

GUIDELINES

AND

PROCEDURES

FOR THE

DISPOSAL OF REAL PROPERTY

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GUIDELINES AND PROCEDURES FOR THE DISPOSAL OF REAL PROPERTY

I. PURPOSE

The purpose of these Guidelines and Procedures for the Disposal of Real Property (“Guidelines”), which comply with the applicable provisions of Title 5-A, Article 9 of the Public Authorities Law, is to establish the procedures which detail the Authority’s operative policy and instructions regarding the disposal of real property and designate a Contracting Officer who shall be responsible for the Authority’s compliance with, and enforcement of, such Guidelines.

II. DEFINITIONS

1. “Contracting Officer” shall mean the officer or employee of the Authority who shall be appointed by resolution of the Authority trustees to be responsible for the disposition of real property. The “Contracting Officer” is hereby designated to be the Vice President - Procurement & Real Estate, or a designee so stated in writing.
2. For the purposes of these Guidelines, “dispose” or “disposal” shall mean transfer of title or any other beneficial interest in real property in accordance with these Guidelines.
3. For the purposes of these Guidelines, “real property” shall mean real property, including land, owned by the Authority, and any other interest in such real property, to the extent that

such interest may be conveyed to another person or entity for any purpose, excluding an interest securing a loan or other financial obligation of another party.

III. CONTROLLING LEGISLATION

The Public Authority Accountability Act of 2005 (PAAA) requires the Authority to establish policy guidelines to accomplish the following:

- 3.1 Maintain inventory controls and accountability systems for all real property under the Authority's control.
- 3.2 Periodically inventory Authority real property to determine which real property shall be disposed of.
- 3.3 Dispose of Authority real property interests in accordance with the PAAA.
- 3.4 Prepare annual reports of real property disposal transactions.

IV. DUTIES OF THE DIRECTOR OF REAL ESTATE

- 4.1 The Director of Real Estate shall maintain adequate inventory controls and accountability systems for all real property under the Authority's control.
- 4.2 The Director of Real Estate shall annually inventory Authority real property to determine which Authority real property shall be disposed of and shall prepare a report identifying such real property for disposal.
- 4.4 The Directory of Real Estate shall produce for publishing written reports of such real property as set forth in Section VI of these Guidelines.

- 4.5 The Director of Real Estate shall arrange for the transfer or disposal of any real property identified for disposal by the Authority in accordance with these Guidelines and the Authority's Expenditure Authorization procedures and as soon as reasonably practical under the circumstances.

V. DISPOSITION OF REAL PROPERTY

- 5.1 The Authority may dispose of real property for not less than the fair market value of such real property by sale, exchange, or transfer, for cash, credit or other property, without warranty, and upon such other terms and conditions as the Contracting Officer deems proper under the provisions of the PAAA and as implemented by these Guidelines. Fair market value of the Authority real property subject to disposal shall be established by an independent appraiser. Such appraisal report shall be included in the record of the real property disposal transaction.
- 5.2 Except as set forth in Section 5.3 of the Guidelines, any disposal of real property with a fair market value in excess of fifteen thousand dollars (\$15,000.00) shall only be made after publicly advertising for bids in accordance with the following:
- (i) 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 real property;
 - (ii) all bids shall be publicly disclosed at the time and place stated in the advertisement; and
 - (iii) 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.

5.3 The disposal of Authority real property may be negotiated or made by public auction without regard to Section 5.2 but subject to obtaining such competition as is feasible under the circumstances, if:

- (i) the fair market value of the real property does not exceed fifteen thousand dollars (\$15,000.00);
- (ii) bid prices after advertising therefore are not reasonable, either as to all or some part of the real property, or have not been independently arrived at in open competition;
- (iii) the disposal will be to the state or any political subdivision, and the estimated fair market value of the real property and other satisfactory terms of disposal are obtained by negotiation;
- (iv) the disposal is for an amount less than the estimated fair market value of the real property, the terms of such disposal are obtained by public auction or negotiation, the disposal of the real 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 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 the Authority's trustees;
or
- (v) such action is otherwise authorized by law.

5.4 An explanatory statement detailing the disposal by negotiation of Authority real property subject to the PAAA as set forth in Section 5.3 shall be made for any disposal of:

- (i) Real property with a fair market value in excess of one hundred thousand dollars (\$100,000.00) except that real property disposed of by lease or exchange shall only be subject to (ii) through (iv) of this Section 5.4;

- (ii) Real property leased for a term of five years or less, if the estimated fair annual rent exceeds one hundred thousand dollars (\$100,000.00) for any of such years;
- (iii) Real property leased for a term of more than five years if total estimated rent over term is in excess of one hundred thousand dollars (\$100,000.00); and
- (iv) Any real property or real and related personal property disposed of by exchange, regardless of value, or any property any part of the consideration is for real property:

5.5 Each explanatory statement prepared in accordance with Section 5.4 above shall be transmitted to the State Comptroller, the Director of the Budget, the State Commissioner of General Services, and the State Legislature not less than 90 days in advance of such disposal, and a copy shall be kept by the Authority.

5.6 In the Authority's discretion, when it shall be deemed advantageous to the Authority and the State, the Authority may enter into an agreement with the Office of the Commissioner of General Services (OGS) under which such OGS may dispose of the Authority's real property under terms and conditions agreed to by the Authority and the OGS. In disposing of any such real property of the Authority, the OGS shall be bound by the relevant provisions of the PAAA.

5.7 The Guidelines shall not apply to any transfers of jurisdiction by the Authority pursuant to Public Lands Law §3(4).

5.8 The Director of Real Estate shall provide all relevant documentation to the Environmental Division for the purposes of determining, if applicable, whether the disposal of real property is in compliance with the State Environmental Quality Review Act, and for whether it adheres to the ASTM's guidelines for Environmental Site Assessments, if applicable.

VI. ANNUAL REPORTS BY AUTHORITY

6.1 The Director of Real Estate shall publish the following two separate reports in accordance with these Guidelines:

(i) Pursuant to Section 2800 of the Public Authorities Law, the Director of Real Estate shall furnish a report for incorporation in the Authority's annual report which is distributed to the Governor, the Senate Finance Committee, the Assembly Ways and Means Committee, and the State Controller. This report shall include: (a) a listing of all Authority real property having an estimated fair market value greater than fifteen thousand dollars (\$15,000.00) that the Authority intends to dispose of; (b) a listing of all real property having an estimated fair market value greater than fifteen thousand dollars (\$15,000.00) intended for disposal but still owned by the Authority at the end of the fiscal reporting period; and (c) a listing of all real property having an estimated fair market value greater than fifteen thousand dollars (\$15,000.00) disposed of during the fiscal reporting period including the name of the purchaser of the real property and the price paid for the real property.

(ii) Pursuant to Public Authorities Law § 2896(3)(a), the Director of Real Estate shall prepare for distribution to the State comptroller, the Director of the Budget, the State Commissioner of General Services, and the State Legislature, an annual report which shall consist of a list and full description of all real property disposed of during such the fiscal reporting period. This annual report shall include the price received by the Authority and the name of the purchaser of the real property.

VII. APPROVAL OF GUIDELINES BY THE AUTHORITY'S BOARD

These guidelines have been approved by the Authority's trustees at its meetings on .

7.1 The guidelines shall be annually reviewed and approved by the Authority's trustees. On or before the thirty-first day of March in each year, the Authority shall file with the State comptroller a copy of the most recently reviewed and approved Guidelines, including the name of the Authority's designated Contracting Officer. At the time of filing such guidelines with the State comptroller, the Authority shall also post such guidelines on its internet website.

VIII. REFERENCES

8.1 Chapter 766 of the Laws of 2005.

8.2 Public Lands Law §3 (4).