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**IDAPA 39
TITLE 03
CHAPTER 45**

**39.03.45 - RULES GOVERNING SALE OF NO LONGER USEFUL
OR USABLE REAL PROPERTY**

000. LEGAL AUTHORITY.

The Idaho Transportation Board promulgates this rule by authority of Section 58-335A Idaho Code. (7-1-97)

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.03.45 "Rules Governing Sale of No Longer Useful or Usable Real Property," IDAPA 39, Title 03, Chapter 45. (3-30-07)

02. Scope. This rule contains guidelines for selling no longer useful or usable real property under the ownership and control of the Idaho Transportation Department. (3-30-07)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. (3-30-07)

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (3-30-07)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. (3-30-07)

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise, ID 83707-1129. (3-30-07)

02. Office Hours. Daily office hours are 8:00 a.m. to 5:00 p.m. except Saturday, Sunday and state holidays. (3-30-07)

03. Telephone and FAX Numbers. The central office may be contacted during office hours by phone at 208-334-8000 or by fax at 208-334-3858. (3-30-07)

04. Idaho Transportation Department District Offices are at the following locations: (3-30-07)

a. Idaho Transportation Department District 1
Mailing address - 600 W. Prairie
Coeur d'Alene, Idaho 83815-8764
Office Hours - 7:00 a.m. to 4:00 p.m., Pacific Time Zone
Phone - (208) 772-1200 (3-30-07)

b. Idaho Transportation Department District 2
2600 Frontage Road, Lewiston
Mailing address - P.O. Box 837
Lewiston, Idaho 83501-0837
Office Hours - 7:00 a.m. to 4:00 p.m., Pacific Time Zone
Phone - (208) 799-5090 (3-30-07)

c. Idaho Transportation Department District 3
8150 Chinden Blvd., Boise
Mailing address - P.O. Box 8028
Boise, Idaho 83707-2028

Office Hours - 8:00 a.m. to 5:00 p.m., Mountain Time Zone
Phone - (208) 334-8300 (3-30-07)

d. Idaho Transportation Department District 4
216 Date Street, Shoshone
Mailing address - P.O. Box 2-A
Shoshone, Idaho 83352-0820
Office Hours - 8:00 a.m. to 5:00 p.m., Mountain Time Zone
Phone - (208) 886-7800 (3-30-07)

e. Idaho Transportation Department District 5
5151 South 5th, Pocatello
Mailing address - P.O. Box 4700
Pocatello, Idaho 83205-4700
Office Hours - 8:00 a.m. to 5:00 p.m., Mountain Time Zone
Phone - (208) 239-3300 (3-30-07)

f. Idaho Transportation Department District 6
206 North Yellowstone, Rigby
Mailing address - P.O. Box 97
Rigby, Idaho 83442-0097
Office Hours - 8:00 a.m. to 5:00 p.m., Mountain Time Zone
Phone - (208) 745-7781 (3-30-07)

006. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. (3-30-07)

007. -- 009. (RESERVED).

010. DEFINITION.

01. Surplus Real Property. Real property and the improvements thereon under the ownership and control of the Idaho Transportation Department outside the right-of-way limits which the Chief Engineer or his designee declares no longer useful or usable by the Department. (3-30-07)

02. Real Property. Land and improvements. (5-8-09)

03. Appraisal. An opinion of value formulated by a licensed Appraiser. (7-1-97)

04. Surplus Property Value Estimate. An estimate of value for surplus real properties valued at ten thousand dollars (\$10,000) or less formulated by the Idaho Transportation Department or its agents. (7-1-97)

05. Public Sale. Public auction or sealed bid. (7-1-97)

06. Administrative Fee. A fee determined by the Department to include direct sale expenses. (7-1-97)

07. Department. Idaho Transportation Department. (7-1-97)

08. District. Individually or collectively the jurisdictional areas of the Department. (7-1-97)

09. Appraiser. Any individual, firm, partnership, or corporation that has contracted with the Department to express an opinion of value on surplus real property owned by the Department. (5-8-09)

011. -- 099. (RESERVED).

100. LIMITATIONS.

This rule shall not apply to office and maintenance yard sites regardless of value. (7-1-97)

101. -- 199. (RESERVED).

200. COVERED PROPERTY.

Based upon recommendations by the District Engineer and concurrence of the Materials, Planning, Highway Operations and Safety and/or interested headquarter sections, property no longer useful or usable for the needs of the Department is recommended for disposal. (3-30-07)

201. -- 299. (RESERVED).

300. TRADES.

The Department is authorized to exchange surplus real property for other parcels of real property. In exchanging real properties, both parcels will be appraised, and either the owner or the Department shall pay to the other the difference in value. The appraisal amount shall only establish the minimum amount the Department may seek for its property. (7-1-97)

301. METHOD OF SALE FOR PROPERTY.

Property shall first be offered to contiguous property owners. If more than one (1) contiguous property owner is interested in the property, a private auction will be held between those contiguous owners wishing to purchase the property. It shall be offered at an amount not less than the value estimate or appraisal. The sales price shall include any administrative fees established by the Department. Term sales of up to twenty (20) years (five (5) years if the property is purchased for less than ten thousand dollars (\$10,000)) may be offered at the discretion of the Department. If the property is not purchased by a contiguous owner, it shall be offered to public entities in the manner and in accordance with the priority set out in Section 302. (5-8-09)

302. SALE OR EXCHANGE OF PROPERTY TO TAX SUPPORTED ENTITIES AT THE APPRAISED VALUE.

As stated in Section 301, if not purchased by a contiguous owner, the Department shall then offer the property for sale or exchange at the appraised value to the following: state agencies, the county in which the property is located, the city in which the property is located, the highway district in which the property is located. State agencies are given first priority to acquire the property, county second, city third and highway district fourth. Other tax supported entities not enumerated will not specifically be notified, but will have the fifth priority to purchase the property. The sale price shall include any administrative fees established by the Department. (5-8-09)

303. SALE OR EXCHANGE OF PROPERTY TO TAX SUPPORTED ENTITIES FOR LESS THAN THE APPRAISED VALUE.

If none of the public agencies referenced in Section 302 wishes to purchase the property at the appraised value, the Department may negotiate a sale or exchange of the property at less than the fair market value to any tax-supported agency or political subdivision of the state of Idaho, excluding state agencies, in whose jurisdiction the property resides. The priority and process set out in Section 302 shall apply; except that the order of priorities shall not include state agencies. The first priority will be given to counties, the second to cities, the third to highway districts and fourth to other tax supported entities. If property is sold or exchanged for less than the fair market value it must be used exclusively and in perpetuity for a public purpose. The specific public use will be set out in the deed of transfer and if the use is violated or discontinued the property will revert to the ownership of the Department. If jurisdiction, value or use cannot be agreed upon between the Department and a public agency the property will be offered at a public sale in accordance with the provisions of Section 304. Any surplus Department property originally purchased using federal funds must receive the approval of the Federal Highway Administration prior to being sold or exchanged for less than the appraised value. (3-30-07)

304. METHOD OF SALE FOR PROPERTY NOT PURCHASED BY A PUBLIC ENTITY OR A CONTIGUOUS PROPERTY OWNER.

If no public agency purchases a property offered for sale, or if property is not purchased by a contiguous property owner, the surplus property will be offered at public sale for not less than the appraised price. The sales price shall include any administrative fees established by the Department. Term sales of up to twenty (20) years (five (5) years if the property is purchased for less than ten thousand dollars (\$10,000)) may be offered at the discretion of the Department. (5-8-09)

305. -- 399. (RESERVED).

400. MINIMUM VALUE.

All property regardless of the Surplus Property Valuation shall have a minimum value of five hundred dollars (\$500). This amount may be waived if justification is provided by the District requesting disposition. (7-1-97)

401. -- 499. (RESERVED).

500. PAYMENTS.

All payments will be made to the Department. (7-1-97)

501. -- 599. (RESERVED).

600. ISSUANCE OF DEEDS.

The Department's Director will execute the appropriate documents transferring ownership within thirty (30) days of the date of sale or upon clearance of all receipts of sale. (7-1-97)

601. -- 999. (RESERVED).

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