



Salamanca Industrial Development Agency Policy

Disposition of Real Estate and Personal Property Policy

This Disposition Policy shall apply to all officers and employees of the Salamanca Industrial Development Agency. This policy shall serve as a guide for official conduct and is intended to enhance the ethical and professional performance of the Authority's directors and employees and to preserve public confidence in the Authority's mission.

Contracting officer of the SIDA shall be the Chief Operations Officer (COO). In the event the COO is not available in a timely manner, the SIDA Board Chairman shall assume all the rights and responsibilities of the COO.

1. Definitions (PAL S2895)
 - a) "Dispose" or "disposal" means the transfer of title or any other beneficial interest in personal or real property.
 - b) Property means personal property with a value in excess of \$5,000, 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 loan or other financial obligation of another party.

2. Duties of Authority (PAL S2896)
 - a) Adopt guidelines by resolution which must
 - b) Detail the authority's policy and instructions regarding the use, awarding, monitoring and reporting of contracts for the disposal of property
 - c) Designate a contracting officer who shall be responsible for the authority's compliance with, and enforcement of, such guidelines.
 - d) Review and approve disposal guidelines on an annual basis.
 - e) On or before the 31st of March in each year, the authority must file with the comptroller the guidelines most recently approved by the authority, including the name of the designated officer.
 - f) These guidelines should be posted on the authority's website and maintained on such site until the procurement guidelines for the following year are posted
 - g) Maintain adequate inventory controls and accountability systems for all property under authority control.
 - h) Periodically inventory all property of the authority and determine whether the property should be disposed of.
 - i) Transfer or dispose of property to be disposed of as promptly as possible.
 - j) Publish a report listing all real property of the authority annually. Such report shall consist of a list and full description of all real and personal property disposed of during the reporting period. The report must contain the price received by the authority and the name of the purchaser for all property sold by the authority during the reporting period. A completed report must be filed with the state comptroller, state director of the budget, state commissioner of general services, and the state legislature.

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Disposition of Real Estate and Pers. Property Policy (Cont'd)

3. Disposal Requirements (PAL S2897)

- a) The contracting officer must have supervision and direction over the disposition of property.
- b) Custody and control of the property, pending its disposition, and the disposal of such property must be performed by the authority in possession thereof.
- c) A deed, bill of sale, lease, or other instrument executed by or on behalf of the SIDA, purporting to transfer title or any other interest in the property under the provisions of the PAAA shall be conclusive evidence of compliance with the provisions of PAAA insofar as it concerns title or other interest of any bona fide grantee or transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of a lack of such compliance prior to closing.
- d) The agency must not transfer property for less than FMV (with exception as is set forth in 4 g and h below) and if such property is not subject to fair market pricing due to its unique nature, an appraisal of the value of such property must be made by an independent appraiser and included in the record of the transaction.

4. Procedures for Disposal

- a) The contracting officer will be the contact person within the agency. Any contact by interested parties will be handled by the contracting officer. The name and position of the contracting officer shall be designated within any advertisements or postings of property disposal. Advertisements or postings shall inform the reader that the contracting officer shall be the one to contact. Any contact by a prospective bidder or buyer to a board member or employee should be directed to the contract officer.
- b) All contacts verbal or written received by a board member or employee including the contracting officer by prospective bidders or buyers shall be documented by the contacted person and kept on file by the contracting officer.
- c) All disposals or contracts for disposal of property must be made after publicly advertising for bids (with exceptions as discussed below).
- d) Advertisements for bids must be made at such a time prior to the disposal or contract through such methods and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the property.
- e) All bids are to be publicly disclosed at the time and place stated in the advertisement
- f) The award of bids shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the agency. Price and other factors may be considered, and all bids may be rejected when it is in the public interest to do so.
- g) Exceptions to publicly advertising: The disposal and contracts for disposal of property may be negotiated or made by public auction subject to obtaining such competition as is feasible under the circumstances if:

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Disposition of Real Estate and Pers. Property Policy (Cont'd)

- 1) The personal property involved is of a nature and quantity which, if disposed of using public bidding advertisement and disclosure, would adversely affect State or local market for such property, and the estimated FMV of such property and other satisfactory terms of disposal can be obtained by negotiation;
 - 2) The FMV of such property does not exceed \$15,000;
 - 3) Bid prices after advertising 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 estimated FMV of the property and other satisfactory terms of disposal are obtained by negotiation; or
 - 5) Such action is otherwise authorized by law.
- h) Exception to publicly advertising and obtaining FMV: The disposal is for an amount less than the estimated FMV of the property, the terms of such disposal are obtained by public auction or negotiation, disposal of the property is intended to further the public health, safety, welfare, or economic development of the agency, state or 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 authority's enabling legislation permits), the purpose and terms of such disposal are documented and approved by the board of the public authority.
- i) Ninety-day notice of a negotiated disposal: An explanatory statement has to be prepared and transmitted to the state comptroller, state director of the budget, state commissioner of general services, **Budget office of the Public Authority** and the state legislature must be filed at least 90 in instances of disposal by negotiation where:
- 1) Any personal property has an estimated FMV in excess of \$15,000;
 - 2) Any real property that has an estimated FMV in excess of \$100,000, except in instances where real property is disposed of by lease or exchange unless such lease or exchange includes:
 - i. Any real property disposed of by lease for a term of five years or less, **Annual Rent over \$15,000** if the estimated fair annual rent is in excess of \$100,000 for any such years.
 - ii. 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 \$100,000; or
 - iii. Any real property or real and personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.