

(c) review and approve these guidelines annually and file with the Comptroller a copy of the most recently reviewed and approved guidelines by March 31 of each year.

### **ARTICLE 3 DISPOSITION OF PROPERTY**

Section 3.1 Supervision and Direction. Except as otherwise provided in this section, the Contracting Officer shall have supervision and direction over the disposition of property of the Agency. The Agency shall have the right to dispose of its property for any valid corporate purpose.

Section 3.2 Custody and Control. The custody and control of the property of the Agency, pending its disposition, and the disposal of such property, shall be performed by the Agency or by the Commissioner of General Services when so authorized under this section.

Section 3.3 Method of Disposition. Subject to Section 2896 of the Public Authorities Law, the Agency may dispose of its 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. Provided, however, that 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.

Section 3.4 Sales by the Commissioner of General Services. When it shall be deemed advantageous to the State of New York, the Agency may enter into an agreement with the Commissioner of General Services where under such Commissioner may dispose of property of the Agency under terms and conditions agreed to by the Agency and the Commissioner of General Services. In disposing of any such property of the Agency, the Commissioner of General Services shall be bound by the terms of this section and references to the Contracting Officer shall be deemed to refer to such Commissioner.

Section 3.5 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 under these Guidelines shall be conclusive evidence of compliance with the provisions hereof 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 the closing.

Section 3.6 Bids for Disposal; Advertising; Procedure; Disposal by Negotiation; Explanatory Statement.

(a) All disposals or contracts for disposal of property of the Agency made or authorized by the Contracting Officer shall be made after publicly advertising for bids except as provided in Section 3.6(c).

(b) Whenever public advertising for bids is required under Section 3.6(a):

(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 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 state, price and other factors considered; provided, that all bids may be rejected when it is in the public interest to do so.

(c) Disposals and contracts for disposal of property may be negotiated or made by public auction without regard to Section 3.6(a) and (b) but subject to obtaining such competition as is feasible under the circumstances, if:

(i) the personal property involved is of a nature and quantity which, if disposed of under Section 3.6(a) and (b), 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;

(ii) the fair market value of the property does not exceed fifteen thousand dollars (\$15,000.00);

(iii) bid prices after advertising therefor are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;

(iv) 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;

(v) 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 public authority;  
or

(vi) such action is otherwise authorized by law.

(d) (i) 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 \$15,000;

(B) any real property that has an estimated fair market value in excess of \$100,000, 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 (5) years or less, if the estimated fair annual rent is in excess of \$100,000 for any of such years;

(D) any real property disposed of by lease for a term of more than five (5) years, if the total estimated rent over the term of the lease is in excess of \$100,000;  
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.

(ii) Each such statement shall be transmitted to the persons entitled to receive copies of the report required under Section 2896 of the Public Authorities Law not less than 90 days in advance of such disposal and a copy thereof shall be preserved in the files of the Agency.