PART XI. PROPERTY CONTROL

§321. Definitions

Except where the context clearly otherwise indicates, for purposes of this Part the following definitions shall apply:

(1) "Agency" means any state office, department, board, commission, institution, division, officer or other person, or functional group, heretofore existing or hereafter created, that is authorized to exercise, or that does exercise, any functions of the government of the state, but not any governing body or officer of any local government or subdivision of the state, district attorney, sheriff, or any parochial officer who exercises functions coterminous with the municipality in which he performs those functions.

(2) "Auction by sealed bid" means the sale by auction that takes place when confidential offers are presented and the thing is sold to the qualified bidder who offers the highest price.

(3) "Commissioner" means the commissioner of administration.

(4) "Division" means the division of administration.

(5) "Internet" means the global information system that is logically linked together by a globally unique address space based on the internet protocol or its subsequent extensions, is able to support communications using the transmission control protocol/internet protocol suite or its subsequent extensions, and other internet protocol compatible protocols, and provides, uses or makes accessible, either publicly or privately, high level services layered on the communications and related infrastructure described herein.

(6) "Internet computer auction" means the sale by auction that takes place when offers are placed through the use of electronic technology including the internet and the thing is sold to the qualified bidder who offers the highest price.

(7) "Live public auction" means the sale by auction that takes place when the thing is offered publicly by a live auctioneer to be sold to the qualified bidder who offers the highest price.

(8) "Property" means tangible non-consumable movable property owned by an agency.

§322. Appointment of property managers

The head of each agency shall designate one of its officers or employees as property manager for the agency. If an agency has a large amount of property or if its property is kept in more than one location, or is used in pools, the commissioner may authorize the appointment of more than one property manager and the division of responsibility among the property managers in the agency. The heads of agencies shall allow property managers the necessary time and provide them with the necessary supplies and assistance for performance of their duties under this Part, and the heads of the agencies shall be responsible for seeing that the provisions of this Part are carried out.

Added by Acts 1964, No. 115, §1.
§323. Marking of property

The commissioner of administration shall determine a uniform system of marking and identifying state property. Property managers within each agency shall be responsible for the maintenance of property identification marks as prescribed by the commissioner.

Added by Acts 1964, No. 115, §1.
§324. Inventory of property

A. Each property manager shall make a complete physical inventory of the property of his agency once each fiscal year. The agency shall establish and maintain a master file of the agency inventory of movable property. The master file shall contain the following information:

(1) A description of the property.
(2) The manufacturer's serial number, if any.
(3) The description and location of the identification mark.
(4) The original cost of the property.
(5) The principal place where the property is housed, garaged, stored, or used.

B. The property manager shall keep the property master file updated by submitting to the commissioner of administration monthly all property transactions. The commissioner will furnish the agency a printout of these transactions, which will be maintained according to the retention schedule of records.

§325. Inventory reports; head of agency to furnish information

Upon completion of the initial inventory each property manager shall submit an inventory report to the commissioner and the Legislative Auditor containing a list of all property items in his custody, together with descriptive information as set forth in R.S. 39:324. Upon completion of each subsequent annual inventory, each property manager shall submit to the commissioner and the Legislative Auditor a certified report containing all exceptions or discrepancies found in relating physical and perpetual inventory records. The annual report also shall include a listing of idle or surplus items available for transfer or disposition.

Added by Acts 1964, No. 115, §1.
§326. Regulations of commissioner governing inventories, inventory reports, other records; sanctions for noncompliance

A. The commissioner is authorized to make regulations governing the manner in which inventories shall be conducted, the maintenance of the files, and the information to be included therein, in addition to the information required by this Part.

B. The commissioner shall make regulations establishing systems of accounting for property, keeping of records, submission of reports and the forms thereof, in addition to the procedures, records and reports otherwise required by this Part. The commissioner may furnish any of such forms and require their use by property managers.

C. The commissioner, by regulations applying uniformly to all budget units, may designate:

(1) Categories or particular items of property which shall be considered to be movable for purposes of this Part even though connected with, attached to, or placed upon immovable property; and

(2) Categories or particular items of property which shall be considered nonconsumable for purposes of this Part.

D. In addition to other powers, the commissioner shall have the authority to invoke any or all of the following sanctions when an agency is found by the commissioner to be in noncompliance with this Part or with the regulations adopted in accordance herewith:

(1) Call in the performance bond filed with the commissioner by the agency's property manager or, if the agency has more than one property manager, the property manager responsible for the activities or property found to be in noncompliance.

(2) Until compliance is accomplished, restrict the acquisition by the agency of property or require the approval of the commissioner for such acquisition.

(3) At the agency's expense, contract for the resources necessary to accomplish compliance by the agency.

(4) Take other action or combination of actions as authorized until compliance by the agency is accomplished.

§327. Records and documents subject to examination

All property records and reports and the invoices, receipts and other supporting documents therefor of each agency shall be subject to examination by the commissioner and the Legislative Auditor, and by their representatives.

Added by Acts 1964, No. 115, §1.
§328. Notice to commissioner prior to inventory; supervision by division

Each property manager shall notify the commissioner in writing of the date or dates on which any property inventory in his agency will be conducted, which notice shall be mailed at least thirty days prior to the date the inventory is to begin. The commissioner or his representatives may supervise all or any part of any inventory. For the purpose of testing the completeness and accuracy of inventories, records and reports, the commissioner shall cause periodic observations of inventories and examinations of records to be made and shall cause reports submitted to him to be compared periodically with records of the agencies and with the physical property of the agencies.

Added by Acts 1964, No. 115, §1.
§329. Annual audit by Legislative Auditor

During his annual audit of each agency the Legislative Auditor shall cause an examination of the records and property of the agencies to be made, insofar as is practicable, to determine whether the provisions of this Part and the regulations of the commissioner have been complied with. The audit reports of the Legislative Auditor shall contain specific comment on property control, and shall point out any inaccuracies or failure of compliance with the provisions of this Part or the regulations of the commissioner.

Added by Acts 1964, No. 115, §1.
§330. Responsibility for property; bond for property manager; trade-ins for higher education boards and institutions and vocational-technical schools

A. Each property manager shall be the custodian of and shall be responsible for all property of his agency until his release from responsibility is approved as provided in Subsection D of this Section; provided, however, that when any property is entrusted to any other officer or employee of the agency, the property manager shall require a written receipt for such property to be executed by the person receiving the property, and in such event the property manager shall be relieved of responsibility for the property. Upon the return of the property to the custody of the property manager, he shall return the person's receipt, or if unable to return it, shall give his receipt for the return of the property, and the other person shall be relieved of responsibility therefor except for any damage which has arisen out of his wrongful or negligent act or omission. The property manager shall retain the receipt for any property which has been lost, stolen or is otherwise unaccounted for, until an investigation has been conducted and all claims in connection therewith have been disposed of as is provided in Subsection F of this Section. The property manager may retain a receipt for any property which he believes has been damaged while entrusted to another, until an investigation has been conducted as provided for in this Part.

B.(1) No property of any agency shall be sold to any person or legal entity or otherwise be alienated or transferred, assigned, or entrusted to any other agency or to any officer or employee of any other agency without the written consent of the commissioner. However, and notwithstanding any other provision to the contrary, the Board of Regents, each public college and university management board, each public institution of higher education, and each vocational-technical school may sell or trade in used or obsolete instructional, research, or scientific property and farm equipment, except tractors, at the agricultural research stations when purchasing new replacement property. All funds received from the sale of, or allowed as a trade-in value for such obsolete items, shall be credited against the purchase price of the replacement property. No person employed by the state shall be eligible to purchase this equipment. Any sale or trade-in of movable property under the provisions of this Section shall be subject to approval, prior to the sale or trade-in, by the director of property control; provided approval by the director shall not unreasonably delay the sale or trade-in.

(2) The commissioner shall have control of surplus property and may assign such property for use as required, and may adopt regulations governing the condemnation and disposition of property of the agency which has been held by the state for more than six months and is of no use to the state or its agencies.

(3) Except as provided in Paragraph (4) of this Subsection, first preference in the acquisition of state surplus property authorized for disposition shall be given to other state agencies. Second preference shall be given to political subdivisions of the state of Louisiana, other governmental agencies, private elementary, secondary, or proprietary schools, housing authorities, or independent colleges or universities, and then preference shall be given to all charitable, educational, or religious organizations prior to its being offered to private persons, firms, or corporations.

(4) Notwithstanding the provisions of Paragraph (3) of this Subsection relative to surplus computer equipment, first preference in the acquisition of surplus computer equipment authorized for disposition shall be given to public elementary and secondary schools in the state, and community and technical colleges under the management and control of the Board of Supervisors of Louisiana Community and Technical Colleges.

(5) The commissioner may adopt and promulgate regulations to carry out the provisions of this Section.

C. Each property manager shall file with the commissioner a bond furnished by a bonding company approved by the commissioner and paid for by the agency in an amount to be determined by
the Legislative Auditor payable to the State of Louisiana, which bond shall serve as a guarantee or indemnity that the property manager will faithfully perform his duties under the provisions of this Part.

D. Whenever any property manager ceases for any reason to be the property manager of an agency, the head of the agency shall immediately notify the commissioner in writing, and the commissioner shall cause an examination to be made of the property and property records under the jurisdiction of the property manager and shall approve the release of the property manager from responsibility and liability therefor or shall make a written report of any defects in the records or damage to or shortages of property. The outgoing property manager shall not be held accountable for property which he has entrusted to any other officer or employee of the agency and for which he holds the receipt of such officer or employee. The property of the agency and the receipts held by the outgoing property manager shall be transferred to the new property manager, who shall execute his written receipt for all property received by him or coming into his custody, including property for which receipts are transferred from the outgoing property manager, and the new property manager shall be the custodian of all such property and shall be responsible for all such property entrusted to others for which he has received receipts.

E. Each property manager and each person to whom property is entrusted and receipted for as provided in this Part shall be liable for the payment of damages whenever his wrongful or negligent act or omission causes any loss, theft, disappearance, damage to or destruction of property of his agency for which he is responsible as provided in this Part, and such damages shall be recoverable in a civil suit therefor prosecuted on behalf of the state by the Attorney General.

F. Whenever a property manager has knowledge or reason to believe that any property of the agency is lost, stolen or otherwise unaccounted for or is damaged or destroyed, or whenever any other person has such knowledge or reason for such belief with respect to property entrusted to him, such property manager or such person shall report his knowledge or reason to the head of the agency. The head of the agency shall immediately notify the commissioner, who shall cause an investigation to be made to determine whether the property manager or the person entrusted with the property or any other person has by his wrongful or negligent act or omission caused the loss, theft, disappearance, damage to, or destruction of such property. After the investigation, the commissioner shall either (1) release the property manager or person entrusted with the property from liability, (2) collect payment of damages from or arrange for such payment by the property manager or person entrusted with the property or (3) certify the facts to the Attorney General. If the commissioner deems that the investigation shows some other person to be liable for the damages, he shall take such steps as are necessary to recover damages therefor or otherwise satisfy the claims of the state with regard thereto.

G.(1) Notwithstanding any other provision of law to the contrary, no property as defined in this Part which is determined to be historically significant by the commissioner of administration shall be disposed of by sale, donation, transfer, or other form of alienation in any manner, or destroyed except as provided in this Subsection.

(2) Property which is determined to be historically significant shall be treated in the same manner as any other property under this Part; however, historically significant property shall be clearly marked as such and shall be identified separately in each agency's inventory control system.

(3) In the event that an agency determines that historically significant property under its control is surplus to its needs as provided under this Part, the commissioner of administration shall be responsible for determining the appropriate disposition of such property with respect to storage, relocation, transfer, or other disposition as may be provided by rules and regulations issued pursuant to Paragraph (5) of this Subsection.

(4) In the event that a property manager reports, pursuant to Subsection F of this Section, that
historically significant property has been damaged, the commissioner of administration shall
determine whether such property may be restored to a useable condition; if the damaged property may
not be restored, the commissioner of administration shall determine the final disposition of such
property.

(5)(a) The commissioner of administration, based upon the recommendations of the state
historic preservation officer and the staff of the division of historic preservation as provided by R.S.
25:911 et seq., shall issue such rules, regulations, and guidelines as are necessary and proper to carry out
the provisions of this Subsection, including establishing a definition for "historically significant".

(b) Such rules, regulations, and guidelines shall include but not be limited to identifying the
characteristics which shall describe or constitute historically significant property; establishing a review
process or panel to decide questions of historical significance; procedures relative to the preservation,
upkeep, and repair of such property; and procedures for appraising or valuing historically significant
property.

(c) Annually, the commissioner of administration shall provide a list of the historically
significant property within the control of each agency to the governor and to the presiding officer of
each house of the legislature at least thirty days before each regular session of the legislature.

§30.1. Sale of surplus property

A.(1) Notwithstanding any other provision of law to the contrary and except as provided by R.S. 39:330(G), the commissioner of administration, on behalf of the state, is hereby authorized to sell surplus movable property of any board, commission, agency, or department of the state at public auction. In the case of live public auction, the commissioner of administration may hire qualified licensed auctioneers to handle said sale, who shall be compensated from the proceeds of such sale. Selection of an auctioneer shall be by competitive bid under the provisions of the Louisiana Procurement Code, R.S. 39:1551 et seq. The selection of the auctioneer shall be for the period of one year and the commissioner shall be required to select the auctioneer by competitive bid annually.

(2) In the case of sale by internet computer auction, the commissioner of administration is authorized to sell surplus movable property through the use of electronic technology including internet web sites that facilitate such sales. The commissioner is further authorized to pay any costs associated with the sale from the proceeds of such sale. The commissioner is further empowered to sell surplus movable property through any form of electronic technology, including internet web sites created expressly for that purpose whether privately or publicly owned.

B. The provisions of this Section shall not apply to sales of timber on lands under the jurisdiction of the Department of Agriculture and Forestry. The Department of Agriculture and Forestry, through the office of forestry, shall be responsible for the sale of all timber on land under the jurisdiction of the Department of Agriculture and Forestry. Sales of timber shall be in accordance with rules adopted by the Department of Agriculture and Forestry, which shall comply with the following provisions:

(1) The timber shall be sold by bids which shall be opened publicly.
(2) The timber shall be sold to the highest responsible bidder.
(3) The Department of Agriculture and Forestry may reject any bid for cause.
(4) The Department of Agriculture and Forestry may reject all bids and rebid the sale or decline to sell the timber.
(5) The Department of Agriculture and Forestry shall advertise the future sales of timber in the official journal of the state on two occasions at least thirty days prior to the deadline for accepting bids.

§330.2. Disposal of surplus telecommunications equipment

Prior to the disposition of any surplus telecommunications equipment the commissioner of administration first shall contact the director of the Office of Telecommunications Management, who shall have the authority to designate the state agency to which the equipment shall be transferred, or* shall have the authority to determine if the equipment may be disposed of through other methods provided for in this Part.


*As appears in enrolled bill.
§330.3. Sale of damaged property held by the office of risk management

Any property which has been damaged, is insured by the office of risk management in the division of administration, and is being held by the office of risk management under the terms of the insurance coverage shall be disposed of under the provisions of this Part only after approval by the office of risk management. Funds received by the sale of any such property shall be remitted to the office of risk management to the extent of payment by the office of risk management for the insured loss. Any funds received in excess of the insured loss shall be credited to the state general fund.

Added by Acts 1988, No. 52, §1.
§331. Application of Part

The provisions of this Part shall apply to the executive, legislative and judicial branches of the state government.

Added by Acts 1964, No. 115, §1.
§332. Regulations and orders by commissioner

In addition to specific authorizations contained in this Part, the commissioner shall have power and authority to make necessary and reasonable regulations and orders to carry out the provisions of this Part, and such regulations and orders shall have the effect of law.

Added by Acts 1964, No. 115, §1.