

**COUNTY OF MONROE INDUSTRIAL DEVELOPMENT AGENCY**  
**DISPOSITION OF REAL PROPERTY GUIDELINES**

The County of Monroe Industrial Development Agency constitutes a public benefit corporation of the State of New York. The Agency fulfills a public mission and must comply with the provisions of applicable laws, including the New York Public Authorities Law. Because the Agency's assets are held for the public benefit, the Agency's members have a fiduciary duty to protect them. The following policies set forth internal controls for tracking, inventory and disposal of the Agency's fixed assets and real property.

**1. Purpose**

The Agency seeks to establish a policy providing for orderly and consistent tracking and disposal of its assets, including real property, to insure that such assets are properly tracked, sold, transferred or disposed of and that the Agency realizes the best value for those assets and to comply with the requirements of the Public Authorities Law. This policy shall be reviewed and approved annually by the Agency and a copy of this policy most recently adopted shall be filed with the Comptroller.

**2. Designation of Contracting Officer**

The Agency hereby designates Judy Seil Executive Director, as the Agency's Contracting Officer. The Contracting Officer shall be responsible for compliance with and implementation of this policy. The Contracting Officer shall cause this policy to be made available to the general public as requested and to be posted on the Agency's website.

**3. Scope**

This policy applies to disposal of all personal property and real property. If the property has a Fair Market Value at the time of disposal of five thousand dollars (\$5,000) or more, said disposal shall be approved by resolution of the Agency. If the Fair Market Value at the time of disposal is less than five thousand dollars (\$5,000), the contracting officer shall authorize the disposal and report said disposal to the Agency within sixty (60) days of said disposal.

**4. Tracking of Assets**

The Contracting Officer shall assign an asset number to each fixed asset and record a full description of the asset and the location to which the asset has been assigned. The number will allow the Agency to track each asset's deployment, redeployment and disposal.

**5. Periodic Inventory of Assets**

A physical inventory of all fixed assets shall be performed by the Contracting Officer no less frequently than once every three years. As part of each physical inventory the Contracting Officer shall identify assets that are no longer in use or should be disposed of or retired.

**6. Identifying Assets for Disposal**

Those assets that are no longer required, no longer functional and/or are no longer serving the purpose for which they were acquired shall be identified for disposal by the Contracting Officer.

**7. Classifying Assets**

Once assets have been identified for disposal, the Contracting Officer shall classify the assets into one of the following three categories:

- a. Waste. This category includes materials or items that have no functional value or known intrinsic value. These assets shall be disposed of as the Contracting Officer may determine in a safe and appropriate manner.
- b. Scrap. This category includes materials or items that have no functional value, but retain an intrinsic value due to the material out of which they are made. These assets may be disposed of as the Contracting Officer may determine obtaining the best value on behalf of the Agency.
- c. Surplus. This category includes materials or items that retain functional value and may or may not have an intrinsic value. These assets may be disposed of by the Contracting Officer and in accordance with this policy.

**8. Disposal of Surplus Assets**

The Agency may dispose of property for not less than fair market value by sale, exchange, transfer for cash, credit or other property upon such terms as the Contracting Officer deems proper. Any disposal of real property shall require an appraisal by an independent appraiser to determine fair market value. 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.

**9. Disposal of Surplus Assets Where Fair Market Value is Under \$5,000**

Surplus assets with a fair market value of under \$5,000 may be sold through participation in the County of Monroe’s public notice and auction process, use of any other public notice procedure, placement of ads in publications and general circulation or electronic classified ads or auction sites, or by negotiation. It is the responsibility of the Contracting Officer to determine the best method of disposal to achieve the greatest return for the Agency.

If the surplus assets offered for sale are not sold within a reasonable time (60 days) the Contracting Officer may determine to donate such items to a Governmental or not for profit organization or make any other disposition of the property.

**10. Disposal of Surplus Assets Where Fair Market Value is \$5,000 or Greater and for Disposal of Real Property**

a. Advertised Bid

All disposal of surplus property with a fair market value \$5,000 or greater shall be made after public advertising for bids for the purchase of the Agency property. The Contracting Officer shall order the advertising for bids in such a manner and in such publications as the Contracting Officer deems reasonably necessary to permit full and fair competition for the property consistent with the fair market value and nature of the property. All advertisements and announcements soliciting bids shall state the place and time at which the content of all bids received for the property advertised shall be publicly disclosed.

b. Award of Property Subject to Bid

The Contracting Officer shall evaluate the bids and select the bid most advantageous to the Agency based upon (a) conformance with the invitation for bids, (b) the terms, including but not limited to the price offered, and (c) any other factors that warrant consideration.

Notwithstanding the foregoing, the Agency may reject as inadequate all bids received in response to a particular solicitation for bids if the Contracting Officer deems that it is in the best interest of the Agency to reject all bids.

c. Notification of Successful Bid

The Agency shall notify the successful bidder in writing of the Agency's acceptance of the bid. This notice shall contain a description of the property, the amount of the successful bid and any other material items of the bid. The bidder shall be required to make payment to the Agency Treasurer in a form and on terms acceptable to the Agency before taking possession of the property. The Agency shall gather the following information regarding any successful bidder: name, address, phone number. The Agency shall provide to the successful bidder a deed, bill of sale, lease or other appropriate instrument adequate to transfer to the successful bidder the interest of the Agency in the property and the Contracting Officer is authorized to execute said documents on behalf of the Agency.

**11. Disposal of Property by Negotiation**

The Agency may dispose of property through negotiation or by public auction without regard to the above described procedures but subject to obtain such competition as is feasible if the Contracting Officer determines that any of the following conditions exist:

- a. introduction into the market of the personal property to be disposed of would adversely affect the state or local market for that kind of property, due to the property's artistic qualities, antiquity, historical significance, rarity, or other quality (separate from the properties utilitarian purpose close) and the estimated fair market price and other terms for the sale of the personal property can be obtained through negotiation;
- b. prices for the property that were obtained by advertised bid were not reasonable or the bid process did not generate open competition;
- c. disposal of the property is to the state or any political subdivision and fair market value can be obtained by negotiation;
- d. the property is being disposed of for less than fair market value, under circumstances set forth in Paragraph 13 of this policy;
- e. the fair market value of the property does not exceed \$15,000.
- f. such action is otherwise authorized by law.

**12. Documentation of Disposal by Negotiation**

The Contracting Officer shall cause to be prepared an explanation of the circumstances of the disposal when property is disposed of through the negotiation process described in Section 11, and any of the following are true;

- a. personal property disposed of has an estimated fair market value in excess of fifteen thousand dollars (\$15,000);
- b. real property sold has an appraised value in excess of one hundred thousand dollars (\$100,000.00);
- c. real property disposed of by lease has an estimated annual rent over the term of the lease in excess of fifteen thousand dollars (\$15,000.00).
- d. any real property and related personal property has been disposed of by exchange regardless of value;
- e. any part of the consideration for the property disposed of consists of real property.

Each explanation shall be transmitted to the Controller, Director of the Budget, the Commissioner of General Services, and the legislature, ninety (90) days in advance of such disposal.

**13. Disposal of Property for Less than Fair Market Value**

- a. The Agency may sell, lease or otherwise alienate an asset owned, leased or otherwise in the Agency's control for less than fair market value only if the Contracting Officer determines that any of the following conditions exist:
  - i. 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;
  - ii. the purpose of the transfer is within the purpose, mission or governing statute of the Agency: or
  - iii. the Agency seeks to transfer the asset to a non-governmental entity and the disposal is not consistent with the Agency's mission, purpose or governing statutes, and the Agency either:

- (a) provides written notification to the Governor, the Speaker of the Assembly, and the temporary President of the Senate, and all such recipients fail to deny the proposed transfer within the applicable time period as set forth in Section 2897 of the Public Authorities Law; or
- (b) the transfer is the property obtained by the Agency from a political subdivision where the Agency resides and is approved in accordance with Section 2897(7)(iii) of the Public Authorities Law.

b. For each proposed transfer of an asset below fair market value, the Contracting Officer shall provide the following information to the members of the Agency (the “Members”) and to the public:

- i. A full description of the asset:
- ii. An appraisal of the fair market value of the asset and any other information establishing the fair market value requested by the Members:
- iii. A description of the purpose of the proposed transfer and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including, without limitation:
  - (a) the kind, number, location, wages or salaries of jobs created or preserved that are required by the transfer; and
  - (b) the benefits, if any, to the communities in which the asset is situated that are required by the transfer:
- iv. a statement of the value to be received compared to the fair market value;
- v. the names of other private parties participating in the transfer and a statement of the value to the private party; and
- vi. 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.

c. The members shall consider the foregoing information before approving the disposal of any property for less than fair market value. The Members shall also make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose.

#### **14. Yearly Property Report**

Each year the Contracting Officer shall publish a report listing all real property of the Agency, all real and personal property disposed of by the Agency during the previous twelve-month period. The report shall contain a full description of each item of property disposed of, the price received by the Agency, and the name of the individual (s) or entity that purchased the property.

The Contracting Officer shall cause the report to be delivered to the Comptroller, Director of the Budget, the Commissioner of General Services, and the New York State Legislature c/o the Speaker of the House and the Senate Majority Leader.

The Contracting Officer shall cause the report to be made available to the public.

Approved and adopted this 20<sup>th</sup> day of June 2006.

Approved and adopted this 20<sup>th</sup> day of March 2008.

Approved and adopted this 16<sup>th</sup> day of April 2009.

Amended, Approved and adopted this 16<sup>th</sup> day of March 2010.