

SUFFOLK COUNTY INDUSTRIAL DEVELOPMENT AGENCY
DISPOSITION OF PROPERTY GUIDELINES
ADOPTED PURSUANT TO SECTION 2896 OF THE PUBLIC AUTHORITIES LAW

The Suffolk County Industrial Development Agency (“Agency”) is required by Section 2896 of the Public Authorities Law to adopt comprehensive guidelines regarding the use, awarding, monitoring and reporting of contracts for the Disposal of property. In compliance with the Public Authorities Law and in the spirit of maintaining the highest standards of conduct, ethics, transparency and accountability, the Agency will Dispose of Property (as such terms are defined below) in accordance with the provisions of this Property Disposition Policy (“Policy”).

SECTION 1. DEFINITIONS

A. “Contracting Officer” shall mean the Deputy Executive Director of the Agency who shall be responsible for the disposition of Property pursuant to this Policy.

B. “Dispose” or “Disposal” shall mean transfer of title or any other beneficial interest in personal or real Property in accordance with section 2897 of the Public Authorities Law.

C. “Property” shall mean (i) personal property in excess of five thousand dollars (\$5,000) in value, and (ii) real property, and (iii) 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.

SECTION 2. DUTIES

A. 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 subsection B herewith; and

(iv) transfer or Dispose of such Property as promptly and practicably as possible in accordance with Section 3 below.

B. The Agency shall

(i) publish, not less frequently than annually, a report listing all real Property owned in fee title by 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 sold by the Agency during such period; and

(ii) 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 and the New York State Authorities Budget Office.

SECTION 3. TRANSFER OR DISPOSITION OF PROPERTY

A. Supervision and Direction. Except as otherwise provided herein, the duly appointed Contracting Officer shall have supervision and direction over the disposition and sale of Property of the Agency. The Agency shall have the right to Dispose of its Property for any valid corporate purpose.

B. Custody and Control. The custody and control of Agency Property, pending its disposition, and the Disposal of such Property, shall be performed by the Agency or by the Commissioner of General Services when so authorized under this section.

C. Method of Disposition. Unless otherwise permitted, the Agency shall Dispose of 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 and/or Contracting Officer deems proper. The Agency may execute such documents for the transfer of title or other interest in Property and take such other action as it deems necessary or proper to Dispose of such Property under the provisions of this section. Provided, however, no disposition of real Property, any interest in real Property, shall be made unless an appraisal of the value of such Property has been made by an independent appraiser and included in the record of the transaction and provided further, that no disposition of any other Property, which because of its unique nature or the unique circumstances of the proposed transaction is not readily valued by reference to an active market for similar Property, shall be made without a similar appraisal.

D. Sales by the Commissioner of General Services (the "Commissioner"). When the Agency shall have deemed that transfer of Property by the Commissioner will be advantageous to the State of New York, the Agency may enter into an agreement with the Commissioner of pursuant to which 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 such Commissioner.

E. Validity of Deed, Bill of Sale, Lease, or Other Instrument. A deed, bill of sale, lease, or other instrument executed by or on behalf of the Agency, purporting to transfer title or any other interest in Property of the Agency in accordance herewith shall be conclusive evidence of compliance with the provisions of these guidelines and all applicable law insofar as concerns

title or other interest of any bona fide grantee or transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to the closing.

F. Advertising for Bids; Disposal by Negotiation; 90 Day Notice, Below FMV Disposition.

(i) Publicly Advertise For Bids. Except as permitted by all applicable law, all disposals or contracts for Disposal of Property made or authorized by the Agency shall be made after publicly advertising for bids except as provided in subsection (ii) of this Section F.

(a) Whenever public advertising for bids is required under subsection (i) of this Section F:

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

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

(3) the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Agency, price and other factors considered; provided, that all bids may be rejected at the Agency's discretion.

(ii) Exemption from Publicly Advertising for Bids. Disposals and contracts for Disposal of Property may be negotiated or made by public auction without regard to subsection (i) of this Section F but subject to obtaining such competition as is feasible under the circumstances, if:

(a) the personal Property involved has qualities separate from the utilitarian purpose of such Property, such as artistic quality, antiquity, historical significance, rarity, or other quality of similar effect, that would tend to increase its value, or if the personal Property is to be sold in such quantity that, if it were Disposed of under subsection (i) of this Section F, 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 be obtained by negotiation;

(b) the fair market value of the Property does not exceed fifteen thousand dollars;

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

(d) 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;

(e) under those circumstances permitted by subsection (iv)(a)(1),(2) or (3) below; or

(f) such action is otherwise authorized by law.

(iii) 90 Day Notice.

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

(1) any personal Property which has an estimated fair market value in excess of fifteen thousand dollars;

(2) any real Property that has an estimated fair market value in excess of one hundred thousand dollars, except that any real Property Disposed of by lease or exchange shall only be subject to clauses (3) through (4) of this subparagraph;

(3) any real Property Disposed of by lease, if the estimated annual rent over the term of the lease is in excess of \$15,000; or

(4) 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.

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

(iv) Below FMV. Disposal of Property for less than Fair Market Value ("FMV").

(a) No assets owned, leased or otherwise in the control of the Agency may be sold, leased, or otherwise alienated for less than its FMV except if:

(1) Transferee is a government or public entity and terms of transfer require ownership and use to remain with the government or public entity; or

(2) Purpose of transfer is within purpose, mission or statute of the Agency; or

(3) Written notification to Governor, Speaker, and Temporary President. Such notification is subject to denial. Denial by Governor is in the form of a certification. Denial by legislature is in the form of a resolution. Denial must be made within 60 days of receiving notification during January through June. Provided no denial then Agency may effectuate transfer. If legislature receives the notification in July through December, then legislature may take 60 days from January 1 of the following year. However, a local may obtain local approval from the chief executive and legislature of the political subdivision in lieu of the notification to the Governor, Speaker and Temporary President provided the local Agency's enabling legislation provides for such approval and the Property was obtained by the Agency from the political subdivision.

(b) If below FMV transfer is proposed, the following information is required to be provided to the Agency's board and the public:

- (1) Description of Asset;
- (2) Appraisal of the FMV of the asset;
- (3) Description of purpose of transfer, the kind and amount of the benefit to the public resulting from the transfer such as jobs and wages created or preserved;
- (4) Value received compared to FMV;
- (5) Names of private parties to the transaction and value received;
- (6) Names of private parties that have made an offer, the value of offer, and purpose for which the asset would have been used.

(c) Board must make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer.

SECTION 3. GENERAL PROVISIONS

A. Exemption for Certain Agency Transactions. This Policy shall not be applicable to any agreements or arrangements involving the provision by the Agency of "financial assistance" as such term is defined in Section 854(14) of the New York State General Municipal Law)i.e. Property dispositions serving solely as a conduit for providing financial assistance).

B. The Guidelines are subject to modification and amendment at the discretion of the Agency board and shall be filed annually with the NYS Comptroller on or before the 31st of March. At the time of filing these guidelines with the NYS Comptroller, the Agency shall post such guidelines on the Agency's internet website, which shall be maintained on such website until the guidelines for the following year are posted.