

GUIDELINES

AND

PROCEDURES

FOR THE

DISPOSAL OF PERSONAL PROPERTY

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GUIDELINES AND PROCEDURES
FOR THE
DISPOSAL OF PERSONAL PROPERTY

I. **PURPOSE**

These Guidelines and Procedures for the Disposal of Personal Property (hereinafter “Guidelines”), which comply with the applicable provisions of Title 5-A, Article 9 of the Public Authorities Law, establish the procedures which detail the Authority’s policy and instructions regarding the use, award, monitoring and reporting of the disposal of personal property. In addition, the Guidelines designate a Contracting Officer who shall be responsible for the Authority’s compliance with, and enforcement of, the Guidelines.

II. **DEFINITIONS**

- A. “Contracting Officer” shall mean the officer or employee of a public authority who shall be appointed by resolution of the Authority’s Board of Trustees to be responsible for the disposition of personal property. The “Contracting Officer” is hereby designated to be the Vice President - Procurement & Real Estate, or a designee so stated in writing.
- B. “Dispose” or “disposal” shall mean transfer of title or any other beneficial interest in personal property in accordance with these Guidelines.

- C. "Property" shall mean personal property owned by the Authority, and any 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 the purposes of these Guidelines, personal property includes, but is not limited to, materials, tools, equipment, or vehicles which are not expected to be of any future use to the Authority, i.e., typically surplus or obsolete materials and supplies.
- D. "Fair Market Value" shall mean the estimated dollar amount that a willing buyer would pay to a willing seller for the material in an arms-length transaction in the appropriate marketplace. Fair Market Value may be determined by consulting industry-recognized sources, contacting original suppliers, depreciation analysis, and other methods, as may be approved by the Vice President – Procurement & Real Estate.

III. OBJECTIVE

The objective of these Guidelines is to identify those Authority personnel responsible for authorizing the disposal of Property owned by the Authority and to insure that the Authority receives fair and reasonable value for such Property. The transfer or sale of Property shall be accounted for in accordance with the Authority's Corporate Accounting Policy No. CAP 4.3 dated 6/30/05, Revision 2 -- "Accounting for Materials and Supplies."

IV. TRANSACTIONS NOT COVERED

These Guidelines shall not apply to any of the following transactions:

1. Disposal of real property interests
2. Exchange of Property with other utilities or power plant owners, where such owners will provide an identical or in-kind replacement.
3. Disposal of rubbish or scrap materials, contracts for which are subject to the Authority's Guidelines for Procurement Contracts.
4. Transfer/re-deployment of Property from one Authority facility to another Authority facility.

V. DESIGNATION OF PROPERTY DISPOSAL COORDINATORS AND DISPOSAL OPTIONS

- A. The Contracting Officer (hereinafter referred to as the Vice President – Procurement & Real Estate) shall be responsible for the Authority's compliance with, and enforcement of, the Guidelines.
- B. The overall disposal coordinator of all Property at the Authority's operating facilities shall be the Facilities Materials Superintendent ("FMS") currently located at the Clark Energy Center. The FMS reports organizationally directly to the Vice President – Procurement & Real Estate.
- C. The Purchasing and Warehouse Manager from each Operating Facility will function as the local Property Disposal Coordinator for his or her facility or location ("Facility PDC"). The Facility PDC reports to the FMS.

- D. The Vice-President - Procurement & Real Estate shall designate an individual from the White Plains office's Procurement Division to function as the Property Disposal Coordinator for the White Plains, Albany and New York corporate offices ("WPO PDC"). The WPO PDC will confer and interface with the Vice President – Procurement & Real Estate.
- E. For the purposes of these Guidelines, disposal options include, but are not limited to: sale (directly to the Buyer, through a third party or on a centralized basis); return to the original equipment manufacturer or to the source; trade-ins; or disposal through the New York State Office of General Services ("OGS"). Use of the internet, in conjunction with the foregoing options, may also be utilized, as applicable. The Authority's Environmental Division shall be consulted, on a case-by-case basis, regarding disposal of those items that may be potentially considered to be hazardous waste.
- F. The Facility PDC shall confer with the FMS to determine if a "centralized" sale of Property, as outlined in Section VII, is being planned. If agreed, the Facility PDC shall arrange for shipment of the property to be sold from the facility to the location of the sale. If no sale is being planned, the Facility PDC shall proceed in accordance with the "decentralized" procedures, as outlined in Section VIII.

VI. BIDDING PROCEDURES

The responsible PDC shall cause the solicitation of proposals from at least 5 bidders, whenever practicable, for the purchase of the Property to be sold, whatever its estimated Fair Market Value, and shall maintain records of his or her solicitations.

Attachment "A" is appended hereto and shall be utilized by the PDC for soliciting proposals.

A. FOR PERSONAL PROPERTY VALUED AT \$15,000 OR LESS

Telephone notices and/or mailings may be used where the estimated Fair Market Value of the Property to be disposed of is equal to or less than \$15,000. All bids must be submitted in writing on the forms and in the manner prescribed by this procedure and by the date and time (the "Bid Due Date") included in the solicitation.

B. FOR PERSONAL PROPERTY IN EXCESS OF \$15,000 IN VALUE

1. All disposals or contracts of Authority Property to be disposed of in excess of \$15,000 in value shall be made after publicly advertising for bids except as provided in paragraph 3 below.
2. Whenever public advertising for bids is required under paragraph 1:
 - a. the advertisement for bids (Attachment "B" is appended hereto and shall be utilized for all such advertisements) 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. Typically, this will include advertisements in local newspapers at the facility where the sale is taking place, and also in trade journals and regional or nationwide publications, if the market for such sale is a regional or nationwide one;

- b. all bids must be submitted in writing on the forms and in the manner prescribed by this procedure and by the Bid Due Date included in the solicitation;
 - c. all bids shall be publicly disclosed, by posting on the Authority's website accessible to the public, at the time and place stated in the advertisement; and
 - d. 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 Authority, price and other factors considered; provided, that all bids may be rejected when it is in the public interest to do so.
3. Disposals and contracts for disposal of property may be negotiated or made by public auction without regard to paragraphs 1 and 2 above, but subject to obtaining such competition as is feasible under the circumstances, if:
- a. the Property involved is of a nature and quantity which, if disposed of under paragraphs 1 and 2 of this subdivision, 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. bid prices after advertising therefore are not reasonable, either as to all or some part of the Property, or have not been independently arrived in open competition;

- c. 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;
 - d. the disposal is for an amount less than the estimated Fair Market Value of the Property, the terms of such disposal are obtained by public auction or negotiation, the disposal of the Property is intended to further the public health, safety or welfare or an economic development interest of the state or a political subdivision (to include but not be 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 Authority's enabling legislation permits), and the purpose and the terms of such disposal are documented in writing and approved by Authority's Board of Trustees; or
 - e. such action is otherwise authorized by law.
4. An explanatory statement shall be prepared of the circumstances of each disposal by negotiation of any Property which has an estimated Fair Market Value in excess of fifteen thousand dollars. In addition, an explanatory statement shall be prepared of the circumstances of each disposal by negotiation of any property disposed of by exchange, regardless of value. Each such statement shall be transmitted to the Commissioner of General Services, the State Legislature, the State

Comptroller, and the Division of the Budget, not less than ninety days in advance of such disposal, and a copy thereof shall be preserved in the Authority's files.

C. **DISPOSAL OPTIONS IF NO BIDS ARE RECEIVED**

If bidding pursuant to paragraphs VI.A. and VI.B. does not result in the submittal of proposals to purchase the Property from the Authority, or if all such proposals received are less than the Authority's Fair Market Value estimate, the appropriate PDC shall confer with the FMS and the Vice President – Procurement & Real Estate to decide (i) if re-bidding is feasible; (ii) if shipment to a third-party contractor would result in higher-priced proposals; (iii) if disposal by other methods would be appropriate; and/or (iv) if the Fair Market Value estimate requires review and possible adjustment.

VII. **CENTRALIZED DISPOSAL**

A. Subject to the approval of the Vice President - Procurement & Real Estate, Property may be disposed of using any of the following methods:

1. Shipment of the material to a third-party vendor(s), selected by competitive bidding, which, pursuant to these Guidelines, will market the material for sale or dispose of such material in accordance with environmental and any other Authority requirements.
2. Consolidation of such Property at one of the Authority's facilities or an offsite warehouse for the purpose of conducting a sale to be managed by Authority staff, possibly with the assistance of an outside contractor.

3. Participation in auctions at other utility company facilities (e.g., Con Edison, National Grid (formerly Niagara Mohawk), NYSEG).

VIII. DECENTRALIZED DISPOSAL

- A. The Regional Manager, Project Manager, or head of a Department or Division requiring disposal of Property which he or she believes to be surplus, shall submit to the appropriate PDC a written description of the material, with the original price (if known), and estimate of the material's Fair Market Value (if available). If practical, a photograph of the material or equipment in question should be provided. Such submission shall be made to the PDC designated at the location at which the Property is located, the responsible PDC.
- B. If the responsible PDC, in conference with the FMS, determines that other Authority facilities may have an interest in the material, a notice shall be sent to the other Authority facilities advising them of its availability and requesting a response within a specified time frame. A record of the notice shall be maintained by the responsible PDC. In the event that the PDC and FMS conclude that there would be no interest in such material at other Authority facilities, a written explanation should be prepared by the PDC to that effect and maintained in the file for that transaction.
- C. If no response to the notice is received, the responsible PDC shall arrange for the solicitation of bids for the purchase of such Property in accordance with the procedures described in Section VI.

IX. PARTIES PROHIBITED FROM BIDDING

- A. All current and former employees of the Authority and relatives of such employees or third parties acting on behalf of such employees shall not be eligible to bid for the purchase of such Property and are prohibited from subsequently acquiring it in any manner. Each bidder will be required, as part of his or her bid, to certify, by signing Attachment "B", that he or she is not a current or former employee of the Authority, is not related to any current or former employee of the Authority and is not acting on behalf of a current or former employee of the Authority or a relative of any such employee. No bid will be accepted unless accompanied by such certification.
- B. The term "related to" as used in paragraph A above means the relationship of spouse, child, parent, sister, brother, grandparent, grandchild, aunt, uncle, cousin, niece, nephew, stepchild, stepparent, stepsister, stepbrother, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law or son-in-law.

X. EVALUATION OF PROPOSALS; AWARD OF CONTRACT

- A. Following the receipt of proposals for the property, the responsible PDC shall evaluate the proposals submitted and determine whether the highest of such proposals is reasonable, given the estimate of the Fair Market Value of the Property.
- B. If the responsible PDC determines that the highest of such bids is reasonable, the responsible PDC shall recommend to the Responsible Officer(s), as hereinafter

defined in Section IX, that such bid be accepted, and upon the written approval of the Responsible Officer(s), the sale shall be made to the person offering such proposal. Appended as Attachment “C” is a Sales Agreement which must be executed, after obtaining all necessary approvals in accordance with Section XI “Authorization Levels”, by the responsible PDC, FMS or VP – Procurement & Real Estate and the successful bidder prior to completion of the transaction.

- C. If, either, (a) the responsible PDC determines that the highest of such bids is not reasonable or (b) the Responsible Officer(s) decline(s) to authorize the sale, the Property shall, except as provided in paragraph D below, be retained for future disposal in accordance with these procedures. Factors to be considered in determining whether a bid is reasonable include, but are not limited to: adequacy of the estimate of the Fair Market Value; anticipated improved future market conditions, potential for other means of disposal or redeployment, financial viability of the bidder, and condition of Property.
- D. Notwithstanding any determination by the responsible PDC, the Responsible Officer(s), with the review and approval of the Vice President - Procurement & Real Estate, may direct the sale of the Property to the person or firm submitting the highest bid.

XI. AUTHORIZATION LEVELS

- A. For the purposes of these procedures, the Responsible Officer(s) shall in each case review the appropriateness of the fair market value estimate and the recommendation for contract award for disposal of the Property. Responsible Officers are designated as follows:

1. The Trustees, if either the original price or the Fair Market Value of the Property is greater than \$1,000,000; or
2. The President or the Chief Operating Officer, if either the original price or the Fair Market Value of the Property is greater than \$500,000 but less than \$1,000,000; or
3. The Executive Vice President – Corporate Services & Administration, if either the original price or the Fair Market Value of the Property is greater than \$250,000 but not greater than \$500,000; or
4. The Vice President - Procurement & Real Estate, if either the original price or the Fair Market Value of the Property is greater than \$50,000 but not greater than \$250,000; or
5. The FMS, if either the original price or the Fair Market Value of the Property is greater than \$5,000 but not greater than \$50,000; or
6. With the prior written approval of FMS, the Purchasing & Warehouse Manager, if the original price or the Fair Market Value of the Property is \$5,000 or less.

XII. OTHER METHODS FOR DISPOSAL OF PERSONAL PROPERTY

A. Trade-Ins

This procedure is not intended to restrict the trade-in of equipment (i.e., computer or office equipment), materials, and/or vehicles for replacements from dealers furnishing replacement equipment, materials, and/or vehicles, where reasonable value can be obtained for the trade-in. Any such proposed trade-in

must be included as part of the solicitation of bids for the replacement equipment, materials and/or vehicles and the trade-in value must be stated in the proposals from solicited bidders. No trade-in shall be made unless the value of the trade-in is equal to or exceeds the Fair Market Value as defined in Section VIII.A.1 of these Guidelines.

B. Return to the Original Equipment Manufacturer (“OEM”) or to the Source

Return of materials to the OEM or the source is permissible provided that the Authority receives full value for any materials equal to the price paid by the Authority. In the event a re-stocking fee is charged by the OEM or the source, the FMS and Vice President – Procurement & Real Estate shall be consulted to determine if such a re-stocking fee is reasonable and if there are other opportunities for sale of such material. The Vice President – Procurement & Real Estate must approve all returns to the OEM or the source when a re-stocking fee is charged, subject to the Authorization Levels delineated in Section XI.

C. Disposal through the New York State Office of General Services (OGS)

When it is determined to be advantageous to the Authority, the Authority may enter into an agreement with OGS for OGS to dispose of Authority-owned Property, including but not limited to use of on-line disposal methods by OGS. In addition, in accordance with New York State law, surplus computers and accessories (monitors and keyboards) and surplus office furniture and other

equipment may, with the approval of the Vice President - Procurement & Real Estate, may be transferred to OGS for disposition, and in the case of computers and accessories to school districts located near Authority operating and headquarters' facilities, or in the case of office furniture and office equipment, to other state agencies. Disposal of these items in this manner represents the best value to New York State in lieu of attempted re-sale of such materials.

XIII. METHODS OF PAYMENT

The proceeds from the sale of Property in the form of cash or a certified check made payable to the Authority shall be forwarded to the Authority's Treasurer by the Facility PDCs and to the Authority's Controller's Office by the FMS and WPO PDC. In certain cases involving a transfer of Property to other state agencies or authorities, the performance of documented services to the Authority equal to or greater in value to the Fair Market Value of the Property, will serve as payment for such Property. The authorization limits of Section XI shall apply to such transactions.

XIV. REPORTING REQUIREMENTS

A. The Authority shall publish, not less frequently than annually, a report of all Property disposed of during the reporting period, including the full description, price (if any) received and the name of the purchaser for all such Property disposed of by the Authority during such period. Such report shall be prepared

in conjunction with the report required by the Authority's "Guidelines and Procedures for the Disposal of Real Property."

- B. Such report, as approved by the Trustees, shall be submitted to the Comptroller, the Director of the Budget, the Commissioner of General Services and the Legislature.
- C. These Guidelines, as approved by the Trustees, shall be reviewed and approved annually by the Authority's Board of Trustees. On or before the thirty-first day of March in each year, the Authority shall file with the Comptroller a copy of the Guidelines most recently reviewed and approved by the Trustees, including the name of the Authority's designated Contracting Officer. At the time of filing such Guidelines with the Comptroller, the Authority shall also post such Guidelines on the Authority's internet website and maintain such Guidelines on the website.
- D. For disposal by negotiation or exchange (except when an identical or in-kind replacement is provided to the Authority) an explanatory statement shall be prepared and submitted to the parties described more fully in Paragraph VI.B.4.