

**MONROE COUNTY WATER AUTHORITY
DISPOSAL GUIDELINES
READOPTED OCTOBER 2020**

The Monroe County Water Authority (the “Authority”), a New York public benefit corporation, in compliance with the New York State Public Authorities Law, has established these Guidelines for the Disposal of Property (the “Guidelines”).

These Guidelines shall apply to the disposal of real property and personal property throughout the year following their adoption and until such time as the Authority adopts new or revised Guidelines. The Members of the Authority shall review and approve of these Guidelines, with any necessary modifications and revisions, on a no less than annual basis.

1. Designation of Contracting Officer

The Authority hereby designates Larry Magguilli as the Authority’s Contracting Officer, in compliance with the provisions of New York State Public Authorities Law. The Contracting Officer shall hold this position until the Members of the Authority designate a new Contracting Officer or until such time as the Members adopt new Disposal Guidelines.

The Contracting Officer shall be responsible for the administration and implementation of these Guidelines. The Contracting Officer shall cause these Guidelines to be posted on the Authority’s website so that they are available to the general public.

2. Application of Guidelines

The procedures outlined in these Guidelines shall apply to the Authority’s disposal from time to time of all personal property having a fair market value at the time of disposal of more than five thousand dollars (\$5,000.00) and all interests in real property. In addition, these Guidelines contain procedures governing the disposal of property for less than fair market value. As used in these Guidelines, “property” shall include personal and real property. Personal and real property are distinguished from each other as appropriate in some Sections of these Guidelines.

The Authority shall dispose of personal property with a fair market value at the time of disposal of five thousand dollars (\$5,000.00) or less under the terms of the Authority’s Policy for Tracking and Disposal of Fixed Assets.

3. Purpose

The Authority has adopted these Guidelines to comply with the provisions of NYS Public Authorities Law and to realize a favorable return on the disposal of Authority property.

4. Fair Market Value

Before disposing of property, the Contracting Officer shall take reasonable measures to determine the fair market value of the property to be disposed. The fair market value of property that (i) is unique in nature, or (ii) due to unique circumstances of the proposed transaction, is not readily valued by reference to an active market for similar property, shall be determined through an appraisal by a qualified professional. Prior to its disposal, the fair market value of all real property shall be established by an appraisal conducted by a qualified professional.

5. Advertised Bid

All disposals of Authority property shall be made after public advertisement for bids for the purchase of Authority property. The Contracting Officer shall order the advertising for bids in such a manner and in such publications as the Contracting Officer deems reasonably necessary to permit full and fair competition for the property consistent with the fair market value and nature of the property.

All advertisements for soliciting bids on Authority property shall state the method, place and deadline for the submission of bids, and request any other information the Contracting Officer deems necessary to evaluate bids being solicited.

All advertisements and announcements soliciting bids shall state the place and time at which the content of all bids received for the property advertised shall be publicly disclosed. The content of all bids received shall be publicly disclosed as announced in the solicitation for bids.

6. Award of Property Subject to Bid

Award of the property for which bids have been solicited shall be made within a timeframe reasonable for the evaluation of the bids received. The Contracting Officer shall evaluate the bids and select the bid most advantageous to the Authority based upon (a) conformance with the invitation for bids, (b) the terms, including but not limited to the price offered, and (c) any other factors that warrant consideration.

Notwithstanding the foregoing, the Authority may reject as inadequate all bids received in response to a particular solicitation for bids if the Contracting Officer deems that it is in the best interest of the Authority to reject all bids.

7. Notification of Successful Bid

The Authority shall notify the successful bidder in writing of the Authority's acceptance of the bid. This notice shall contain a description of the property, the amount of the successful bid and any other material terms of the bid. The bidder shall be required to make payment to the Authority Treasurer in a form and on terms acceptable to the Authority before taking possession of the property.

The Authority shall gather the following information regarding any successful bidder: name, address, phone number.

The Authority shall provide to the successful bidder a deed, bill of sale, lease or other appropriate instrument adequate to transfer to the successful bidder the interest in the property.

8. Contracts to Dispose of Property

The Authority may solicit bids for contracts to dispose of the Authority property covered by these Guidelines. In the event that the Authority determines that the services of a company are necessary to assist the Authority in disposing of certain of its property, the Authority shall follow the same procedures in selecting an organization to dispose of property as the Authority follows under these Guidelines for disposal of property through advertised bid.

9. Disposal of Property by Negotiation

The Authority may dispose of property through negotiation or by public auction without regard to the above described procedures if the Contracting Officer determines that any of the following conditions exist:

- (a) introduction into the market of the personal property to be disposed of would adversely affect the state or local market for that kind of property due to the property's artistic qualities, antiquity, historical significance, rarity, or other quality (separate from the property's utilitarian purpose), and a fair market price and other terms for the sale of the personal property can be obtained through negotiation;
- (b) the fair market value of the property does not exceed fifteen thousand dollars (\$15,000);
- (c) prices for the property that were obtained by advertised bid were not reasonable or the bid process did not generate open competition;
- (d) disposal of the property to the state or any political subdivision at fair market value can be arranged through negotiation;
- (e) the property is being disposed of for less than fair market value under the circumstances set forth in Section 11 of these Guidelines; or
- (f) such action is otherwise authorized by law.

10. Documentation of Disposal by Negotiation

The Contracting Officer shall cause to be prepared an explanation of the circumstances of the disposal when property is disposed of through the negotiation process described in Section 9, and any of the following are true:

- (a) personal property disposed of has an estimated fair market value in excess of fifteen thousand dollars (\$15,000);
- (b) real property sold has an appraised value in excess of one hundred thousand dollars (\$100,000.00);
- (c) real property leased has an estimated annual fair market rent over the term of the lease in excess of fifteen thousand dollars (\$15,000.00);
- (d) the personal or real property has been disposed of by exchange; or
- (e) any part of the consideration for the property disposed of consists of real property.

Not less than ninety (90) days prior to the scheduled date of any transaction under Section 9 and 10 of these Guidelines, the Contracting Officer shall provide the following information to the members of the Authority (the "Members"), the Office of the State Comptroller, the New York State Director of the Budget, the New York State Commissioner of General Services, the New York State Authorities Budget Office, and the New York State Legislature c/o the Speaker of the House and the Senate Majority Leader:

- (a) description of the parties involved in the property transaction;
- (b) justification for disposing of the property by negotiation;
- (c) identification of property, including its location;
- (d) estimated fair market value of the property;

- (e) proposed sale price of the property;
- (f) size of the property; and
- (g) expected date of sale of the property.

11. Disposal of Property for Less than Fair Market Value (Effective March 1, 2010)

The Authority may sell, lease or otherwise alienate an asset owned, leased or otherwise in the Authority's control for less than fair market value only if the Contracting Officer determines that any of the following conditions exist:

- (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 Authority; or
- (c) the Authority seeks to transfer the asset to a non-governmental entity, the disposal is not consistent with the Authority's mission, purpose or governing statutes, and the Authority either:
 - i. provides written notification to the Governor, the Speaker of the Assembly, and the temporary President of the Senate, and all such recipients fail to deny the proposed transfer within the applicable time period as set forth in Section 2897 of the Public Authorities Law; or
 - ii. the transfer is of property obtained by the Authority from a political subdivision where the Authority resides and is approved in accordance with Section 2897(7)(iii) of the Public Authorities Law.

For each proposed transfer of an asset below fair market value, the Contracting Officer shall provide the following information to the Members and to the public:

- (a) a full description of the asset;
- (b) an appraisal of the fair market value of the asset and any other information establishing the fair market value requested by the Members;
- (c) a description of the purpose of the proposed transfer and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including, without limitation:
 - i. the kind, number, location, wages or salaries of jobs created or preserved that are required by the transfer; and
 - ii. the benefits, if any, to the communities in which the asset is situated that are required by the transfer;
- (d) a statement of the value to be received compared to the fair market value;
- (e) the names of any private parties participating in the transfer and a statement of the value to the private party; and
- (f) the names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.

The Members shall consider the foregoing information before approving the disposal of any property for less than fair market value. The Members shall also make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose. The reporting requirement of this Section 11 is in addition to the reporting requirements of Section 9 and 10 of these Guidelines, as applicable.

12. Yearly Property Report

Each year the Contracting Officer shall publish a report listing all of the real property of the Authority to the extent permitted under applicable laws and regulations governing homeland security. The report will list and fully describe all real and personal property disposed of by the Authority during the previous twelve-month period.

The report shall contain a full description of each item of property disposed of, the price received by the Authority and the name of the individual(s) or entity that purchased the property.

The Contracting Officer shall cause the report to be delivered to the Office of the State Comptroller, the New York State Director of the Budget, the New York State Commissioner of General Services, the New York State Authorities Budget Office and the New York State Legislature c/o the Speaker of the House and the Senate Majority Leader.

The Contracting Officer shall publish the report on the Authority's website.

13. Annual Report to the New York State Authorities Budget Office

The Authority will include in its Annual Report, in addition to providing the information contained in the Yearly Property Report described above, a listing and description of all real property disposed of by the Authority during such year having an estimated fair market value in excess of Fifteen Thousand and No/100 Dollars (\$15,000.00). The Annual Report must include, at a minimum, the price received by the Authority and the name of the purchaser for all property sold. The Annual Report shall also contain a description of all assets, services or both assets and services that are sold by the Authority without competitive bidding, which description shall include the following:

- (a) the nature of those assets and/or services;
- (b) the names of the counterparties; and
- (c) where the contract price for assets that are sold by the Authority is less than fair market value, then a detailed explanation of the justification for making such sale without competitive bidding will be provided along with a certification by the Executive Director and Director of Finance and Business Services stating that they have reviewed the terms of the sale and determined that it complies with the applicable law and the Authority's procurement guidelines.

The Authority shall cause its Annual Report to be delivered to the County Executive, the Chief Financial Officer, the President of the Monroe County Legislature and the Authorities Budget Office within ninety (90) days after the end of the Authority's fiscal year.

The Authority shall publish its Annual Report on the Authority's website.