

MEMORANDUM

Attorney-Client Privileged & Confidential

To:	West Bonner County School District Trustees
From:	Fonda L. Jovick, J.D., Lake City Law Group
Date:	June 30, 2026
Re:	Procedure for Sale of District-Owned Real Property Under Idaho Code § 33-601

I. Purpose

This memo summarizes the statutory process for a school district board of trustees to sell district-owned real property under Idaho Code § 33-601, with particular attention to the public-notice and publication mechanics governed by Idaho Code § 33-402 and Title 60, Chapter 1, Idaho Code. This summary addresses standard (non-elementary-district) sales; it does not address the elector-approval procedure applicable to elementary school districts, nor the simplified intergovernmental-transfer path under § 33-601(4)(b).

II. Step-by-Step Process

1. Appraisal

- The board must have the property appraised by an Idaho-certified appraiser **not more than one (1) year** before the sale/disposal.
- The appraisal must be entered into the board's official records.
- The appraised value sets the **floor price** — no real property may be sold for less than its appraised value during the sealed-bid or public-auction process.

I.C. § 33-601(3), (4)(a)

2. Board Authorization – Surplus Process

- The board exercises this authority by formal board action/resolution, properly entered in the minutes, authorizing the disposal and directing the appraisal and bid/auction process.

I.C. § 33-601(3)

3. Method of Sale — Public Auction or Sealed Bid

- The board selects either public auction or sealed bids.
- Property is sold to the highest bidder, but the board retains discretion to accept the highest bid, reject any single bid, or reject all bids.

I.C. § 33-601(4)(a)

4. Published Notice

- Notice of the time and conditions of sale must be published **twice**, with proof made in accordance with I.C. § 33-402(2)-(3).
- Conditions include:
 - That the district intends to sell the property (and by what method — sealed bid or public auction)
 - The deadline/date and location for submitting sealed bids, or the date/time/location of the auction
 - The appraised value (since no bid can be accepted below it — bidders need to know the floor)
 - Payment terms being offered (cash only, or terms up to 10 years at not less than 7% interest, **if the board is allowing financed terms**)
 - Identification of the property being sold
 - Contact information for obtaining more information or bid packets
 - The board's reserved right to reject any or all bids

I.C. § 33-601(4)(a)

5. Terms of Sale

- Cash
- Terms not exceeding ten (10) years, with deferred payments bearing interest of at least 7% per annum.
- Note-and-mortgage / deed-of-trust sales: title transfers to purchaser at closing, per board-determined terms.

I.C. § 33-601(4)(a)

6. If Bidding Is Unsuccessful

- If no satisfactory bid is received, the board may sell and convey the property under its own direction for the highest price the market will bear — but only after the bid/auction process has first been attempted.

I.C. § 33-601(4)(a)

7. Re-Bid / Re-Appraisal Requirement

- If the sale does not close within the appraisal/notice window, the board must obtain a new appraisal and re-publish notice before trying again.
- Exception: donated property may be sold within one (1) year of appraisal without additional advertising or bidding.

I.C. § 33-601(4)(a)

III. Publication-Notice Mechanics (Detail)

The two-publication requirement in § 33-601 cross-references § 33-402(2)-(3), which in turn pulls in the general newspaper-publication framework in Title 60, Chapter 1, Idaho Code.

A. Core Cross-Reference — I.C. § 33-402(2)-(3)

- Bid notices under § 33-601 must be published **"in a newspaper of general circulation as required by chapter 1, title 60, Idaho Code."**
- Note: the four-week pre-bid-opening timing rule in § 33-402(2) applies only to transportation-services contracting under § 33-1510 — it does not independently apply to real property sale notices under § 33-601.
- Proof of publication must be made by **affidavit of the newspaper's publisher**, which must be filed with the board by the clerk responsible for the publication.

I.C. § 33-402(2)-(3)

B. Newspaper Qualification Standard — I.C. § 60-106

- The newspaper must be one of general interest published in Idaho.
- If weekly: continuously published in the county for 78 consecutive weeks before the first publication of the notice.
- If daily: continuously published in the county for 12 consecutive months before the first publication.
- If no qualifying newspaper exists within the district: use the newspaper with the largest paid circulation in the county, or the one published nearest the district's boundaries.

I.C. § 60-106

C. Proof of Publication

- Obtain the publisher's affidavit of publication for each required insertion.
- Route the affidavit(s) to the district clerk.
- Clerk files the affidavit(s) with the board — recommend completing this before the board accepts any bid, to keep the record defensible against later challenge.

I.C. § 33-402(3)

IV. Practical Checklist

1. Obtain certified appraisal (dated within one year of anticipated closing).
2. Board resolution authorizing disposal and selecting auction or sealed-bid method.
3. Identify a qualifying newspaper under § 60-106 (or fallback newspaper if none exists in-district).
4. Publish notice twice.
5. Conduct sale by sealed bid or public auction; no sale below appraised value.
6. Collect publisher's affidavit(s) of publication; route to clerk for filing with the board.
7. If no satisfactory bid received, board may proceed to negotiate sale directly for best obtainable price.
8. If sale does not close in time, obtain new appraisal and re-publish notice before re-attempting (unless property was donated and within one year of appraisal).

V. Scope Limitations

- This memo addresses non-elementary district sales only, per client request.
- This memo does not address the simplified intergovernmental-transfer procedure under § 33-601(4)(b) (transfers to government entities, other districts, charter schools, etc., by majority board vote, with or without consideration).
- This memo does not address personal property disposal thresholds (under \$1,000 / under \$500), which follow separate, lighter-weight procedures under § 33-601(4)(a).

Sources: I.C. §§ 33-601, 33-402, 60-106, 60-106A, 60-109A (current through the 2026 legislative session, as published by the Idaho Legislature). This memo is a procedural summary for internal planning purposes and does not constitute a final legal opinion on any specific transaction.