requirements contained in this publication.

All disposals must be made in the name of the Crown or relevant statutory corporation/authority.

Neither Instruction I301, nor this publication, applies to the disposal of government businesses.

## Assets with an estimated disposal value of \$10 000 or less

With the exception of motor vehicles, personal computers, material from the collections of the Tasmanian Museum and Art Gallery, any material that might be of State significance or surplus real property, Heads of Agency are responsible for determining appropriate processes for the disposal of assets with an estimated disposal value of \$10 000 or less.

Items that cannot be reused or recycled and/or with no commercial use or appreciable market value may be disposed of by dumping at approved refuse sites or by destruction.

Refer below for information on surplus real property, motor vehicles, personal computers, TMAG collection items and material that might be of State significance.

## Assets with an estimated disposal value more than \$10 000

With the exception of motor vehicles managed by the Government's Fleet Manager, personal computers, material from the collections of the Tasmanian Museum and Art Gallery, any material that might be of State significance or surplus real property, assets with an estimated disposal value in excess of \$10 000 must generally be disposed of by way of public tender, public auction, or trade-in.

The disposal is to be consistent, where appropriate, with the procurement principles contained in Instruction I101 and any contract prepared in relation to the disposal must comply with the Government's policy on confidentiality<sup>1</sup>.

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<sup>1</sup> Refer to Treasurer's Instruction I401

Where a public tender is used, the tender must:

- (a) be advertised in either appropriate specialist publications, or in the appropriate classified section or public notices/tenders section of local newspapers, or both; and
- (b) be allocated a specific closing time, date and place of lodgement which is to be clearly stated in all documents and advertisements.

Fair and impartial procedures must be in place in relation to receiving and opening all submissions and the submissions must be fairly and equitably evaluated in a manner that is consistent with the Government's procurement principles. All prospective purchasers making a submission must be advised of the outcome of the process and provided with details of the successful offer including the name of the purchaser and the price accepted.

Disposal by a method other than those referred to above may occur where the Head of Agency determines that such methods are not appropriate in the circumstances. In those cases permission to undertake an alternative disposal method must be provided by the Head of Agency in writing prior to the disposal process being commenced. Authority to approve alternative disposal processes cannot be delegated by any Head of Agency to other officers. Auditable documentation justifying any approved alternative processes must be prepared and maintained.

If an alternative disposal method will result in the disposal of the good/s at a price lower than the market value, the disposal is considered to be a grant as it is, in effect, the provision of assistance by way of a resource to an organisation or individual. In such circumstances, the disposal process must be consistent with *Instruction 709 Grant Management Framework*.

In all cases, the final decision must be able to withstand public scrutiny.

Refer below for information on surplus real property, motor vehicles, personal computers, TMAG collection items and material that might be of State significance.

## **Motor vehicles managed by the Government's Fleet Manager**

All motor vehicles managed by the Government's Fleet Manager, regardless of value, must be disposed of by the Government's Fleet Manager, unless otherwise approved by the Secretary of the Department of Treasury and Finance.

## **Motor vehicles not managed by the Government's Fleet Manager**

All motor vehicles not managed by the Government's Fleet Manager, regardless of value, must be disposed of in the same manner as for assets with a disposal value of more than \$10 000 above.

Consultation with the Government's Fleet Manager on a suitable disposal method should be undertaken prior to the disposal of such vehicles.

## Personal computers

All surplus personal computers that meet the 'minimum' standard must initially be offered to the Department of Education for use in schools. The minimum standard will be determined by the Department of Education and may change from time to time. If the Department of Education does not require the personal computers, they are to be disposed of in accordance with the requirements for other assets of the same value (refer above).

For further information including information on the 'minimum standard', contact Information and Technology Services of the Department of Education.

## Material of State significance

Pursuant to the *Tasmanian Museum and Art Gallery Act 2017*, Heads of Agencies are to ensure that their agency does not dispose of any material that is or might be material of State significance without first giving the Board of Trustees of the Tasmanian Museum and Art Gallery notice of the intended disposal. In this regard, a Head of Agency is to presume that material held by the agency is or might be material of State significance unless satisfied on reasonable grounds that it is not material of State significance.

Information on this requirement, a definition of Agency and Head of Agency for the purposes of this requirement, and how the Board will deal with notices, is set out in section 16 of the TMAG legislation.

## Surplus real property

With the exception of the Departments of Treasury and Finance, Primary Industries, Parks, Water and Environment, and State Growth, agencies are not authorised to dispose of surplus real property, unless the title to the property is in the name of a statutory authority whose enabling legislation provides for the disposal of real property.

In the case of the Department of State Growth, the authority to dispose of surplus Crown real property can only be exercised in instances where the real property has been both identified as having development potential and approved for disposal by the Department of State Growth, by the Secretary of the Department of Treasury and Finance and the Secretary of the Department of Primary Industries, Parks, Water and Environment.

All disposal of surplus real property<sup>2</sup> is to be undertaken in a manner that is consistent with relevant legislation. 'Relevant legislation' includes, but is not limited to, the *Crown Lands Act 1976*, the *Homes Act 1935* and/or any other legislation which is applicable to the disposal of the specific real property. The respective applicability of legislation will be determined by the individual circumstances relating to the real property.

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<sup>2</sup> A reference to real property includes land, buildings, structures firmly attached and integrated equipment, crops or other resources still attached to or within the land or improvements or fixtures permanently attached to the land, and all rights or interests in the property (eg reversion, use of airspace).

Agencies, other than those mentioned above, must refer all disposals of surplus real property to the Department of Treasury and Finance.

## **Material from the collections of the Tasmanian Museum and Art Gallery**

Disposal of material from the collections of the Tasmanian Museum and Art Gallery is to be undertaken in accordance with the requirements set out in the *Tasmanian Museum and Art Gallery Act 2017*.

*Last Updated: February 2018*