



Municipal Officials Handbook, Pgs. 170-71

REAL AND PERSONAL PROPERTY

For most municipal purposes there are two classes of tangible property: “real property” and “personal property.” *Real property includes land and whatever buildings, structures (appurtenances) that are affixed to land or whatever is growing upon the land. Personal property is, in general, all property other than real property and includes, among other tangible things, a municipality’s capital equipment, as discussed below.*

6.105 Disposing of Personal Property

A city or town council may sell, dispose of, or lease any property belonging to the city or town by adoption of an ordinance or resolution *passed by a two-thirds vote of all the members of the council* (7-8-4201, MCA).

- Old supplies or equipment may be sold by the city or town to *the highest responsible bidder after calling for bid purchasers* as herein set forth for bid sellers, and such city or town may trade in supplies or old equipment on new supplies or equipment at such bid price as will result in the lowest net price (7-5-4307, MCA).
- A city or town may *trade* with or purchase from any county or political subdivision *any property* without an appraisal of the property (7-8-101(3) (b), MCA).

The legal requirements imposed upon sale of municipal property appear to be less stringent than on the sale of property by a county government. However, the observance of certain procedures legally required of county governments in the sale of personal or real property may be prudently applied in the sale of municipal property. For example:

- The sale of any municipal property with a value greater than \$2,500 should be preceded by a competent *appraisal of the fair market value of the property*.
- Municipal property with a value greater than \$2,500 should be sold at public auction that has been noticed as provided at 7-1-2121, MCA. If no acceptable bid is received at the public auction, the council may approve a private sale of the property at no less than 70 percent of the appraised value of the property.
- Mindful of significant potential for *conflict of interest or perceived conflict of interest* (2-2-104 and 7-5-4109, MCA), *municipal property should not be sold to officials or employees of the municipal government except at a properly noticed*

public auction.

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