



Staff Report

Agenda Item: PUBLIC SURPLUS ON-LINE AUCTION SERVICES – Discussion and consideration regarding the use of Public Surplus On-Line Auction Services for selling the Town’s surplus items.

Staff Contact: Linda Peterson, Accounting Supervisor

Meeting Date: April 27, 2010

Background: Arizona State Statute section 9-402 states that a Town may not sell and convey all or any part of its real or personal property until an invitation for bids for the purchase of the property has been published and notice has been posted in three or more public places within the town. The publishing costs and timelines for the bidding process have prohibited the Town from disposing of unused items on a regular basis.

Municipalities are now using on-line auction services in lieu of individual bidding notices or auctions. Tucson, Scottsdale, Prescott, Prescott Valley, Dewey-Humboldt, Chino Valley, Flagstaff, Peoria, Cottonwood, Sedona, Apache Junction, Benson, Globe, and Goodyear are just some of the municipalities that currently use Public Surplus for on-line auction services. The Counties of Mohave, Pima, Coconino, Navajo, and Pima along with fire districts, including the Verde Valley Fire District, school districts and universities are also using this site to dispose of their surplus items.

Public Surplus has for over 10 years, provided state and local governments with quality and reliability for selling surplus property via the internet. Currently, over 1,500 government agencies nationwide use their web-based applications. Public Surplus has been developed specifically for the unique needs of government agencies, and only government agencies can sell on Public Surplus.

Public Surplus is the most transparent auction system available. In most live auctions, sales results are not immediately available to all bidders. Public Surplus auction results are immediately available to both bidders and observers along with reporting listings that don’t meet the agency reserve price. Auction results are available 24/7/365 via the internet. The extensive reporting section allows users to get the information they need when they need it.

There are no listing or re-listing fees associated with using the public auction feature. A transaction fee of 1% of sold items is all Public Surplus charges the agency when they collect. Public Surplus will also handle the entire collection process, from contacting winning bidders to providing access to pay via credit card. Public Surplus charges a bidders premium of 6%, if the Town would collect monies, and 9% if they collect the monies for the Town.

Recommendation: Authorization to use Public Surplus On-line auction services for selling the Town’s surplus items along with handling the entire collection process.

**TOWN OF CLARKDALE
ONLINE AUCTION TERMS & CONDITIONS**

1. **AWARD:** At the time the auctioneer awards sale of item to bidder, a legally binding contract is established between the Town of Clarkdale and the bidder. The Town of Clarkdale will pursue legal remedies allowed by law against any bidder who fails to make required payment(s).
 2. **ERRORS & OMISSIONS:** The Town of Clarkdale is not responsible for any omissions or errors in description of items being offered for sale. It shall be the bidder's responsibility to inspect and satisfy himself/herself as to the details and conditions of material offered.
 3. **NO WARRANTY:** All items are sold AS IS WHERE IS. There are no guarantees, express or implied. There are no warranties express or implied as to condition, usability, merchantability or fitness for a particular purpose. Some or all of these items may have been declared unsafe in their present condition by a federal or state safety standard. The purchaser should inspect and, if necessary, repair/test all items prior to any use.
 4. **INDEMNIFICATION:** Bidder agrees for and on behalf of bidder, bidder's heirs, successors and assigns that bidder shall indemnify and hold the Town of Clarkdale harmless from and against any claim, demand or cause of action arising or alleged to have arisen out of the sale or failure to sell any item of surplus property including claims for personal or bodily injury, death or contract damages.
 5. **BUYERS PREMIUM:** A 10% Buyer Premium shall be added to the final price with a \$1.00 minimum charge per auction to collect payment.
 6. **VEHICLE TITLES:** The Town of Clarkdale will issue a title or certificate upon receipt of payment at the time of pickup. Titles may be subject to any restrictions as indicated in the item description on the website. Open titles cannot be issued. The Town will not issue replacement titles.
 7. **VEHICLE PAINT:** Per Arizona Revised Statute Section 28-902, ANY YELLOW VEHICLE MUST BE REPAINTED BY THE BUYER.
 8. **SALES TAX:** All sales are subject to 3.0% Town and 5.6% State, and .75% County sales tax (total 9.35%). Buyers that are exempt from Transaction Privilege (Sales) Tax must present a completed Exemption Certificate - General (Sales to a Business, Native Americans, Government Entity or Nonresidents) [Form 5000] at the time of payment. Forms are available at :http://www.azdor.gov/ADOR_Forms/60-69/60-2010_fillable.pdf
- Failure to provide a complete and valid form at the time of payment will subject the buyer to all applicable sales tax. All sales are final, no refunds or adjustments will be made.
9. **PAYMENT:** Public Surplus collects all payments for the Town. If you choose to pay with a credit card please follow the instructions below. The credit card limit per transaction is

\$4,000.00. For payments larger than this amount follow the instructions listed under manual payment.

Partial Payments

There will be NO partial payments of an auction allowed. All auctions must be paid in full per payment process used per auction. For Example: You WILL NOT be able to pay partially for an auction by Credit Card and pay the remainder by another payment method such as a wire transfer.

Credit Cards:

Login to the Public Surplus site. Click on "**My Stuff**" and then click on "**Past Bids**". Click on the description of the auction and then click on "**Pay Online**" link located on the right hand side of the screen. Follow the steps to complete the transaction. A receipt will be emailed to you once the payment has cleared. We accept all major credit cards, Paypal and e-Checks.

Manual Payments:

For payments over \$4,000.00 and any other non-credit card payments follow the instructions below.

Please send payment along with a copy of "Notice of Award" (*emailed from PublicSurplus.com*) to Public Surplus, LLC at the following address(s).

Mailing Address: Public Surplus L.L.C., P.O. Box 50676, Provo UT 84605

or

Courier Address (Fedex, DHL, or UPS ONLY): Public Surplus L.L.C., 1503 S. 40 E., Suite 350, Provo UT 84606

NOTE: Check should be made payable to Public Surplus, LLC marked with the Auction #. Accepted forms of payment are Certified Check, Cashiers Check or Money Orders. Payments need to be received by Public Surplus within five (5) business days of notification of award.

If you need to do a wire transfer please call 801-932-7000 and ask for buyers support to work out the details for this transaction. Once payment is received the same instructions apply as with manual payment.

10. PICK UP: Public Surplus will notify you upon receipt of payment. Pick-up is by appointment only - Successful bidder(s) must contact Linda Peterson or Kathy Cwiok at (928) 639-2400 to schedule a pick-up time between the hours of 8:00 A.M. – 5:00 P.M Monday through Thursday. Be sure to bring the "Notice of Award" with the "Paid Receipt" and personal identification such as a Drivers License or DMV ID to the pick up location. The person releasing the item will require you to show all three documents. **You will need to bring these forms of ID with you or the auction item(s) will not be released to you.**

If an individual other than the successful bidder will be picking up the item(s), the successful bidder MUST provide that individual with the "Notice of Award" and the "Paid Receipt" (photo copies are acceptable) plus a note specifically naming that individual as their authorized representative. Personal identification such as a Drivers License or DMV ID is needed.

Items sold must be paid for and picked up within 14 calendar days of the close of auction. Bidders failing to pay or pickup on time shall be considered in default. After 21 calendar days of the close of auction, the Town shall pursue all legal remedies available (see Online Auction Terms and Conditions).

11. PROPERTY REMOVAL: Except as stated herein, no service of any kind will be furnished by the Town, and the bidder shall assume all cost of removing property from the pickup location and of obtaining any necessary paperwork. We are not equipped for shipping items (supply of boxes, tape, pallets, packaging, etc). You must arrange for packaging, pickup, insurance, and delivery with a carrier of your choice. We are not responsible for items after bidder takes possession. The buyer shall reimburse the seller for any damage to the seller's property caused by the removal operations of the buyer. When picking up your auction items, please be sure to bring a vehicle that will accommodate the items that you have won.

12. FAILURE TO PICK-UP: Property paid for but not picked up by the original bidder shall be held for 30 days. The Town may assess a storage fee during this time, which the bidder will be responsible for paying in order to release the stored item(s). In the event the 30 days storage period passes, the Town reserves the right to dispose of the item in order to fulfill the debt. Any excess monies received by the Town are deemed consideration for excess effort to dispose of item.

13. DEFAULT BUYERS: Default shall include (1) failure to observe these terms and conditions; (2) failure to make good and timely payment; or (3) failure to remove all items within the specified time. Default may result in termination of the contract and suspension from participation in all future sales until the default has been cured. If the Buyer fails in the performance of their obligations, the Town of Clarkdale may exercise such rights and may pursue such remedies as are provided by law.

14. WITHDRAWAL: The Town of Clarkdale reserves the right to withdraw any item from the sale up until the time the sale of the item is awarded. The Town of Clarkdale reserves the right to set a minimum bid on any item.

15. ACCEPTANCE OF TERMS AND CONDITIONS: By submitting a bid, the bidder agrees that they have read, fully understand and accept these Terms and Conditions of Online Sales, and agree to pay for and remove the property, if the bid is accepted, by the dates and times specified.

If you are interested in viewing the auction items prior to the close of the auction, please contact us at (928) 639-2400 to schedule an appointment.

Frequently Asked Questions

Q. Are Internet Auctions legal?

A. Absolutely! There are no regulations or statutes in any State prohibiting the use of Internet Auctions as a tool in the bidding process. Point of fact, the Federal Government and most States encourage Public Agencies to adopt modern technology to reduce costs and increase efficiency. The primary legal and operational concerns are related to the prevention of collusion between bidders, and public employees and bidders. A third-party enabled Internet Auction inherently has more protection against collusion than the traditional methods used by Agencies for procurement and sales.

Q. Why should an Agency use Public Surplus?

A. *Public Surplus was designed specifically for public agencies.* It is the only automated system available that enable agencies to manage their entire surplus inventory, while at the same time maintaining compliance with State's regulations and policies. The system's specific features allow the reallocation or auctioning of surplus items without actual, or the appearance of, waste, favoritism or collusion.

Most States require, either by regulation or policy, that Public Agencies maintain audit-records detailing the disposition of every surplus item of a certain type and value. *Public Surplus satisfies this requirement with its automated Inventory Control component; which gives Agencies the ability to easily provide a printed record for any surplus item disposed of during the preceding 7 years.*

Most States require through regulation or policy that Public Agencies, whenever possible, reallocate items that are declared surplus, within the agency. Public Surplus specifically designed its Reallocation component to satisfy this requirement. We provide a way for Agencies to *instantly* and *automatically* notify all appropriate departments within the organization of surplus items available for redistribution. Interested departments are then allowed to easily and automatically request these surplus items on a, "first come first served," basis.

Public Surplus also provides a COMMUNITY based auction that increases the contact between an Agency and the community it serves. *One of Public Surplus's most important services is helping Agencies attract larger numbers of community members to their surplus auctions.* By being accessible, 24 hours, 7 days a week, an Agency's auctions via Public Surplus allow a larger percentage of the community to take advantage of the bargains surplus items provide. .

Q. What kind of surplus items can be sold on Public Surplus?

A. Just about anything. Mousetraps, portable classrooms, automobiles, buses, heavy equipment, shop equipment, kitchen equipment, athletic equipment, musical instruments, computers, printers, furniture, etc, etc. It's amazing! Almost everything listed, no matter how old or *odd*, sells.

Q. How often can auctions on Public Surplus be held?

A. No limit! For most Agencies continuous auctions are best. No need to pile up an inventory of surplus to have enough for a live auction or sale. Instead of waiting, agencies are able to list items for internal reallocation or public auction as soon as any item is declared surplus. This keeps warehouses and inventories streamlined and organized.

Public | Surplus®

Q. How much more revenue do Public Agencies generate using Public Surplus compared to traditional methods?

A. Based on experience so far, it is expected that Agencies using Public Surplus' "dynamic" auction will increase total net revenue from surplus sales by at least 30% and, in some cases, exceed 200%.

Q. What is the cost of using Public Surplus?

A. There are three components to Public Surplus;

The first is its ability to manage an Agency's entire surplus inventory operations from the time an item is declared surplus, to its ultimate disposition; and this includes a *complete* audit history file. This component is *Free*.

The second is Public Surplus' "reallocation" capability. This feature allows surplus items to be *automatically* reallocated to other departments within an Agency. This component is also *Free*.

The third component is the public auction feature. There are no listing or re-listing fees associated with using our public auction feature. You can upload as many pictures as you would like. A transaction fee of 1% of sold items is all we charge the agency when we collect, with a \$1 minimum fee per successful auction. Public Surplus can handle the entire collections process, from contacting winning bidders to providing access to pay via credit card.

We charge a bidders premium of 6% if your agency collects the monies and 9% if we collect the monies for your agency.

Q. Does Public Surplus require a long-term contractual commitment?

A. No! Public Surplus is available on an *at will* basis. Public Surplus is designed to be, now and in the future, the most attractive means available for the management of the entire surplus inventory operations of Public Agencies. It is expected that Agencies will use Public Surplus only so long as it is better than any other alternative available to them. This provides our motivation to *continuously* provide the best service and technology available.

Q. How does Public Surplus' system compare with other companies' surplus inventory management systems?

A. To our knowledge, no other company offers an automated system that manages an Agency's entire surplus inventory operation from the moment an item is declared surplus to its final disposition.

Q. Does Public Surplus have a way to attract buyers to an Agencies' auctions?

A. Most definitely. This is a service that really sets us apart from other companies. Public Surplus's auction system is focused on *pick-up* buyers located within an Agency's *Community*, as well as "specialty" buyers from across the nation. We are very successful in helping Agencies attract large numbers of these buyers to their auctions.

Auction Payment and Pick Up Procedure

Congratulations on your winning bid. The Town of Clarkdale appreciates your participation in our auction. Listed below are the instructions for payment and pick up.

Public Surplus collects all payments for the Town. If you choose to pay with a credit card please follow the instructions below. The credit card limit per transaction is \$4,000.00. For payments larger than this amount follow the instructions listed under manual payment.

Sales Tax

Applicable sales tax will be added to the amount due unless the buyer has provided a valid tax-exempt certificate to the Town of Clarkdale prior to payment.

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Public Surplus L.L.C.

P.O. Box 50676

Provo UT 84605

or

Courier Address (Fedex, DHL, or UPS ONLY):

Public Surplus L.L.C.

1503 S. 40 E., Suite 350

Provo UT 84606

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Standard Disclaimer for the Town of Clarkdale, AZ:

Viewing of Auction items by appointment only.

Public Surplus handles all payments for the Town of Clarkdale. Payment for an awarded item must be received within 5 business days of close of auction.

The Town of Clarkdale sales tax of 9.35% shall be added to all purchases made. The buyer shall add and include the sales tax amount when making payment.

Buyers Premium: A 10% Buyer Premium shall be added to the final sale price with a \$1 minimum charge per auction to collect payment.

All sales are final. Public Surplus will notify buyer of receipt of payment via email. Items sold must be paid for and picked up within 14 calendar days of the close of auction. Bidders failing to pay or pickup on time shall be considered in default. "Notice of Award" with the "Paid Receipt" and personal identification such as a Drivers License or DMV ID is required for pick up or items will not be released.

Bid Deposits: The Town of Clarkdale may require bid deposits to ensure fairness and equity to all buyers as a way to decrease default bidding.

Pick-up hours by appointment only. Successful bidder will be responsible for removal of item.

Successful bidder will be responsible for cost of packing and/or shipping of any item(s) if necessary.