

ERIE COUNTY
MEDICAL CENTER
CORPORATION

DISPOSAL OF PROPERTY
GUIDELINES

MARCH 30, 2006

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ERIE COUNTY MEDICAL CENTER CORPORATION

DISPOSAL OF PROPERTY GUIDELINES

I. STATEMENT OF PURPOSE

These Guidelines are adopted pursuant to the provisions Article 9, Title 5-A “Disposal of Property by Public Authorities” of the Public Authorities Law of the State of New York. These Guidelines set forth Erie County Medical Center Corporation’s [“ECMCC’s”] operative policy and instructions regarding the use, awarding, monitoring and reporting of contracts for the disposal of property, and the designation of a Contracting Officer (hereinafter defined) who shall be responsible for ECMCC’s compliance with, and enforcement of, the Guidelines.

These Guidelines shall be consistent with ECMCC’s procurement contract guidelines, Article 10-C of the Public Authorities Law of the State of New York [the “ECMCC Act”], Article 5-A of the General Municipal Law, New York Public Authorities Law Article 9, Title 5-A and other applicable law for the disposition of property.

II. DEFINITION OF TERMS

For purposes of these Guidelines, the following terms shall have the following meanings:

- a. “Contracting Officer” means the ECMCC employee as appointed by resolution of the ECMCC Board of Directors to be responsible for the disposition of property.
- b. “Dispose” or “disposal” means transfer of title or any other beneficial interest in personal or real property in accordance with these Guidelines.
- c. “ECMCC” shall mean Erie County Medical Center Corporation.
- d. “ECMCC Act” means Article 10-C of the New York Public Authorities Law.
- e. “Property” shall mean personal property in excess of five thousand dollars in value, real property, and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party.

III. ANNUAL REVIEW, APPROVAL AND DISTRIBUTION

The Board of Directors shall annually review and approve these Guidelines, and any amendments thereto, by no later than March 31st each year. On or before March 31st each year, the Contracting Officer shall 1) file with the New York Office of the State Comptroller a copy of these Guidelines, as most recently approved by the Board of Directors, and 2) post on the ECMCC website a copy of these Guidelines, as most recently approved by the Board of Directors. A copy of the then-current Disposal of Property Guidelines shall be continuously maintained on the ECMCC website.

IV. CONTRACTING OFFICER'S RESPONSIBILITIES

Section 1. Administration. The ECMCC Contracting Officer shall be responsible for implementing these Guidelines and enforcing ECMCC's compliance therewith. In addition to the foregoing, the Contracting Officer shall be the person responsible for performing the following duties on behalf of ECMCC:

- a. maintain adequate inventory controls and accountability systems for all property under ECMCC's control;
- b. periodically inventory such property to determine which property shall be disposed of;
- c. produce a written report of such property in accordance with the requirements set forth below; and
- d. transfer or dispose of such property as promptly as possible in accordance with the procedures set forth below.

Section 2. Publication. In addition to his/her responsibilities under Article II above, the Contracting Officer shall publish, not less frequently than annually, a report listing all ECMCC property. Such report shall consist of a list and full description of all real and personal property disposed of during such period. The report shall contain the price received by ECMCC and the name of the purchaser for all such property sold by ECMCC during such period. The Contracting Officer shall deliver copies of such report to the State Comptroller, the Director of the Budget, the Commissioner of General Services, and the New York State Legislature.

Section 3. Reporting. The Contracting Officer shall report to the ECMCC Chief Financial Officer and shall provide such reports at such times and in such manner as may be requested by the Chief Financial Officer or the finance committee of the Board of Directors.

V. DISPOSAL OF PROPERTY

Section 1. Supervision and Direction. Except as otherwise provided herein, the Contracting Officer shall have supervision and direction over the disposition of ECMCC property.

Section 2. Custody and Control. The custody and control of the property of ECMCC, pending its disposition, and the disposal of such property, shall be performed by ECMCC or by the Commissioner of General Services when so authorized under New York Public Authorities Law Article 9, Title 5-A and these Guidelines.

Section 3. Method of Disposition. Except as otherwise provided herein, ECMCC may dispose of property for not less than the fair market value of such property by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the Contracting Officer deems proper, and it may execute such documents for the transfer of title or other interest in property and take such other action as it deems necessary or proper to dispose of such property under the provisions of these Guidelines. Any property, including any interest therein, which because of its unique nature is not subject to fair market pricing, shall be disposed of only after an appraisal of the value of such property has been made by an independent appraiser and such appraisal is included in the record of the transaction. In engaging an appraiser, the Contracting Officer shall comply with ECMCC's procurement contract guidelines.

Section 4. Sales by the Commissioner of General Services. When it shall be deemed advantageous to the State of New York, ECMCC may enter into an agreement with the Commissioner of General Services where he/she may dispose of ECMCC property under terms and conditions agreed to by ECMCC and the Commissioner of General Services. In disposing of any such property, the Commissioner of General Services shall be bound by the terms of New York Public Authorities Law Article 9, Title 5-A and in such instances, references therein to the contracting officer shall be deemed to refer to such commissioner.

Section 5. Validity of Instruments. A deed, bill of sale, lease, or other instrument executed by or on behalf of ECMCC, purporting to transfer title or any other interest in property of ECMCC under these Guidelines shall be conclusive evidence of compliance with the provisions of New York Public Authorities Law Article 9, Title 5-A concerning title or other interest of any bona fide grantee or transferee.

Section 6. Bids for Disposal.

Except as provided in Section 7 below, all disposals, or contracts for disposal, of property shall be made after publicly advertising for bids as follows:

- a. the Contracting Officer shall advertise for bids prior to disposal or contract for disposal of property by publishing notice thereof in at least one newspaper of general circulation, and the Contracting Officer shall have the discretion to advertise for bids through such additional methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the property;
- b. all bids shall be publicly disclosed at the time and place stated in the advertisement; and

- c. the award shall be made with reasonable promptness by written notice from the Contracting Officer to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the state and ECMCC, price and other factors considered; provided, that all bids may be rejected when it is in the public interest to do so.

Section 7. Disposal by Negotiation; Explanatory Statement.

a. Disposals and contracts for disposal of property may be negotiated or made by public auction without regard to Section 6 above, but subject to obtaining such competition as is feasible under the circumstances, if, in the opinion of the Contracting Officer:

- 1) the personal property involved is of a nature and quantity which, if disposed of under Section 6 above, would adversely affect the state or local market for such property, and the estimated fair market value of such property and other satisfactory terms of disposal can be obtained by negotiation;
- 2) the fair market value of the property does not exceed fifteen thousand dollars;
- 3) 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;
- 4) 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;
- 5) the disposal is for an amount less than the estimated fair market value of the property, the terms of such disposal are obtained by public auction or negotiation, the disposal of the property 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 where the ECMCC Act permits), the purpose and the terms of such disposal are documented in writing by the Contracting Officer and approved by resolution of the ECMCC Board of Directors; or
- 6) such action is otherwise authorized by applicable law.

b. The Contracting Officer shall prepare an explanatory statement describing the

circumstances of each disposal by negotiation of any of the following:

- 1) any personal property which has an estimated fair market value in excess of fifteen thousand dollars;
- 2) any real property that has an estimated fair market value in excess of one hundred thousand dollars, except that any real property disposed of by lease or exchange shall only be subject to paragraphs 3 and 4 of this subparagraph;
- 3) any real property disposed of by lease for a term of five years or less, if the estimated fair annual rent is in excess of one hundred thousand dollars for any of such years;
- 4) any real property disposed of by lease for a term of more than five years, if the total estimated rent over the term of the lease is in excess of one hundred thousand dollars; or
- 5) any real property or real and related personal property disposed of by exchange, regardless of value, or any property, any part of the consideration for which is real property.

Each such statement shall be transmitted to the State Comptroller, the Director of the Budget, the Commissioner of General Services, and the New York State Legislature not less than ninety days in advance of such disposal, and a copy thereof shall be preserved in the files of ECMCC.