



## **GUIDELINES PERTAINING TO DISPOSITION OF CERTAIN PROPERTY OWNED BY THE DORMITORY AUTHORITY**

### **1. Purpose**

Section 2896 of Title 5-A of the Public Authorities Accountability Act of 2005, as amended by the Public Authorities Reform Act of 2009, (the “Act”) requires certain public authorities, including the Dormitory Authority (“DASNY”), to adopt by resolution comprehensive guidelines detailing DASNY’s operative policy and instructions regarding the use, awarding, monitoring and reporting of contracts for the disposal of real and personal property and designating a contracting officer responsible for the authority’s compliance with, and enforcement of, such guidelines. The purpose of these Guidelines, therefore, is to comply with the requirements of the Act and to set forth DASNY’s guidelines regarding the disposition of real and personal property.

### **2. Definitions**

For purposes of these Guidelines, the following terms shall have the following meanings:

a. “Contracting Officer”, in the case of any disposition or disposal of Covered Real Property, shall mean the Director of Real Property Services and for all other Covered Property, shall mean the Director of Procurement or other person designated by the Board to act in such capacity.

b. “Covered Property” shall mean all Property owned or controlled by DASNY other than Excluded Property.

c. “Covered Personal Property” shall mean Covered Property constituting personal property.

d. “Covered Real Property” shall mean Covered Property constituting real property or an interest in real property.

e. “Disposal” or “Disposition” shall mean a transfer of title or any other beneficial interest in personal or real property.

f. “Excluded Property” shall mean any Property owned or controlled by DASNY to secure a loan or any other obligation of another party and in which DASNY has no beneficial interest including, without limitation, any Property owned or controlled by any DASNY subsidiary pursuant to Public Authorities Law Section 1678 (25) or by DASNY pursuant to any other provision of law.

g. "Property" shall mean any personal property having a value in excess of \$5,000, or any real property or any inchoate or other interest in such property to the extent that such interest may be conveyed to another person for any purpose.

### **3. Property Covered By Guidelines**

a. The disposition of Excluded Property held by DASNY shall be undertaken in accordance with (1) any applicable statutory requirements governing the disposition of such property and (2) any applicable requirements contained in the financing documents pertaining to such Excluded Property. Except as provided in the preceding sentence, neither these Guidelines nor the Act shall be applicable to the disposition of Excluded Property by DASNY.

b. The disposition of Covered Property, which shall include The Dormitory Authority of the State of New York Corporate Condominium located at 515 Broadway, Albany, 539 Franklin Street, Buffalo, 161 Delaware Avenue, Delmar and any other Covered Property hereafter acquired or owned by DASNY, shall be subject to the requirements of these Guidelines.

c. The disposition of other personal property having a fair market value of \$5,000 or less shall be subject to the requirements of Section 5[c] of these Guidelines.

### **4. Disposition of Covered Real Property**

a. The disposition of Covered Real Property shall be made only upon authorization from the Board and only in accordance with the requirements of this Section 4.

b. All Covered Real Property shall be sold on a competitive basis after public advertising pursuant to this paragraph unless the Board determines to use another method of disposition in accordance with the provisions of paragraph c of this Section 4. Any competitive sale conducted pursuant to this paragraph shall comply with the following requirements:

- (i) The advertisement for bids shall be made at such time prior to the disposal or contract, through such methods (including posting such notice on DASNY's website), 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;
- (iii) The award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, is most advantageous to DASNY after taking into account price and any other factors specified in the advertisement for bids; provided, that DASNY may reject all bids if it determines that it is in the public interest to do so.

It shall be the responsibility of the Contracting Officer to cause DASNY to comply with the requirements of this paragraph for any disposition of Covered Real Property that the Board has authorized to be sold on a competitive basis after public advertisement.

c. The Board may authorize the disposition of Covered Real Property in a manner other than the manner prescribed in paragraph b of this Section 4 only in the following circumstances:

- (i) The fair market value of the Covered Real Property does not exceed fifteen thousand dollars;
- (ii) The bid prices obtained after complying with the requirements of paragraph b hereof are not reasonable;
- (iii) 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;
- (iv) The Disposal is proposed to be for less than fair market value and there is compliance with the provisions of subdivision 7 of section 2897 of the Public Authorities Law. Before authorizing any transfer for less than fair market value, the Board shall, based upon the information required to be provided pursuant to the aforesaid provision of law, 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 ; or
- (v) The Disposal is otherwise authorized by law and DASNY complies with such other provisions of law.

The Contracting Officer shall be responsible for the conduct of any Disposition of Covered Real Property conducted pursuant to this paragraph.

Any Disposal involving the purchase of any asset for a contract price that exceeds the fair market value of the asset or the sale of any asset for a contract price that is less than its fair market value must first be approved by the President and Chief Financial Officer in a certificate as required by Public Authorities Law §2800(1)(a)(16).

d. Prior to conducting any negotiated sale of Covered Real Property pursuant to paragraph c of this Section 4, the Contracting Officer shall prepare an explanatory statement and provide such statement to the Office of the State Comptroller, the Director of the Budget, the Commissioner of General Services, the Legislature, the Authorities Budget Office and the Board, and shall cause such Statement to be posted on DASNY's website not less than ninety days in advance of the disposal if any of the following apply to such Disposition:

- (i) The Covered Real Property has an estimated fair market value in excess of \$100,000 and is not being disposed of by lease or exchange;

- (ii) Any Covered Real Property is proposed to be disposed of by lease if the total estimated annual rent over the term of the lease is in excess of \$15,000; or
- (iii) Any Covered Real Property, regardless of value, is proposed to be disposed of by exchanging it for other real property.

The Contracting Officer shall also cause a copy of the Statement to be retained in DASNY's file relating to the Disposition in question.

e. Prior to the disposition of any Covered Real Property pursuant to this Section 4, the Contracting Officer shall cause an appraisal of the property to be undertaken by an independent appraiser and shall maintain such appraisal in the record of the transaction.

f. Upon compliance with paragraphs a through e of this Section 4, the Contracting Officer shall be authorized to negotiate and execute the necessary conveyance or lease documents on behalf of DASNY or if the documents are to be negotiated and executed by an Authorized Officer other than the Contracting Officer, advise such other officer in writing that there has been compliance with the provisions of these Guidelines and the Act. All conveyance and lease documents shall be subject to review and approval by the Office of Counsel prior to execution by DASNY. Unless otherwise authorized by the Board, no lease shall have a term in excess of five years with a single renewal option not to exceed an additional five years and all rental payments shall be required to be made in cash.

## **5. Disposition of Personal Property**

a. All Covered Personal Property not needed by DASNY may be disposed of by the Office of General Services ("OGS") pursuant to an agreement between DASNY and OGS as provided in subdivision 4 of section 2897 of the Act. In the event that the unneeded Covered Personal Property is not disposed of pursuant to an Agreement with OGS, the Contracting Officer shall dispose of such Covered Personal Property on a competitive basis after public advertising pursuant to paragraph b of Section 4 of these Guidelines unless the Contracting Officer, with the written concurrence of the President or his or her designee, determines that such method of disposition is not in the best interests of DASNY and that a more appropriate method of disposition is permitted under the Act and pursuant to subdivision c of Section 4 of these Guidelines.

b. DASNY shall not dispose of any Covered Personal Property having a fair market value in excess of \$15,000 unless the disposition thereof has been authorized by the Board. It shall be the responsibility of the OGS or the Contracting Officer, as the case may be, to file any explanatory statements that may be required in connection with the disposition of Covered Personal Property having an estimated value in excess of \$15,000 that is to be disposed of by other than a competitive basis after public advertising as set forth pursuant to paragraph b of Section 4 of these Guidelines dealing with Covered Real Property.

c. Personal property having a fair market value of less than \$5,000 may be sold on either a negotiated or competitive basis, donated or otherwise disposed of in such manner

as may be deemed appropriate under the circumstances by the Contracting Officer, with the written concurrence of the President or his or her designee. When making such determination, the Contracting Officer may consider, among other things, the fair market value of the property, the cost to DASNY of conducting a sale of the property relative to the resale value likely to be obtained or the cost of storage and handling.

## **6. Contracting Officers**

DASNY shall, from time to time, designate Contracting Officers who shall be responsible for supervising DASNY's compliance with, and enforcement of, the requirements contained in the Act and these Guidelines. The Contracting Officers shall also be responsible (in conjunction with other Authority staff) for annually preparing a report not later than March 1st of each year containing the following information:

- a. An inventory of all Covered Real Property;
- b. A description of all Covered Property disposed of during the preceding year, the price received for such Covered Property, and the name of the purchaser for such Covered Property; and
- c. An inventory of all Covered Property intended to be disposed of during the next succeeding fiscal year.

The report shall be provided to the Office of the State Comptroller, the Director of the Budget, the Commissioner of General Services, the Legislature, the Authorities Budget Office and the Board. Such report shall also be posted on DASNY's website.

## **7. Annual Review**

These Guidelines shall be annually reviewed and approved by the Board and, together with the names of the individuals then serving as DASNY's Contracting Officers, shall be filed with the State Comptroller on or before the thirty-first day of March in each year. These Guidelines shall also be available at all times on DASNY's internet website.

Dated: November 10, 2021

Governance Committee Annual Review: December 6, 2023

DASNY Board Annual Review: December 6, 2023