

# **PUBLIC REALM IMPROVEMENT FUND GOVERNING GROUP INC.**

## **POLICY REGARDING THE ACQUISITION AND DISPOSITION OF REAL PROPERTY<sup>1</sup>**

### **I. Introduction**

In accordance with the requirements of Title 5-A of Article 9 and Section 2824(1)(e) of the Public Authorities Law, added to such law by the Public Authorities Accountability Act of 2005 (“PAAA”), as amended, the following comprehensive guidelines (“Guidelines”) set forth the Corporation’s (i) operative policy and instructions regarding the use, awarding, monitoring and reporting of contracts for the disposal of property, (ii) guidelines relating to the acquisition of real property, and (iii) related policies and procedures.

### **II. Methods of disposing of real property**

The Corporation shall dispose of real property in accordance with Title 5-A and other applicable laws in a manner so as to permit such full and free competition as is appropriate under the circumstances and shall award contracts to parties offering the most advantageous terms, financial and/or otherwise. The Contracting Officer for real property dispositions shall supervise and direct all dispositions of real property. The real property may be disposed of for not less than fair market value for cash, credit, or other property, with or without warranty, upon such terms and conditions as the Contracting Officer or his/her designee deems proper, except as otherwise permitted herein. No disposition of real property shall be made unless an appraisal has been made by an independent appraiser and included in the Corporation’s file.

Under the Contracting Officer’s or his/her designee’s direction, the Corporation primarily uses two methods of disposition: Request for Proposals (“RFP”) and negotiated disposition.

#### **RFPs**

In an effort to create full and free competition consistent with the value and nature of the property, RFPs will be advertised in one or more appropriate local newspapers. In addition, RFPs shall be posted on the Corporation’s web-site.

The contract will be awarded to the candidate presenting the most advantageous terms, price and other factors considered. The Corporation may reject the proposals when the minimum terms and conditions have not been met, competition is insufficient and/or it is in the interest of the Corporation. The award will be made by notice within a reasonable time of the original advertisement, all circumstances considered.

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<sup>1</sup> The Corporation does not currently own or lease any real property.

## **Negotiated Disposition**

RFP is not always the most appropriate and effective means of disposal of real property. In certain instances, Title 5-A permits a negotiated disposition subject to obtaining such competition as is feasible under the circumstances. In some circumstances, the disposition will involve a sole source. Title 5-A, Sections 2897 (6)(c)(ii)-(vi) and 2897(7) set forth that real property may be disposed of through a negotiated disposition when:

- (ii) the fair market value of the property does not exceed fifteen thousand dollars;
- (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;
- (v) the disposal is for an amount less than the fair market value of the property, and (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 Corporation; or (c) in the event the Corporation 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 Corporation's mission, purpose or governing statutes, the Corporation shall provide written notification thereof to the governor, the speaker of the state assembly, and the temporary president of the state senate, and such proposed transfer shall be subject to denial by the governor, the state senate, or the state assembly in the manner specified in Section 2897(7)(iii); provided, however, that with respect to a below market transfer by the Corporation that is not within the purpose, mission or governing statute of the Corporation, if the governing statute provides for the approval of such transfer by the executive and legislative branches of the political subdivision in which the Corporation resides, and the transfer is of property obtained by the Corporation from that political subdivision, then such approval shall be sufficient to permit the transfer; or
- (vi) such action is otherwise authorized by law.

Item (vi) includes, without limitation, sales and leases of real property where the property has been acquired for purposes of disposal under Section 384(b)(4) of the New York City Charter, Section 1411 of the New York State Not-for-Profit Corporation Law or Section 1301(2)(g) of the New York City Charter.

If an RFP involves a disposition that meets one of the criteria listed above, the Contracting Officer or his/her designee may direct that the disposition of the real property be conducted as a

negotiated disposition. In such circumstance, a public disclosure of the proposals would not be necessary unless otherwise required, but an explanatory statement and 90 days' notice (or such other period as the statute may be amended to require) would be required as detailed below.

Upon meeting Title 5-A's requirements for a negotiated disposition, the decision to proceed with a negotiated disposition in a situation where an RFP will not be used is based on an analysis of the facts and nature of the disposition.

If a negotiated disposition is undertaken, not less than 90 days (or such other period as the statute may later require) prior to the disposal of the property, an explanatory statement must be submitted to the state comptroller, state director of the budget, state commissioner of general services and state legislature, a copy of the same to be maintained in the Corporation's files.

### **III. Acquisitions**

Real property may be acquired by the Corporation to further a purpose of the Corporation as described in the Corporation's Certificate of Incorporation.

### **IV. Approvals**

All purchases, sales, mortgages, leases, exchanges or other disposition of real property shall be authorized by the two-thirds majority vote of the entire Board of Directors.

### **V. Monitoring and Reporting Contracts for Disposal**

The Contracting Officer shall cause a record to be maintained of all real property disposed of and shall cause to be prepared and transmitted all reports relating to the disposition of real property required by Title 5-A.