



**ROCKLAND COUNTY
SOLID WASTE MANAGEMENT AUTHORITY**

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**Guidelines for Disposal of Rockland County
Solid Waste Management Authority
Real and Personal Property**

I. APPLICABILITY OF PROCEDURE/CONTRACTING OFFICER

A. This procedure shall apply to the disposal of any Authority personal property and any Authority interest in real property, to the extent that real property interest may be conveyed to another person.

B. "Disposal" hereunder means transfer of title or any other beneficial interest in personal or real property.

C. The Authority employee designated hereunder as responsible for the disposition of Authority real or personal property under this procedure is deemed the "Contracting Officer." The Contracting Officer for the Rockland County Solid Waste Management Authority shall be the Executive Director. The Contracting Officer shall be responsible for the Authority's compliance with, and enforcement of, this procedure. This procedure shall comply with and be subject to Public Authorities Law Sections 2053-a through 2053-z.

D. The guidelines set forth in this Procedure shall be annually reviewed and approved by the Authority Board and annually posted on the Authority's internet website.

II. PROPERTY INVENTORY CONTROLS

A. Procedure for Real Property

1. The Authority shall maintain adequate inventory controls and accountability systems for all real property owned by or under the Authority's control. In order to accomplish this, the Authority's

Contracting Officer shall maintain a detailed list of all real property owned by the Authority, or in which the Authority has an interest, including specifics, as to

- a. Location of property by County, Town/City/Village
- b. County tax map number
- c. Acreage
- d. Improvements thereon including a detailed description and recent photographs thereof
- e. Date of purchase/lease/other property interest
- f. Property interest (i.e. fee, lease, license, etc.)
- g. Assessed value
- h. Breakdown on assessed value of land and improvements
- i. Deed book and page number as filed with County Clerk's office (If Authority owned)
- j. Purchase price/lease amount.
- k. Present Authority use includes copies of DEC permits
- l. Date property was last visited. Property must be visited at least annually

III. GUIDELINES REGARDING THE USE, AWARDING, MONITORING AND REPORTING OF CONTRACTS FOR THE DISPOSAL OF AUTHORITY REAL PROPERTY.

A. The Authority shall, at least annually, inventory all real property and determine which real property should be disposed of. For any such real property disposed of, the Authority shall make a written report of the method and terms of disposal and transfer or dispose of the property as promptly as possible in accordance with the procedure set forth below.

B. The Authority shall at least annually prepare or update, as necessary, and publish a report listing all real property owned by the Authority. (See Section II. A. above). Such report shall also contain a list and full description of any real property disposed of during such period. The report shall contain the price received by the Authority and the name of the purchaser of such real property sold by the Authority during such period. Copies of the report should be delivered to the State Comptroller, the State Director of the Budget, the Commissioner of General Services and the New York State Legislature.

C. Procedure for Disposition

1. As noted above, the Contracting Officer shall have supervision and direction over the disposition of all real property of the Authority.

2. Provisions related to Disposition of Real Property

- a. Real property may be disposed of for not less than 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 Contracting Officer deems proper.
- b. The Authority's Contracting Officer may only execute such documents authorized by the Authority Board for the transfer of title to real property and take such other action as it deems necessary or proper to dispose of such real property.
- c. No disposition of real property or other interest in real 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 certified in the State of New York and included in the record of transaction.
- d. Where appropriate the Authority may also utilize the services of the County to dispose of Authority real property under terms and conditions agreed to by the Authority.
- e. A deed, bill of sale, lease or other instrument executed by or on behalf of the Authority, purporting to transfer title or any other interest in real property of the Authority shall be conclusive evidence of compliance with this procedure as well as with the Public Authorities Accountability Act of 2005, insofar as it 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 closing. Authority Counsel shall review and approve as to legal form all real estate documents that transfer title.
- f. No real property or real property interest may be dispositioned under these guidelines to employees or Board members of the Authority or their immediate families, relatives, firms, employers or agents unless specifically authorized by the Board in compliance with the Authority's Ethics Code.

3. Bids for Disposition

- a. Unless sold through negotiation or auction under Section 4 below, all other disposals or contracts for disposal of Authority real property made or authorized by the Contracting Officer shall be made after publicly advertising for bids in accordance with the Authority's Procurement

Policy.

4. Any disposal or contracts for disposal of real property may, subject to final Board approval, also be negotiated or made by public auction rather than bid, but subject to obtaining such competition as is feasible under the circumstances, if

a. The estimated fair market value of the real property does not exceed Fifteen Thousand Dollars (\$15,000) and

b. Bid prices after advertising therefore are not reasonable, either as to all or part of the property, or have not been independently arrived at in open competition, or

c. The disposal will be to the State of New York or any political subdivision and the estimated fair market value of the real property and other satisfactory terms of disposal are obtained by negotiation, or

d. 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 be limited to the prevention or remediation of a substantial threat to the 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 found in Public Authorities Law Section 2053-a et seq. permits, and the purpose and terms of such disposal are documented in writing and approved by the Authority Board

e. Where such action is otherwise authorized by law.

5. Authority Board approval and an explanatory statement shall be prepared of the circumstances of each disposal by negotiation of Authority real property if

a. Any real property that has an estimated fair market value in excess of One Hundred Thousand Dollars (\$100,000), except that any real property disposed of by lease or exchange shall only be subject to III. C. 5 (b) through (d) below.

b. 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.

c. Any real property disposed or by lease for a term or more than five (5) years, if the total estimated rent over the term of the lease is in excess of One Hundred Thousand Dollars (\$100,000).

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.

6. Real property values shall be determined by a New York State certified professional real property appraisal with additional consideration given to any site environmental conditions, if known. Each such statement shall be transmitted to the persons entitled to receive copies of the report acquired under this procedure, not less than 90 days in advance of such disposal, and a copy thereof shall be preserved in Authorities files

IV. GUIDELINES REGARDING THE USE, AWARDING, MONITORING AND REPORTING OF CONTRACTS FOR THE DISPOSAL OF AUTHORITY PERSONAL PROPERTY.

A. The Authority shall maintain adequate inventory controls and accountability systems for all personal property under the Authority's control.

B. The Authority shall, at least annually, inventory all Authority personal property having a book value of Five Thousand dollars (\$5,000) or more and determine which personal property, if any, should be disposed of. Any such personal property disposed of, the Authority shall make a written report of the method and terms of disposal and transfer or dispose of the personal property as promptly as possible in accordance with the procedure set forth below.

C. Method of Disposition

1 The Contracting Officer shall also have supervision and direction over the disposition of all personal property of the Authority.

2. Provisions Related to Disposition or Trade-In of Surplus Authority Equipment

a. The Authority has, on occasion; the need to sell unneeded, worn-out or obsolete equipment, computers, furniture, machinery, tools, parts and vehicles. The Authority has the discretion to conduct such sales by public auction, competitive bidding, or as a last option, private negotiation. The method chosen should be the one which will bring the best price or the most beneficial terms. The procedure for disposing of such surplus equipment shall be as follows:

(1) Declaration that Equipment is Surplus or Unneeded

(a) Authority employee or manager responsible for any surplus, unneeded, worn-out or obsolete equipment with an estimated remaining market value over \$100 shall fill out an equipment disposal request and forward same to the Authority's Contracting Officer. The Contracting Officer determines that the equipment has, in his opinion, a fair market value over \$100 and that the equipment is surplus, unneeded or obsolete, he shall forward a recommendation for its disposition to the Authority's Executive Director and if the Executive Director concurs, the disposition shall be made under the procedure set forth in Section IV. C. 2 (a) (2) below.

(b) If the equipment has, in the opinion of the Contracting Officer an expected remaining market value at that time of less than \$100, in total, the manager having responsibility for the equipment may sell same by negotiated sale after obtaining at least one, and preferably two, informal quotes. In the alternative the manager may dispose of the equipment under the aggregate surplus equipment sale procedure found in Section IV C. 2 (a) (2) below. If no quotes can be obtained or if the item has no real value or the cost of effecting a sale exceeds the limited value, the item may be discarded or sold for scrap in the discretion of the Contracting Officer.

(2) Procedure for Sale of Surplus Equipment Having Value Over \$100 but Less Than \$5000

(a) If the equipment to be disposed of has an estimated fair market value in the opinion of the Contracting Officer, in total, of more than \$100 but less than \$5,000, the Authority's Executive Director may authorize the Contracting Officer to proceed with its sale. Such sale may, in the first instance, be by public auction or competitive bidding as the Contracting Officer deems appropriate. The Authority may also participate in a County auction or in a joint auction with the County for the sale of such property, in which case the high bid at such auction shall be deemed the fair market value. Otherwise, the Executive Director may initially obtain an informal appraisal of the fair market value of the equipment, if he deems such an appraisal useful. The fair market value can also be estimated from public valuation lists or other reference valuation sources on the Internet or otherwise. If three or more offers, quotes or bids are received, the Executive Director may proceed with the sale to the party submitting the highest offer, bid or quote within the specified

time and term specifications. If sufficient competition is not generated (3 or more quotes or bids), the Executive Director shall direct a second solicitation, including advertisement in the official newspaper and any appropriate trade journals, as well as active direct solicitation. The sale may then be made to the party submitting the highest offer, bid or quote, whether or not three (3) bids or quotes have been received. If no offers, bids or quotes result from this second solicitation, the equipment may then be sold by private negotiation.

(b) If the equipment has an estimated fair market value of \$5,000 or more, the Contracting Officer, under the direction of the Authority's Executive Director, shall first consult any published valuation sources that may be available both from published lists, on the Internet or in the media, obtain an appraisal or otherwise develop available information estimating the fair market value of the equipment and, with his recommendation, forward the request to the appropriate Board Committee for its review and determination. Such property may not in the first instance be sold for significantly less than the estimated fair market value. The Committee may, if it agrees with the Executive Director and determines that a sale is in order, authorize such sale by either public auction or sealed bids upon such terms as the Contracting Officer deems proper. If sale is made by public auction, it must be authorized by the Authority's Executive Director with authority given to the auctioneer to sell the items above a certain floor price established based upon the estimated fair market value. (See above). If sale is by sealed competitive bids, the Board may award to the highest responsible bidder meeting the bidding criteria but may reject all bids and re-advertise for a re-bid if it determines that the bids were too low, relative to the estimated fair market value, or there was determined to be inadequate competition. Whether the sale is by sealed bids or auction, it should be widely advertised in advance in the official newspaper, any appropriate trade journals and by direct solicitation to potential purchasers to promote maximum competition.

(c) When practical, and to promote more competition and reduce advertising cost, the Authority should encourage aggregating surplus items and equipment for sale by means of an auction, competitive bid or as a last option by negotiated sale. The Authority's Contracting Officer should periodically review surplus and projected surplus items and equipment and consider methods for effectively aggregating same.

(3) Conflict of Interest Affidavit Required

(a) All purchasers of equipment under this Procedure must submit with their bid or purchase offer a completed and signed Conflict of Interest Affidavit indicating that they or their family or firm have no conflict of interest that would prevent them from purchasing the equipment. No equipment may be dispositioned under these guidelines to employees or Board members of the Authority or their immediate families, relatives, firms, employers or agents unless specifically authorized by the Board in compliance with the Authority's Ethics Code.

(4) Procedure if Surplus Equipment is Unsold

(a) If, after two unsuccessful attempted public sales, the goods or equipment remain unsold and have an estimated fair market value of \$5,000 or more, the Authority may negotiate a sale at the highest price that can be attained to any interested party, sell it for its scrap value, or donate it to a charitable or not-for-profit organization.

(5) Report of Final Disposition

(a) Upon final disposition of the item(s) the Authority employee or manager responsible for the surplus shall submit a brief memo to the Contracting Officer describing the item, fixed asset serial number (if any), sale price or scrap value received, if any, and buyer (if any). The fixed asset, inventory shall be posted with the changes and the disposition memo retained in records retention for three (3) years.

(6) Use of Surplus or Obsolete Equipment for "Trade-In" Value

(a) As an alternative to a sale of the surplus, worn or obsolete items or equipment, the Authority may include such item as a "trade-in". The trade-in value of the items or equipment must then be considered in making an award to the lowest responsible bidder or quoter meeting the specifications for the replacement goods. If the trade-in value is determined separately, the Authority should consider whether the trade-in value offered varies significantly from the proposed trade-in's estimated fair market value. If it does, the item should not be traded in but sold separately under the procedures outlined above.

(b) Surplus, worn or obsolete items or equipment may also be traded in on purchases made off of a State Contract for similar equipment. Before the purchase with trade-in is approved, the manager responsible for the equipment to be traded in should ascertain whether the trade-in allowance is reasonable for equipment of that age and condition. If the trade-in allowance is deemed to be not adequate, the disposition procedure found in Sections IV. C. 2 (a) (I) through (5) above should be followed.

3. Provisions Related to Disposition of Other Authority Personal Property Having an Estimated Fair Market Value of \$5,000 or More

a. There may be some occasions when the Authority has personal property having an estimated fair market value by the Authority's Contracting Officer of \$5,000, or more, other than those listed in IV. C. 2 above, which it wishes to dispose of. (e.g. trademark rights, office supplies, etc.). Such Authority personal property other than surplus or worn equipment may be disposed of directly by the Authority for not less than the estimated fair market value following the procedure for valuation of equipment set forth above. Such disposition may be made 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.

b: The Authority may execute such documents authorized by the Authority Board 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.

c. No disposition of unique personal 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 transaction.

d. The Authority may also utilize the services of the County or the State Commissioner of General Services to dispose of such non-equipment Authority property under terms and conditions agreed to by the Authority in such instance the highest bid price shall be deemed to be an acceptable fair market value.

e. A bill of sale or other instrument executed by or on behalf of the Authority, purporting to transfer title or any other interest in Authority personal property shall be conclusive evidence of compliance with this procedure, as well as with the Public Authorities Accountability Act of 2005, insofar as it concerns title or other interest of any bona fide grantee or transferee who has given valuable consideration for such

interest and has not received actual or constructive notice of lack of such compliance prior to closing.

4. Where Bids for Disposition of Other Non-Equipment Type Personal Property

a. All disposals or contracts for disposal of other non-equipment type Authority personal property having an estimated fair market value of \$5,000 or more (by the Contracting Officer) shall be made after publicly advertising for bids except where authorized to be sold by auction or negotiation herein.

b. Whenever public advertising for bids is required above, the advertisement for bids shall be made in accordance with the Authority's Procurement Policy.

c. All bids shall be publicly disclosed at the time and place stated in the advertisement.

d. 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, however, that all bids may be rejected when it is in the public interest to do so.

5. Any other disposals or contracts for disposal of personal non-equipment Authority property not covered under IV. C. 2, above, may be negotiated or made by public auction rather than bid, but subject to obtaining such competition as is feasible under the circumstances, only if:

a. The personal property involved is of a nature and quantity which, if disposed of under the guidelines above, would adversely affect the 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, or

b. The fair market value of the personal property is less than Five Thousand Dollars (\$5,000), or

c. Bid prices after advertising for such items are determined by the Contracting Officer to not be reasonable, either as to all or part of the personal property, or have not been independently arrived at in open competition, or

d. The disposal will be to the State of New York or any political subdivision and the estimated fair market value of the personal property and other satisfactory terms of disposal are obtained by negotiation, or

e. The disposal is for an amount less than the estimated fair market value of the personal property, the terms of such disposal are obtained by public auction or negotiation, the disposal of the personal 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 the 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).

f. Where such action is otherwise authorized by law.

6. Authority Board approval and an explanatory statement shall be prepared of the circumstances of each disposal by negotiation of:

a. Any personal property disposition which has an estimated fair market value of Five Thousand Dollars (\$5,000) or more.

b. Any personal property disposed of by exchange, regardless of value, or any personal property any part of the consideration for which is an interest in any Authority real property.

Introduced by: Wassmer/Phillips Unan.

June 28, 2007

Resolution No. 17 of 2007
Approving Governance Committee's Recommendation to Adopt Guidelines for
Disposition of Authority Real Property Required by
Public Authorities Accountability Act

WHEREAS, the Authority's Governance Committee has reviewed proposed guidelines regarding the acquisition and disposition of real and personal property and has recommended that the Authority adopt such guidelines for acquiring and disposing of such property; and

WHEREAS, such guidelines for disposition of Authority property will provide the Authority with flexibility to assure that the Authority maximizes its return on the sale of Authority property, while complying with all existing legal and procedural requirements for the sale of Authority property; and

WHEREAS, such guidelines for acquisition of property will provide the Authority with a procedure to assure that the Authority will obtain the most useful and functionally unencumbered property at a competitive price, while complying with all existing legal and procedural requirements for the acquisition of property; now therefore be it

RESOLVED, that the Rockland County Solid Waste Management Authority does hereby authorize, approve and adopt the attached proposed guidelines regarding the acquisition and disposition of Authority property and directs the Executive Director to comply therewith in any future sales or acquisitions of real and personal property. The attached guidelines and this resolution shall be promptly filed with the State Comptroller and the guidelines shall be posted on the Authority's internet website.