

## **ARTICLE 3. DISPOSAL OF PROPERTY**

### **Rule 1. General Provisions**

#### **80 IAC 3-1-1 Applicability**

Authority: IC 15-13-2-9

Affected: IC 6-2.5-2; IC 15-13-2

Sec. 1. The provisions of this article shall apply to all property owned by the commission. (*State Fair Commission; 80 IAC 3-1-1; filed Nov 27, 1991, 2:00 p.m.: 15 IR 455; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: 20071024-IR-080070451RFA*)

#### **80 IAC 3-1-1.1 Definitions**

Authority: IC 15-13-2-9

Affected: IC 35-41-1-23

Sec. 1.1. (a) "Property" has the meaning set forth in IC 15-1.5-1-10 [*IC 15-1.5 was repealed by P.L.2-2008, SECTION 83, effective July 1, 2008.*].

(b) "Worthless property" means an item considered to not have value or to be worthless property if the value of the property is less than the estimated costs of the sale and transportation of the property. (*State Fair Commission; 80 IAC 3-1-1.1; filed Mar 18, 2008, 2:19 p.m.: 20080416-IR-080070587FRA*)

#### **80 IAC 3-1-2 Methods of disposal**

Authority: IC 15-13-2-9

Affected: IC 6-2.5-2; IC 15-13-2; IC 20-18-2-12; IC 36-1-2-17

Sec. 2. (a) One (1) or more of the following methods may be used either singularly or in combination for the disposal of property owned by the commission:

- (1) Competitive sealed bid.
- (2) Public sale or auction.
- (3) Sale for reclamation or recycling.
- (4) Allowance made on another purchase.
- (5) Worthless property may be donated to:
  - (A) a charitable corporation;
  - (B) an educational entity or a school corporation (as defined by IC 36-1-2-17); or
  - (C) nonpublic schools (as defined in IC 20-18-2-12).
- (6) Worthless property with no intrinsic value or worth may be thrown away.

(b) Regardless of the selected method of disposal, detailed listings of property to be disposed shall be maintained within the files of the commission.

(c) The proceeds derived from any of the selected methods of disposal shall be directly deposited in the general operating fund of the commission. The commission may further designate:

- (1) a specific fund under the general operating fund to which proceeds may be deposited; and
  - (2) expenditures of proceeds from the specified fund.
- (d) Disposal of commission property shall be in accordance with 80 IAC 3-2.

(e) The disposal of property owned by the commission may be subject to the applicable state gross retail tax as outlined in IC 6-2.5-2. (*State Fair Commission; 80 IAC 3-1-2; filed Nov 27, 1991, 2:00 p.m.: 15 IR 455; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: 20071024-IR-080070451RFA; filed Mar 18, 2008, 2:19 p.m.: 20080416-IR-080070587FRA*)

### **Rule 2. Disposal of Property**

**80 IAC 3-2-1 Disposal of property by means of competitive sealed bids**

Authority: IC 15-13-2-9

Affected: IC 15-13-2

Sec. 1. (a) The executive director or the commission may direct that items for disposal may be disposed of through the competitive sealed bids method.

(b) When property owned by the commission is to be disposed utilizing this method, the following procedures will apply:

(1) A notice of proposed sale containing an itemized list of property to be disposed must be prepared and published in at least one (1) newspaper of general circulation within Marion County, Indiana. The executive director may direct publication of the itemized list in additional newspapers as determined appropriate.

(2) The notice of proposed sale will be published thirty (30) days prior to the date of the proposed sale. The notice of proposed sale must include the following:

(A) Date and time for the receipt of sealed competitive bids.

(B) Location of the property to be disposed for inspection by potential bidders.

(C) Itemized list of property to be disposed.

(D) Terms of the sale.

(E) Date and time of bid opening.

(3) Award of property shall be made to the highest competitive bidder. Settlement and payment for property disposed of shall be as specified in the terms of the sale, unless otherwise approved by the commission or executive director.

(4) Settlements of disputes arising concerning the property to be disposed will be determined by the executive director or his authorized designee and shall be final and conclusive.

*(State Fair Commission; 80 IAC 3-2-1; filed Nov 27, 1991, 2:00 p.m.: 15 IR 455; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: 20071024-IR-080070451RFA)*

**80 IAC 3-2-2 Disposal of property by means of public sale or auction**

Authority: IC 15-13-2-9

Affected: IC 15-13-2

Sec. 2. (a) The executive director or the commission may direct that items for disposal may be disposed of through the public sale or auction method.

(b) When property owned by the commission is to be disposed utilizing this method, the following procedures will apply:

(1) A notice of proposed sale containing an itemized list of property to be disposed must be prepared and published in at least one (1) newspaper of general circulation within Marion County, Indiana. The executive director may direct publication of the itemized list in additional newspapers as determined appropriate.

(2) The notice of proposed sale will be published thirty (30) days prior to the date of the proposed sale. The notice of proposed sale must include the following:

(A) Date and time of the proposed sale.

(B) Location of the property to be disposed for inspection by the public.

(C) Location of the proposed sale, if different from the location for public inspection.

(D) Itemized list of property to be disposed.

(E) Terms of the sale.

(F) Name of auctioneer, as appropriate.

(3) Award of property shall be made to the highest bidder. Settlement and payment for property disposed of shall be as specified in the terms of the sale, unless otherwise approved by the commission or executive director.

(4) Settlements of disputes arising concerning the property to be disposed will be determined by the executive director or his authorized designee and shall be final and conclusive.

(5) Nothing in this section shall be construed to prevent the designated auctioneer from advertising the sale independently as a normal and regular course of doing business. However, the auctioneer in posting such advertising shall include the items in subdivision (2)(A) through (2)(F) within any such advertisement.

*(State Fair Commission; 80 IAC 3-2-2; filed Nov 27, 1991, 2:00 p.m.: 15 IR 456; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: 20071024-IR-080070451RFA)*

**80 IAC 3-2-3 Disposal of property by means of sale for reclamation or recycling**

Authority: IC 15-13-2-9

Affected: IC 15-13-2

Sec. 3. (a) The executive director or the commission may direct that items for disposal may be disposed of through sale for reclamation or recycling method.

(b) When property owned by the commission is to be disposed utilizing this method, the following procedures will apply:

(1) A detailed listing of materials that will be submitted for reclamation or recycling will be compiled and maintained in the appropriate records of the commission.

(2) Any materials of toxic or hazardous composition must be identified separately and apart of those of nontoxic or nonhazardous composition. Any such toxic or hazardous materials must be contained or stored in appropriate containers and must be handled in accordance with provisions dictated by type and composition of the toxic or hazardous materials.

(3) Identification of the contractor having the capabilities of reclaiming or recycling of the property to be disposed shall be recorded in the appropriate records of the commission.

(4) The amount of the proceeds to be received under this method shall be recorded in the appropriate records of the commission.

(c) The contractor utilized for the purposes of this section must have a contract in full force and effect as outlined under 80 IAC 1. A contractor having a contract for the disposal of toxic or hazardous materials must comply with all provisions for the safe handling and disposal of such toxic or hazardous materials. (*State Fair Commission; 80 IAC 3-2-3; filed Nov 27, 1991, 2:00 p.m.: 15 IR 456; errata, 15 IR 1024; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: 20071024-IR-080070451RFA*)

**80 IAC 3-2-4 Disposal of property by means of allowance made on another purchase**

Authority: IC 15-13-2-9

Affected: IC 15-13-2

Sec. 4. (a) The executive director or the commission may direct that items for disposal may be disposed of through allowance made on another purchase method.

(b) When property owned by the commission is to be disposed utilizing this method, the following matters will be recorded in the appropriate records of the commission:

(1) A detailed listing of materials for which allowance will be made on another purchase.

(2) A detailed listing of the purchase for which the allowance is being made.

(3) The name of the entity for which this transaction is being conducted.

(4) The dollar value of both the allowance and the purchase.

(*State Fair Commission; 80 IAC 3-2-4; filed Nov 27, 1991, 2:00 p.m.: 15 IR 457; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: 20071024-IR-080070451RFA*)

**80 IAC 3-2-5 Records and disclosure**

Authority: IC 15-13-2-9

Affected: IC 5-14-3; IC 15-13-2

Sec. 5. Regardless of the disposal methods utilized under this rule, all such transactions, files, records, and associated information are considered as a matter of public record in accordance with the provisions of IC 5-14-3 upon completion of all actions utilizing any of the methods outlined in this rule. (*State Fair Commission; 80 IAC 3-2-5; filed Nov 27, 1991, 2:00 p.m.: 15 IR 457; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528; readopted filed Oct 4, 2007, 10:29 a.m.: 20071024-IR-080070451RFA*)

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