

NYS Bridge Authority  
Policy & Procedures Manual

CATEGORY: Administration

SUB-CATEGORY: Fixed Assets

TITLE: Guidelines and Procedures for the Disposal of Personal Property

**PURPOSE:** These guidelines establish the procedures which detail the Authority's policy and provide 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.

**BACKGROUND:** The Authority historically has maintained a procedure for the disposal of personal property through public auction. The Authority is establishing this set of guidelines to meet its statutory requirements governing the disposal of personal property as set forth in the Public Authorities Law.

**REFERENCES:** Public Authorities Law, Article 9, Title 5-A; Public Authorities Accountability Act of 2005.

**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 Commissioners to be responsible for the disposition of personal property. The "Contracting Officer" is hereby designated to be the Director of Administrative Services, or a designee so stated in writing.

Contracting Officer: Robert Russo II, Director, Administrative Services

B. 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 in excess of five-thousand dollars in value, 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 in 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 further use to the Authority, i.e., typically obsolete materials and supplies. Designation of such items for disposal is made in accordance with the Authority's policies and procedures for fixed asset review by the Contracting Officer and the Manager of Maintenance Programs.

D. Fair Market Value shall mean the estimated dollar amount that a willing buyer would pay to a willing seller in an arms-length transaction in the appropriate marketplace.

POLICY: In compliance with Article 9, Title 5-A of the Public Authorities Law, the Authority establishes these Guidelines for the proper disposal of personal property. It is also the Authority's policy to designate a Contracting Officer to ensure compliance and coordinate the disposal and reporting of such disposal of personal property in accordance with its Guidelines.

#### 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 State agencies or public entities as is permissible by law.
3. Disposal of rubbish or scrap materials as contracted by the Authority.

#### RESPONSIBILITIES AND PROCEDURES:

A. Disposal Options – For the purposes of these Guidelines, disposal options include, but are not limited to, sale to a buyer; return to the original equipment manufacturer or source; trade-ins; or disposal through the NYS Office of General Services (OGS). Use of the internet, in conjunction with the foregoing options, may also be utilized as applicable.

In most instances items to be disposed will be shipped to one central location from each facility for a planned sale.

#### B. Disposal Methods

Subject to section twenty-eight hundred ninety-six of Title 5-A, the Authority may dispose of property for not less than the fair market value of such property by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the contracting officer deems proper, and it 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. However, 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.

#### C. Bidding Procedures

1. All disposals or contracts for disposal of Authority property made or authorized by the contracting officer 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) of this section:
  - (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;

- (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 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) of this section but subject to obtaining such competition as is feasible under the circumstances, if:

(a) the personal 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) 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) 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 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), the purpose and the terms of such disposal are documented in writing and approved by resolution of the board of the Authority; or

(f) such action is otherwise authorized by law.

4. 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) 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 one hundred thousand dollars 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 one hundred thousand dollars; 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.

Each such statement shall be transmitted to the State Comptroller, Commissioner of General Services, Division of the Budget, and the State Legislature not less than ninety days in advance of such disposal, and a copy thereof shall be preserved in the files of the Authority.

#### D. Disposal Options If No Bids Are Received

If bidding 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 Contracting Officer shall confer with the Director of Revenue and Finance and the Executive Director to determine if (i) re-bidding is feasible; (ii) disposal by other methods would be appropriate; and/or (iii) if the Fair Market Value estimate requires review and possible adjustment.

#### E. Parties Prohibited From Bidding

All current 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.

#### F. Award Of Bids

1. Following the receipt of bids for the Property, the Contracting Officer together with the Manager of Maintenance Programs shall evaluate the bids submitted and determine whether the highest of such bids is reasonable, given the Fair Market Value of the Property.

2. If it is determined that the bid is reasonable, the Contracting Officer shall arrange for the sale to the person offering such bid.

3. If it is determined that the highest bid is not reasonable, the Property shall be retained for future disposal in accordance with these procedures.

#### G. Trade-Ins

This procedure is not intended to restrict the trade-in of equipment or vehicles from dealers furnishing replacement equipment 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. No trade-in shall be made unless the value of the trade-in is equal to or exceeds the Fair Market Value estimate.

#### H. Disposal Through NYS OGS

The Authority may enter into an agreement to dispose of Property through OGS if it is determined advantageous to do so. This disposal method may include use of on-line disposal methods by OGS. OGS may also be used to facilitate disposition to other State agencies. Disposal of items in this manner represents the best value to New York State in lieu of attempted re-sale of such materials.

### I. Third Party or Auction Services

Whenever disposal of Property is contracted through third-party or auctioneer services as permitted by these Guidelines, vendor selection will be made in accordance with Authority policies and procedures for personal service contracts.

### J. Forms of Payment

The proceeds from the sale of Property may be made payable to the Authority in the form of cash or certified check. Transfers of equipment to other state agencies or authorities may be handled as negotiated between the Authority and those state entities.

### K. Reporting Requirements

1. The Authority shall publish, not less frequently than annually, a report listing all real property of the Authority. 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 Authority and the name of the purchaser.

2. Such report as approved by the Board of Commissioners shall be delivered to the Comptroller, Director of the Budget, Commissioner of General Services and the State Legislature.

3. These Guidelines shall be reviewed and approved annually by the Authority Board. On or before the thirty-first day of March in each year, the Authority shall file with the Comptroller a copy of these Guidelines as reviewed and approved, including the name of the Contracting Officer as appointed by the Board. At the time of such filing of these Guidelines with the Comptroller, the Authority shall also post such Guidelines on the Authority's internet website and maintain such Guidelines on the website.