

**COUNTY OF OSWEGO INDUSTRIAL DEVELOPMENT AGENCY**  
**DISPOSITION OF PROPERTY GUIDELINES**

**1. DEFINITIONS.** As used herein, the following terms shall have the meaning set forth below.

1.1 “Act” shall mean Title 5-A of the New York Public Authorities Law, as amended from time to time.

1.2 “Commissioner of General Services” shall mean the Commissioner of the New York State Office of General Services.

1.3 “Contracting Officer” shall mean the officer or employee of the Agency who shall be appointed by Agency resolution to be responsible for the Disposal of Property.

1.4 “Dispose” or “Disposal” shall mean transfer of title or any other beneficial interest in Property in accordance with these Guidelines and Section 2897 of the Public Authorities Law, as amended from time to time.

1.5 “Guidelines” shall mean these Guidelines, as amended from time to time by Agency resolution.

1.6 “IDA Act” shall mean Title 18-A of the New York General Municipal Law and Section 911-b of the General Municipal Law, each as amended from time to time.

1.7 “Property” shall mean personal property in excess of five thousand dollars (\$5,000) in value, and real property, and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party. For purposes of these Guidelines, Property shall not include the interest granted to the Agency in any “project” (as defined in Section 854(4) of the IDA Act) in connection with the provision of “financial assistance” (as defined in Section 854(14) of the IDA Act) to the extent that such project and the interest granted to the Agency secure the project occupant’s obligations to the Agency or any indebtedness obtained by or on behalf of the project occupant.

**2. CONTROLLING LEGISLATION.**

2.1 The Public Authorities Accountability Act of 2005 requires the Agency to adopt by resolution comprehensive Guidelines which detail the Agency’s operative policy and instructions regarding the use, awarding, monitoring and reporting of contracts for the Disposal of Property and designate a Contracting Officer with responsibility for compliance with, and enforcement of, these Guidelines.

2.2 These Guidelines are intended to be consistent with and shall be construed in accordance with the Act and the IDA Act. The Agency shall Dispose of its Property in accordance with these Guidelines, the Act and the IDA Act.

2.3 The Act requires the Agency to establish Guidelines to ensure that the Agency shall:

- (i) maintain adequate inventory controls and accountability systems for all Property owned by the Agency and under its control;
- (ii) periodically inventory such Property to determine which Property shall be Disposed of;
- (iii) produce a written report of such Property in accordance with the Act; and
- (iv) Dispose of such Property as promptly as possible in accordance with the Act.

### **3. DUTIES OF CONTRACTING OFFICER.**

Except as otherwise provided herein and in the Act, the Contracting Officer shall have supervision and direction over the Disposal of Property of the Agency and be responsible for compliance by the Agency with, and enforcement of, these Guidelines. The Agency shall have the right to Dispose of its Property for any valid corporate purpose.

### **4. AGENCY PROPERTY.**

4.1 *Custody and Control of Agency Property.*

The custody and control of Agency Property, pending its Disposal, and the Disposal of such Property, shall be performed by the Agency or by the Commissioner of General Services when so authorized under the Act and these Guidelines.

4.2 *Disposal of Agency Property.*

(i) Fair Market Value. The Agency may Dispose of its Property for not less than its fair market value by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the Agency by resolution deems proper under the Act and the IDA Act as implemented by these Guidelines, provided, however, except in compliance with all applicable law, no disposition of real Property, any interest in real Property, or any other Property which because of its unique nature is not subject to fair market pricing shall be made unless an appraisal of the value of such Property has been made by an independent appraiser and included in the Agency's record of the transaction.

(ii) Disposal by Commissioner of General Services. When the Agency shall have deemed that Disposal of any of the Agency's Property by the Commissioner of General Services will be advantageous to the Agency and the State of New York, the Agency may

enter into an agreement with the Commissioner of General Services pursuant to which said Commissioner may Dispose of Property of the Agency under terms and conditions agreed to by the Agency and the Commissioner. In Disposing of any such Property, the Commissioner shall be bound by the terms hereof and references to the Contracting Officer shall be deemed to refer to the Commissioner of General Services.

(iii) Public Advertising Required.

(A) All Disposals or contracts for Disposal of Property of the Agency shall be made after publicly advertising for bids except as provided in Section 4.2(iv).

(B) Whenever public advertising for bids is required under this Section 4.2(iii):

(1) the advertisement for bids shall be made at such time prior to the Disposal or contract for Disposal through such methods, and on such terms and conditions as the Contracting Officer determines will permit full and free competition consistent with the value and nature of the Agency's Property proposed for Disposal;

(2) all bids shall be publicly disclosed at the time and place stated in the advertisement; and

(3) the award shall be made by the Contracting Officer on behalf of the Agency with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Agency taking into consideration, price and other factors; provided that all bids may be rejected when the Agency determines it is in the public interest to do so.

(iv) Exception to Public Advertising.

(A) Disposals and contracts for Disposal of Property may be negotiated or made by public auction without regard to Sections 4.2(iii) but subject to obtaining such competition as the Contracting Officer determines to be feasible under the circumstances, if:

(1) the personal Property involved is of a nature and quantity which, if Disposed of under Sections 4.2(iii), would adversely affect the State or local market for such Property, and the estimated fair market value of such Property and other satisfactory terms of Disposal can in the opinion of the Board be obtained by negotiation; or

(2) the fair market value of the Property does not exceed \$15,000; or

(3) bid prices after advertising therefor are not reasonable, either as to all or some part of the Property, or have not been independently arrived at in open competition; or

(4) the Disposal will be to the State or any political subdivision and the estimated fair market value of the Property and other satisfactory terms of Disposal are obtained by negotiation; or

(5)

(a) the Disposal is for an amount less than the estimated fair market value of the Property; and

(b) the terms of such Disposal are obtained by public auction or negotiation; and

(c) the Disposal of the Property is intended to further the public health, safety or welfare or an economic development interest of the Agency, the state or a political subdivision of the State (to include but not limited to, the prevention or remediation of a substantial threat to public health or safety, the creation or retention of a substantial number of job opportunities, or the creation or retention of a substantial source of revenues, or where the IDA Act permits); and

(d) the purpose and the terms of such Disposal are documented in writing and approved by resolution of the Agency; or

(6) such action is otherwise authorized by law.

(B) An explanatory statement shall be prepared by the Contracting Officer of the circumstances of each Disposal by negotiation of:

(a) any personal Property which has an estimated fair market value in excess of \$15,000;

(b) any real Property that has an estimated fair market value in excess of \$100,000, except that any real Property Disposed of by lease or exchange shall only be subject to clauses (c) through (e) of this subparagraph;

(c) any real Property Disposed of by lease for a term of five years or less, if the estimated fair annual rent is in excess of \$100,000 for any of such years;

(d) any real Property Disposed of by lease for a term of more than five years, if the total estimated rent over the term of the lease is in excess of \$100,000; or

(e) any real Property or real and related personal Property Disposed of by exchange, regardless of value, or any Property any part of the consideration for which is real Property.

(C) Each such explanatory statement shall be transmitted to the Comptroller of the State, the Director of Budget of the State, the Commissioner of General Services and the New York Legislature, not less than ninety (90) days in advance of such Disposal, and a copy thereof shall be retained in the files of the Agency.

## **5. REPORTS.**

5.1 The Agency shall publish, not less frequently than annually, a report listing all Property of the Agency. Such report shall consist of a list and full description of all real and personal Property Disposed of during such period. The report shall contain the price received by the Agency and the name of the purchaser for all such Property Disposed of by the Agency during such period.

5.2 The Agency shall deliver copies of such report to the Comptroller of the State of New York, the Director of the Budget of State of New York, the Commissioner of the New York State Office of General Services, and the New York State Legislature.

## **6. ANNUAL REVIEW AND AMENDMENTS OF GUIDELINES.**

The Guidelines are subject to modification and amendment at the discretion of the Agency in accordance with the Act and IDA Act. On or before March 31 of each year, the Agency shall review and approve the Guidelines annually including the name of the Contracting Officer. On or before March 31<sup>st</sup> of each year, the Guidelines most recently reviewed and approved shall be filed with the Comptroller of the State, posted on the Agency's website and maintained on the Agency's website until guidelines for the following year or amended guidelines are posted.

April 25, 2013