

COMPREHENSIVE GUIDELINES REGARDING THE DISPOSITION OF PROPERTY BY THE SARATOGA COUNTY WATER AUTHORITY

ADOPTED FEBRUARY 24, 2011
RE-ADOPTED OCTOBER 26, 2017

I. DEFINITIONS

For purposes of these Comprehensive Guidelines Regarding the Disposition of Property by the Saratoga County Water Authority ("Guidelines"), the following terms shall have the following meanings:

- a. **"SCWA" or "Authority"** shall mean the Saratoga County Water Authority.
- b. **"PAAA"** shall mean the Public Authorities Accountability Act of 2005, as amended from time to time, including in 2009.
- c. **"Property"**, as used in these guidelines, shall mean personal property in excess of \$5,000 on a per unit basis in value, and any real property, no matter where such property is located.
- d. **"Board"** shall mean the Board of the SCWA.
- e. **"Legislature"** shall mean the Chairman and Ranking Minority Member of the New York State Assembly Ways and Means Committee and Chairman and Ranking Minority Member of the New York State Senate Finance Committee.
- f. **"FMV"** shall mean the fair market value of a piece of property.
- g. **"Contracting Officer"** shall mean the SCWA employee designated by the Board to dispose of a particular piece of SCWA property pursuant to this policy. Unless otherwise designated, the Executive Director is the Contracting Officer.

II. DUTIES OF THE SCWA AND/OR BOARD UNDER THE PAAA

In accordance with the PAAA, the SCWA and/or the Board, as the case may be, shall have the following duties and responsibilities:

a. **Adoption of Guidelines.**

The Board has adopted by Resolution, these comprehensive Guidelines detailing an operative policy for the SCWA regarding the use, awarding, monitoring and reporting of contracts for the disposal of SCWA property.

b. **Contracting Officer.**

The Board shall designate one or more individuals to serve as the Contracting Officer(s) for purposes of disposing of SCWA property. The Contracting Officer(s) may, but need not be the same individual(s) for each instance where the SCWA purports to dispose of certain of its property. As noted above, unless otherwise designated by subsequent resolution, the Executive Director is the Contracting Officer.

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c. Review and Updating of Guidelines.

The Board shall meet at intervals of not less than one (1) year from the date of adoption of the most recent set of Guidelines for purposes of reviewing and, if necessary, revising the Guidelines.

d. Filing of Guidelines.

The SCWA shall, by the 31st day of March of each year, file with the Comptroller of the State of New York a copy of its most recently adopted Guidelines.

e. Posting of Guidelines.

A full and complete copy of the most recently adopted Guidelines shall be posted on the SCWA website or, if there is not website, the SCWA bulletin board at the SCWA plant. Said website shall be updated no less than annually for purposes of ensuring that the Guidelines posted thereon reflect the most recently adopted Guidelines of the SCWA.

f. Inventory Controls and Accountability.

The SCWA shall maintain adequate inventory controls and accountability for all SCWA property. For purposes of these Guidelines, the phrase "adequate inventory controls and accountability" shall mean steps and procedures to secure, monitor and protect such property including a periodic physical inventory not less than every two years with reconciliation to the previous inventory listing. These controls are set forth, to the extent same apply as detailed therein, in the Board's Fixed Asset Policy.

g. Periodic Review.

The SCWA shall periodically inventory property to determine what property, both real and personal, may be disposed of in accordance with the terms of these Guidelines.

h. Report of Periodic Review.

Upon completion of each periodic review as outlined above, the SCWA shall cause a report to be completed, outlining which, if any of the SCWA properties may be disposed of in accordance with these Guidelines.

i. Transfer of Properties.

Upon entering into an agreement for the transfer or disposal of any of its properties, the SCWA shall take all necessary actions to arrange for the prompt transfer or disposal of the subject property.

j. Report of Real Property.

The SCWA shall, on not less than an annual basis, publish a report listing all real property owned by the SCWA at the time thereof, as well as a listing and full description of all real and personal property disposed of by the SCWA during the reporting period, including the amount received and the name of the purchaser of each piece of property. A copy of such annual report shall be forwarded to the following officers of the State of New York, as well as any other officers as the legislature may designate from time to time: the State Comptroller, the Director of the Budget, the Commissioner of General Services and the legislature.

III. METHODS OF DISPOSITION

Any disposal of property by the SCWA, whether real or personal, shall be in accordance with the procedures contained in this Article III and in accordance with all other applicable provisions of these Guidelines.

a. Terms of Disposition.

The SCWA may not, whether by sale, exchange, transfer or other terms and conditions deemed appropriate by the Contracting Officer, dispose of any of its properties for not less than the fair market value of the subject properties (the "FMV"), or at the terms that vary from any laws, rules or regulations. The only time that the Authority property may be disposed of for less than FMV is, per the provisions of the PAL sec. 2897(7) to a government or public entity upon terms that the property remains with the government or public entity. This provision shall control in the event of a conflict with any other provision set forth herein.

b. Appraisal of Real Property.

The SCWA may not dispose of any real property or any interest in real property without having first obtained an appraisal of the value of such property, which appraisal shall be made by an independent appraiser and included in the record of the subject transaction.

c. Other Appraisal Circumstances.

No disposition of any other property, which because of its unique nature or 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.

d. Disposal by Commissioner of General Services.

The SCWA may, in connection with the disposal of any of its properties, and in its sole discretion (unless otherwise required by any applicable laws), enter into an agreement with the Office of the Commissioner of General Services to dispose of certain of the Authority's properties.

e. Bids & Advertising for Disposal.

i. Advertising.

Except as set forth in Article III(f) below, any disposal made or authorized by the SCWA Contracting Officer may only be made after first publicly advertising for bids in accordance with applicable New York State laws and internal Authority procedures.

ii. Timing and Method of Advertisements.

Any advertisements for bids made by the Authority in connection with the disposition of any of its properties shall be made at such time, through such methods, and with terms and conditions as shall permit full and free competition consistent with the value and nature of the property.

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iii. Opening of Bids.

All bids received by the SCWA on or prior to the deadline for submitting such bids, as set forth in the advertisements made in connection therewith, will be opened publicly as stated in such advertisements.

iv. Awarding of Contract.

The SCWA shall award the contract subject to a particular advertisement for bids with reasonable promptness. Such award shall be made by providing notice to the responsible bidder whose bid: (A) conformed to the invitation to bid; and (B) will be most advantageous to the SCWA based on price and other factors. The SCWA reserves the right to reject any and/or all bids when the SCWA determines, in its sole discretion that it is in the public interest to do so.

f. Negotiated Disposals or Disposal by Public Auction.

The SCWA may dispose of its properties by means of negotiation or public auction, without having advertised for bids in connection therewith and 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
- ii. any personal property involved is such that if same were disposed of by public bid, such disposition would adversely affect the state or local market for such property, and the estimated FMV of such property, along with other terms satisfactory to the Authority, can be obtained by negotiation;
- iii. the reasonably anticipated FMV of the subject property does not exceed \$15,000;
- iv. the bid prices for all or some of the subject property, if any, received by the Authority after advertising are not reasonable, either as to all or some of the property or have not been independently arrived at in open competition;
- v. the purchasing or acquiring party is the state or any political subdivision thereof, and the estimated FMV of the subject property, as well as all other terms, are obtained by negotiation;
- vi. such action is otherwise authorized by law.

g. Explanatory Statements Required for Certain Negotiated Disposals.

The SCWA shall prepare explanatory statements of the terms and circumstances of any disposal resulting from negotiations, if any of the following are true:

- i. The property being disposed of includes personal property that has an estimated FMV in excess of \$15,000;
- ii. The property being disposed of includes real property that has an estimated FMV in excess of \$100,000;

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- iii. The transaction includes the disposal of real property by lease, if the estimated FMV is in excess of \$100,000 during any such years;
- iv. The transaction involves the disposal of any real property or related personal property by means of exchange, regardless of value or the disposal of any property, the consideration for which includes real property; or

Each statement made in accordance with this Article III (g) shall be delivered to and filed with the Comptroller of the State of New York, the Director of the Budget, the Commissioner of General Services and the legislature within not less than 90 days prior to the consummation of such disposal. A copy of the each statement made in accordance herewith shall be maintained in the Authority's files for the subject disposal.

h. Operative Instructions to SCWA Staff.

SCWA staff charged with the disposal of the Authority's property shall be instructed as follows:

i. Contracting Officer.

Unless otherwise indicated in a resolution duly adopted by the board, the Executive Director of the SCWA shall be the Contracting Officer for the purposes of these Guidelines.

ii. Reports to Contracting Officer and Minimum Useful Life.

SCWA employees thereof shall promptly report, in writing, to the SCWA Contracting Officer with respect to any properties deemed by such employees to be ready for disposal. In making such reports, all applicable Guidelines for minimum useful life, if determined, should, when desirable for disposition purposes, be followed for any properties that were procured using federal grant funds. The Contracting Officer shall consult with appropriate SCWA personnel regarding the nature of funding (grant or non-grant) for any properties deemed by a department of the Authority as ready for disposal, in order to determine that its useful life under FTA regulation has been reached. For properties not procured with federal funds, or properties for which the federal government does not proscribe a minimum useful life, a normal business estimated useful life used for calculating depreciation shall be used as the minimum useful life.

i. Requirements of Contracting Officer.

The Contracting Officer shall, in conducting the disposal process, proceed in accordance with the requirements of the PAAA, as such requirements are described in Article II above, and as such requirements are amended from time to time by the New York State legislature.

j. Compliance with PAAA.

The SCWA staff, in conjunction with the Contracting Officer, shall ensure that any and all reporting and control responsibilities required of the Authority under the PAAA, are met.