

**Comprehensive Guidelines Regarding the Disposition of Property by the
Olean Local Development Corporation (OLDC)**

(under title 5-A, Public Authorities Accountability Act of 2005)

I. Definitions

For purposes of these Comprehensive Guidelines Regarding the Disposition of Property by the Olean Local Development Corporation ("**Guidelines**"), the following terms shall have the following meanings:

- (a) "**OLDC**" shall mean the Olean Local Development Corporation.
- (b) "**PAAA**" shall mean the Public Authorities Accountability Act of 2005, as amended from time to time.
- (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 Members of the OLDC.
- (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 OLDC member designated by the Board to dispose of a particular piece of OLDC property pursuant to this policy

II. Duties of the CNYRTA and/or Board under the PAAA of 2005

In accordance with the PAAA of 2005, the OLDC 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 OLDC regarding the use, awarding, monitoring and reporting of contracts for the disposal of OLDC property.
- (b) **Contracting Officer.** The Board shall designate one or more individuals to serve as the Contracting Officer(s) for purposes of disposing of OLDC property. The Contracting Officer(s) may, but need not be the same individual(s) for each instance where the OLDC purports to dispose of certain of its property.
- (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 OLDC 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 City of Olean's website (OLDC webpage). 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 OLDC.
- (f) **Inventory Controls and Accountability.** The OLDC shall maintain adequate inventory controls and accountability for all OLDC 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.
- (g) **Periodic Review.** The OLDC 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 OLDC shall cause a report to be completed, outlining which, if any of the OLDC 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 OLDC shall take all necessary actions to arrange for the prompt transfer or disposal of the subject property.
- (j) **Report of Real Property.** The OLDC shall, on not less than an annual basis, publish a report listing all real property owned by the OLDC at the time thereof, as well as a listing and full description of all real and personal property disposed of by the OLDC 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 OLDC, 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 OLDC 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").

(b) Appraisal of Real Property. The OLDC may not dispose of any 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) Bids & Advertising for Disposal.

(i) Advertising. Except as set forth in Article III(e) below, any disposal made or authorized by the OLDC 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.

(iii) Opening of Bids. All bids received by the OLDC 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 OLDC 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 OLDC based on price and other factors. The OLDC reserves the right to reject any and/or all bids when the OLDC determines, in its sole discretion, that it is in the public interest to do so.

(e) Negotiated Disposals or Disposal by Public Auction. The OLDC 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) 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;

(ii) the FMV of the subject property does not exceed \$15,000;

- (iii) the bid prices for all or some of the subject property, if any, received by the Authority after advertising are not reasonable or have not been independently arrived at in open competition;
 - (iv) 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;
 - (v) the disposal price is less than the estimated FMV of the property, the terms of such disposal are obtained by public auction or negotiation, the disposal is intended to further the public health, safety or welfare or an economic development interest of the state or political subdivision thereof (i.e., preventing or remediating a substantial threat to public health or safety, creating or retaining a substantial number of job opportunities, or creating or retaining a substantial source or revenues) and if the purpose and terms of such disposal are documented in writing and approved by the Board, or where such action is otherwise authorized in law; or
 - (vi) the transaction is for health, safety or economic development purposes.
- (f) Explanatory Statements Required for Certain Negotiated Disposals.** The OLDC 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;
 - (iii) The transaction includes the disposal of real property by lease for a term of five years or less, if the estimated FMV is in excess of \$100,000 during any such years;
 - (iv) The transaction involves the disposal of real property by lease for a term in excess of five years, and the total estimated rent over the lease term exceeds \$100,000;
 - (v) The transaction involves the disposal of any real property or related personal property by means of exchange, or the disposal of any property, the consideration for which includes real property;

Each statement made in accordance with this Article III(f) 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.

- (g) Operative Instructions to OLDC Staff.** OLDC staff charged with the disposal of the Authority's property shall be instructed as follows:
- (i) Contracting Officer.** Unless otherwise indicated in writing, the Treasurer of Finance for the OLDC shall be the Contracting Officer for the purposes of these Guidelines.
 - (ii) Reports to Contracting Officer and Minimum Useful Life.** OLDC employees and/or staff thereof shall promptly report, in writing, to the OLDC Contracting Officer with respect to any properties deemed by such department to be ready for disposal .
- (h) 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.
- (i) Compliance with PAAA.** The OLDC 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.