

CORTLAND COUNTY INDUSTRIAL DEVELOPMENT AGENCY DISPOSITION OF REAL AND PERSONAL PROPERTY GUIDELINES

SECTION 1. DEFINITIONS

- A. "Contracting Officer" shall mean the person responsible for the disposition of property of the Cortland County Industrial Development Agency (the "Agency") and such person shall be the Executive Director of the Agency.
- 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 New York Public Authorities Law.
- C. "Property" shall mean personal property in excess of five thousand dollars (\$5,000) in value, real property regardless of value and any other interest in 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:
 - 1. maintain adequate inventory controls and accountability systems for all property owned by the Agency and under its control;
 - 2. periodically inventory such property to determine which property may be disposed of;
 - 3. produce a written report of such in accordance with subsection B herewith; and
 - 4. transfer or dispose of such property as promptly as possible in accordance with this Policy.
- B. The Agency shall:
 - 1. publish, not less frequently than annually, a report listing all real property owned in fee 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

2. shall deliver copies of such report to all agencies required by law including 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, the Director of the Authority Budget Office and the New York State Legislature (via distribution to the majority leader of the senate and the speaker of the assembly).

SECTION 3. TRANSFER OR DISPOSITION OF PROPERTY

- A. Supervision and Direction. Except as otherwise provided herein, the 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 purpose.
- B. Custody and Control. The custody and control of Agency property, pending its disposition, shall be performed by the Contracting Officer.
- 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 or the Contracting Officer deems proper. The Contracting Officer may execute such documents for the transfer of title or other interest in property and take such other action as is necessary or proper to dispose of such property under the provisions of this section. 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 record of the transaction.
- D. 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 transfer of title of such property.
- E. Bids for Disposal; Advertising; Procedure; Disposal by Negotiation; Explanatory Statement.
 1. Except as permitted by 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 (3) of this Subsection E.

2. Whenever public advertising for bids is required under subsection (1) of this Subsection E:
 - a. 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;
 - b. all bids shall be publicly disclosed at the time and place stated in the advertisement; and
 - c. 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.
3. Disposals and contracts for disposal of property may be negotiated or made by public auction without regard to subsections (1) and (2) of this Subsection E 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 the personal property is to be sold in such quantity that, if it were disposed under subsections (1) and (2) of this Subsection E, 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; or
 - e. the disposal is made pursuant to Subsection E(4) below.

4. Disposal of Property for Less than Fair Market Value. No asset owned, leased or otherwise in the control of the Agency may be sold, leased, or otherwise alienated for less than its fair market value except if:
 - a. the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity; or
 - b. the purpose of the transfer is within the purpose, mission or governing statute of the Agency; or
 - c. such action is otherwise authorized by law.
5. In the event a below fair market value asset transfer is proposed, the following information must be provided to the Members of the Agency and the public:
 - a. a full description of the asset;
 - b. an appraisal of the fair market value of the asset and any other information establishing the fair market value sought by the Agency;
 - c. a description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the asset is situated as are required by the transfer;
 - d. a statement of the value to be received compared to the fair market value;
 - e. the names of any private parties participating in the transfer, and if different than the statement required by subsection d of this Section, a statement of the value to the private party; and
 - f. the names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.
 - g. before approving the disposal of any property for less than fair market value, the members of the Agency shall consider the information described in this Section and 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.

6. An explanatory statement shall be prepared of the circumstances of each disposal by negotiation of:
 - a. any personal property which has an estimated fair market value in excess of fifteen thousand dollars;
 - b. 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 (c) and (d) of this subparagraph;
 - c. any real property disposed of by lease if the estimated annual rent over the term of the lease is in excess of fifteen thousand dollars;
 - d. 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.

Each such statement shall be transmitted to the persons or agencies entitled to receive copies of the report required under applicable law not less than ninety (90) days in advance of such disposal, and a copy thereof shall be preserved in the files of the Agency.

These guidelines are subject to modification and amendment at the discretion of the Agency and shall be filed annually with all local and state agencies as required under applicable law.