

TOWN OF LANCASTER INDUSTRIAL DEVELOPMENT AGENCY
PROPERTY DISPOSAL GUIDELINES

The Town of Lancaster Industrial Development Agency (the “Agency”), a New York public benefit corporation, in compliance with the New York State Public Authorities Law, has established these Guidelines for the Disposal of Property (the “Guidelines”).

These Guidelines shall apply to the disposal of real property and personal property throughout the year following their adoption and until such time as the Agency adopts new or revised Guidelines. The Members of the Agency shall review and approve these Guidelines, with any necessary modifications and revisions, no less than annually.

1. Designation of Contracting Officer

The Agency hereby designates the Agency’s CEO, as the Agency’s Contracting Officer, in compliance with the provisions of New York State Public Authorities Law. The Contracting Officer shall hold this position until the Members of the Agency designate a new Contracting Officer or until such time as the Members adopt new Property Disposal Guidelines.

The Contracting Officer shall be responsible for the administration and implementation of these Guidelines. The Contracting Officer shall cause these Guidelines to be posted on the Agency’s website so that they are available to the general public.

2. Application of Guidelines

The procedures outlined in these Guidelines shall apply to the Agency’s disposal from time to time of all personal property having a fair market value at the time of disposal of more than five thousand dollars (\$5,000.00) and all interests in real property. As used in these Guidelines, “property” shall include personal and real property. Personal and real property are distinguished from each other as appropriate in some Sections of these Guidelines.

The Agency shall dispose of personal property with a fair market value at the time of disposal of Five Thousand Dollars (\$5,000.00) or less in a prudent manner. Property of only nominal value may be donated to a not-for-profit of government agency or disposed of in any manner practicable.

3. Purpose

The Agency has adopted these Guidelines to comply with the provisions of NYS Public Authorities Law and to realize a favorable return on the disposal of Agency property.

4. Fair Market Value

Before disposing of property, the Contracting Officer shall take reasonable measures to determine the fair market value of the property to be disposed. Fair market value of property that is unique in nature and, therefore, not subject to fair market value pricing shall be determined through an appraisal by a qualified professional. Prior to its disposal, the fair market value of all real property shall be established by an appraisal conducted by an independent qualified professional.

5. Advertised Bid

All disposals of Agency property shall be made after public advertisement for bids for the purchase of 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 for soliciting bids on Agency property shall state the method, place and deadline for the submission of bids, and request any other information the Contracting Officer deems necessary to evaluate bids being solicited.

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. The content of all bids received shall be publicly disclosed as announced in the solicitation for bids.

6. Award of Property Subject to Bid

Award of the property for which bids have been solicited shall be made within a timeframe reasonable for the evaluation of the bids received. 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.

7. 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 terms 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, and telephone 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 in the property.

8. Contracts to Dispose of Property

The Agency may solicit bids for contracts to dispose of the Agency property covered by these Guidelines. In the event that the Agency determines that the services of a company are necessary to assist the Agency in disposing of certain property, the Agency shall follow the same procedures in selecting an organization to dispose of property as the Agency follows under these Guidelines for disposal of property through advertised bid.

9. Disposal of Property by Negotiation or Public Auction

The Agency may dispose of property through negotiation or by public auction without regard to the above-described procedures, but subject to obtaining such competition as is feasible under the circumstances, if:

(i) 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 if the personal property is to be sold in such quantity that, if it were disposed of under paragraphs a and b 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;

(ii) the fair market value of the property does not exceed fifteen thousand dollars (\$15,000);

(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; or

(v) under those circumstances permitted by PAL §2897(7); or

(vi) such action is otherwise authorized by law.

10. 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 9, 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 that has an estimated fair market value in excess of one hundred thousand dollars (\$100,000.00), 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 (\$15,000);
- (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.

The Contracting Officer shall cause any and all explanatory statements required under this Section 10 to be transmitted at least ninety (90) days in advance of disposal by negotiation to the recipients of the yearly report of dispositions required under Section 13 of these Guidelines.

11. 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;
- (b) the purpose of the transfer is within the purpose, mission or governing statute of the Agency; or
- (c) in the event the Agency seeks to transfer an asset for less than its fair market value to other than a governmental entity, which disposal would not be consistent with the Agency's mission, purpose or governing statutes, the Agency shall provide written notification thereof to the Governor, the Speaker of the Assembly, and the temporary President of the Senate, and such proposed transfer shall be subject to denial by the Governor, the Senate, or the Assembly. Denial by the Governor shall take the form of a signed certification by the Governor. Denial by either house of the legislature shall take the form of a resolution by such house. The Governor and each house of the legislature shall take any such action within sixty (60) days of receiving notification of such proposed transfer during the months of January through June, provided that if the legislature receives notification of a proposed transfer during the months of July through December, the legislature may take any such action within sixty (60) days of January first of the following year. If no such resolution or certification is performed within sixty (60) days of such notification of the proposed transfer to the Governor, Senate, and Assembly, the Agency may

effectuate such transfer. Provided, however, that with respect to a below market transfer by the Agency that is not within the purpose, mission or governing statute of the local authority, if the governing statute provides for the approval of such transfer by the executive and legislative branches of the political subdivision in which such local authority resides, and the transfer is of property obtained by the Agency from that political subdivision, then such approval shall be sufficient to permit the transfer.

12. Documentation of Below Fair Market Value Disposal

In the event a below fair market value asset transfer is proposed, the following information must be provided to the Board 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 Board;
- (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 subparagraph (d) of this paragraph, 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.

Before approving the disposal of any property for less than fair market value, the Agency Board shall consider the information described in paragraph b of this subdivision 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.

13. Yearly Property Report

Each year the Contracting Officer shall publish a report listing 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, the 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 published on the Agency's website.

Adopted: September 9, 2022