

**MTA NEW YORK CITY TRANSIT  
MATERIEL DEPARTMENTAL PROCEDURES**

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Section A – Introduction and Authority		Revision Date: March 23, 2006
		Revision No.: 2

**A. PURPOSE**

This Materiel Departmental Procedures Manual Chapter VII (“Chapter”) provides staff with an introduction to the Authority’s operations involved in the disposal of all unwanted excess, obsolete, or rejected non-hazardous material and equipment, including rolling stock and scrap commodities (collectively, “Property”), and the controlling authorities thereof.

**B. POLICY**

When disposing of any Property, the Authority must comply with any internal procedures set forth by the MTA and/or the Authority, which are consistent with applicable laws.

**C. APPLICABILITY**

This Chapter applies to the disposition of Property under the authority of the Division of Materiel. This Chapter does not address the disposition of real property, which is under the direct authority of MTA Real Estate.

**D. DEFINITIONS**

1. As used in this Chapter:

- a. “Dispose,” “Disposal” or “Disposition” shall include the transfer of title or any other beneficial interest in Authority Property, including inventory and non-inventory materials, through competitively bid or negotiated contracts, loan of material, or transfer of title by other means, to parties outside the Authority, whether directly or through the use of Disposal Services.
- b. “Disposal Services” shall include refuse removal and recycling of all passenger and operationally generated refuse, scrap commodity removal and recycling, rejected material management and disposal, and the sale of surplus material to a third party.

**E. AUTHORITY**

- 1. The Assistant Chief Operations Officer, Asset Recovery (“ACOO, Asset Recovery”), under the authority and delegation of the Vice President, Materiel and the Chief Operations Officer is responsible for ensuring the Authority’s compliance with, and enforcement of, the guidelines as set forth in this Chapter. The ACOO, Asset Recovery may also establish any other such terms and conditions regarding the Disposal of Authority Property as deemed proper.

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2. Title 5-A of the Public Authorities Law (“Title 5-A”): As of January 1, 2006, the Disposal of any Authority Property is subject to Title 5-A, as enacted by Chapter 766 of the Laws of New York, 2005. Accordingly, the procedures in this Chapter have been drafted in order to be consistent with Title 5-A requirements, as set forth below:
- a. For the purposes of Title 5-A, “Property” shall also mean:
 

“personal property in excess of \$5,000 in value...and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party.”
  - b. Accordingly, Title 5-A applies to the Disposition of all Authority Property in excess of \$5,000 in value.
  - c. The Authority shall, under the supervision and direction of the ACOO, Asset Recovery:
    - i. maintain adequate inventory controls and accountability systems for all Property under its control;
    - ii. periodically inventory Property to determine which Property shall be Disposed of;
    - iii. Dispose of Property as promptly as possible in accordance with Title 5-A and this Chapter; and
    - iv. generate a report of all Property Disposed of by the Authority on at least an annual basis, and provide a copy to the State Comptroller, Director of Budget, the Commissioner of General Services and the Legislature. Such report shall consist of a list and full description of the Property Disposed of during the relevant period, the price received and the name of the purchaser.
  - d. Except as otherwise permitted by Title 5-A and this Procedure, the Authority may Dispose of its Property for not less than fair market value of such Property, by sales, exchange or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the ACOO, Asset Recovery deems proper.

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- i. Any Property that is unique in nature and therefore not subject to fair market value pricing must be appraised by an independent appraiser prior to Disposition. Record of such appraisal shall be included in the transaction record.
  
- e. The Authority may execute such documents for the transfer of title and take other such action as it deems necessary or proper to Dispose of its Property.
  
- f. When deemed advantageous to the State, the Authority may enter into an agreement with the Commissioner of General Services for the Disposal of Property.
  
- g. A deed, bill of sale, lease or other instrument executed by or on behalf of the Authority, purporting to transfer title or other interest in Property under Title 5-A shall be conclusive evidence of compliance with Title 5-A, insofar as it concerns title or other interest of any bona fide grantee or transferee, who has given consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to the closing.
  
- h. **Methods of Disposition:**
  - i. Disposal by Bids: All Disposals of Property, whether by the Authority directly or through the use of Disposal Services, in excess of \$5,000 in value shall be made after public advertising in the following manner, except as hereinafter provided:
    - (1) The advertisement for bids shall be made at such time prior to the Disposal and through such methods and by terms and conditions, as to permit full and free competition consistent with the value and nature of the Property;
    - (2) All bids shall be publicly disclosed at the time and place stated in the advertisement;
    - (3) 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 Authority. All bids may be rejected when it is in the public interest to do so.
  
  - ii. Disposal by Negotiation/Public Auction:

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- (1) Notwithstanding the foregoing, Property may be Disposed of by negotiation or public auction as long as there is such competition as is feasible under the circumstances, if:
- (a) the Property involved is of a nature and quantity which, if Disposed of by the use of public advertising, 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;
  - (b) the fair market value of such Property does not exceed \$15,000;
  - (c) bid prices after advertising are not reasonable (when compared to an estimated value obtained either by appraisal or evaluation by cost or price analysis, prevailing market prices or other resources utilized by Materiel staff), either as to all or some of the Property, or have not been independently arrived at in open competition;
  - (d) the Disposal will be to the State or any political subdivision, and the estimated fair market value of the Property and other satisfactory terms of Disposal are obtained by negotiation;
  - (e) the Disposal is for an amount less than the estimated fair market value of the Property, the terms of such Disposal are obtained by public auction or negotiation, the Disposal of the Property is intended to further the public health safety or welfare or an economic development of the State or a political subdivision (to include but not be limited to, the prevention or remediation of a substantial threat to public health or safety, the creation or retention of a substantial number of job opportunities, the creation or retention of a substantial source of revenues, or where legislation otherwise permits) (as long as the terms of such Disposal are documented in writing and approved by resolution of the Board); or
  - (f) such action is otherwise authorized by law.

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- (2) An explanatory statement shall be prepared of the circumstances of each Disposal of any Property, which has an estimated fair market value in excess of \$15,000; or any Property for which any part of the consideration for the Disposal of which, is real property.
  - (a) Such statement shall be submitted to State Comptroller, Director of Budget, the Commissioner of General Services and the Legislature no later than ninety (90) days in advance of such Disposal.
  - (b) A copy of the explanatory statement shall be retained in the transaction file maintained by the Asset Recovery Unit.
  
- 3. Transferring Excess/Obsolete Transit Material to Federal Agencies and New York State and City Agencies: By Staff Summary dated March 14, 2000, The Authority President permitted the transfer of certain excess/obsolete material and equipment, without cost, to Federal, New York State and New York City agencies. Such permission was granted when the gross estimate salvage value of the material did not exceed \$10,000 (or \$5,000 for material or equipment originally purchased with Federal participating funds).
  - a. Such “intergovernmental transfers” shall remain permissible to the extent that the terms and procedures for such transfers are not inconsistent with the terms and procedures set forth in Title 5-A.
  - b. For each permissible “intergovernmental transfer” that is subject to Title 5-A, the ACOO, Asset Recovery, or designee, shall prepare the required explanatory statement and ensure its submission to State Comptroller, Director of Budget, the Commissioner of General Services and the Legislature no later than ninety (90) days in advance of the transfer. A copy of the explanatory statement shall be retained in the transaction file maintained by the Asset Recovery Unit.
  
- 4. Transferring Property to Other MTA Agencies: Transfers of Property between MTA agencies are not subject to Title 5-A. However, any transfer of Authority Property to another MTA agency must first receive prior written authorization of the Vice President, Material. The authorization, along with other documentary records of the title transfer, must be retained in the transaction file maintained by the Asset Recovery Unit.