



TO: Members of the Board

FROM: Eric Enderlin

RE: Annual Report on Property Disposal Guidelines

DATE: November 16, 2017

Pursuant to Sections 2895 through 2897 of the Public Authorities Law, the Corporation must prepare and approve an Annual Report on Property Disposal Guidelines. After approval, the report will be submitted to the Office of the State Comptroller, the Director of Budget, the Commissioner of General Services, and the Office of the NYC Comptroller. The Report will also be published on the Corporation's website.

A copy of the Report, together with a resolution approving it and the Property Disposal Guidelines, is attached. No changes to the Guidelines or the Corporation's Contracting Officers are proposed. Approval of the resolution is hereby recommended.



PROPERTY DISPOSAL GUIDELINES and REPORT

For Fiscal Year Ending October 31, 2017

New York City Housing Development Corporation
Annual Property Report
For Fiscal Year ending October 31, 2017

I. Contracting Officers

Contracting Officer for Real Property:
Cathleen Baumann, Senior Vice President & Treasurer
110 William Street, 10th Fl.
New York, NY 10038
(212) 227-5500
cbaumann@nychdc.com

Contracting Officer for Other Property:
Robert Schmidt, Vice President of Office Services
110 William Street, 10th Fl.
New York, NY 10038
(212) 227-5500
rschmidt@nychdc.com

II. Covered Real Property

As of October 31, 2017, the Corporation owns no real property and no real property was disposed of during the fiscal year ended October 31, 2017.

III. Other Covered Property

The Corporation disposed of no other covered property during the fiscal year ending October 31, 2017, which was required to be reported on under the Law or the Corporation's Guidelines. To date the Corporation has no intention of disposing of any covered property in the upcoming fiscal year.

IV. A copy of the Corporation's *Guidelines Pertaining to Disposition of Certain Property Owned by the Corporation* is posted at www.nychdc.com.

RESOLUTION OF THE MEMBERS OF THE NEW YORK CITY HOUSING
DEVELOPMENT CORPORATION APPROVING GUIDELINES FOR
DISPOSITION OF CERTAIN PROPERTY OWNED BY THE CORPORATION

WHEREAS, pursuant to the Public Authorities Accountability Act of 2005 (the “Act”), the New York City Housing Development Corporation is required to adopt comprehensive guidelines in connection with the disposition of certain property owned by the Corporation; and

WHEREAS, the Act has been codified as Sections 2895 – 2897 of the Public Authorities Law, which sets forth the requirements and parameters for such dispositions; and

WHEREAS, the Corporation desires to comply with these provisions by adopting guidelines in compliance with the Act;

THEREFORE, BE IT RESOLVED, that the New York City Housing Development Corporation so desires to adopt the attached Guidelines for the Disposition of Certain Property Owned by the Corporation in the form annexed hereto.

This Resolution shall take effect immediately.

NEW YORK CITY HOUSING DEVELOPMENT CORPORATION

**GUIDELINES PERTAINING TO DISPOSITION OF CERTAIN PROPERTY
OWNED BY THE CORPORATION**

1. Purpose

Section 2897 of Title 5-A of the Public Authorities Accountability Act of 2005 (the “Act”) requires certain public authorities, including the New York Housing Development Corporation (the “Corporation”), to adopt by resolution comprehensive guidelines detailing the Corporation’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 Corporation’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 the Corporation’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 Treasurer and for all other Covered Property, shall mean the Director of Office Management or other person designated by the President to act in such capacity.

b. “Covered Property” shall mean all Property 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 by the Corporation (or in which the Corporation has an interest) to secure a loan or other financial obligation of another party and in which the Corporation has no beneficial interest.

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. Excluded Property held by the Corporation to secure the obligations of its clients 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 the Corporation.

b. The disposition of Covered Property, which shall any Covered Property hereafter acquired by the Corporation, shall be subject to the requirements of these Guidelines.

4. Disposition of Covered Real Property

a. The disposition of Covered Real Property shall be made only upon authorization from the Members 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 Members determine to use another method of disposition in accordance with the provisions of paragraph c of this Section 4 of these Guidelines. 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 the Corporation'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 the Corporation after taking into account price and any other factors specified in the advertisement for bids; provided, that the Corporation 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 the Corporation to comply with the requirements of this paragraph for any disposition of Covered Real Property that the Members have authorized to be sold on a competitive basis after public advertisement.

c. The Members may authorize the disposition of Covered Real Property in a manner other than the manner prescribed in paragraph b of this Section 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, which is to be for less than the estimated fair market value of the property and is to be conducted through public auction or negotiation, 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 as otherwise permitted under the New York City Housing Development Corporation Act) and the purpose and terms of such Disposal are documented in writing and approved by resolution of the Members; or
- (v) The Disposal is otherwise authorized by law and the Corporation 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.

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, and the Members, and shall cause such Statement to be posted on the Corporation'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) The Covered Real Property is proposed to be disposed of by lease for a term of five years or less and the estimated fair annual rent is in excess of \$100,000 for any year;
- (iii) The Covered Real Property is proposed to be disposed of by lease for a term of more than five years and the total estimated rent over the term of the lease is in excess of \$100,000; or
- (iv) The 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 the Corporation'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 the Corporation 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 General Counsel prior to execution by the Corporation. Unless otherwise authorized by the Members, 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. Unless otherwise authorized by the Members, all Covered Personal Property not needed by the Corporation shall be disposed of by the Office of General Services ("OGS") pursuant to an agreement between the Corporation and OGS as provided in subdivision 4 of section 2897 of the Act. In the event that the unneeded Covered Personal Property can not be 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 the President's designee, determines that such method of disposition is not in the best interests of the Corporation and that a more appropriate method of disposition is permitted under the Act.

b. The Corporation 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 Members. 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 on other than a competitive basis after public advertising as set forth pursuant to paragraph b of Section 4 dealing with Covered Real Property.

6. Contracting Officers

The Corporation shall, from time to time, designate Contracting Officers who shall be responsible for supervising the Corporation'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 Office of the State Comptroller, Office of the New York City Comptroller, the Director of the Budget, the Commissioner of General Services, the Legislature, and the Members. Such report shall also be posted on the Corporation's website.

7. Annual Review

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