

CNYRTA Property Disposal Guidelines

Board Approved Policy

Version: 2
Effective: 2005

Approved By:
Audit & Finance Committee; Owner: Finance
Full Board October 2021

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1. **Policy Statement**

These guidelines shall be known as “Guidelines Regarding the Disposition of Property by the Central New York Regional Transportation Authority”, or as the “Property Disposal Guidelines.”

2. **Reason for Policy**

The purpose of the Property Disposal Guidelines is to set comprehensive guidelines which detail the operative policy and instructions to officers and staff of the Central New York Regional Transportation Authority (“Authority”) regarding the disposal of property in accordance with the PAAA of 2005, the Authorities Budget Office and the FTA.

3. **Applicability & Authority**

These guidelines apply to all CNYRTA property and all CNYRTA employees with the ability to dispose of property on behalf of the Authority.

4. **Resources & Related Procedures**

CNYRTA Annual Report on Real Property
CNYRTA Property Disposal Procedures
FTA Circular 5010.1D
Public Authorities Accountability Act of 2005
New York State Authorities Budget Office

5. **Definitions**

“CNYRTA” or “Authority” – The Central New York Regional Transportation Authority and any subsidiary corporation thereof.

PAAA – Public Authorities Accountability Act of 2005, as amended from time to time.

Personal Property – All equipment, supplies and rolling stock.

Real Property – Land, including affixed land improvements, structures, and appurtenances and property leases. This does *not* include movable machinery and equipment.

Board – Board of Members of the CNYRTA.

Legislature – 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.

FMV – Fair market value of a piece of property.

FTA Circular 5010.1D – Federal Transit Administration of the United States Department of Transportation circular policy regarding disposition of any federally funded personal or real property.

Contracting Officer – CNYRTA employee designated by the Board to ensure internal compliance with these guidelines and to ensure all necessary reporting is completed.

6. Policy Detail

- I. Duties of the CNYRTA and/or Board**– In accordance with applicable guidelines and legislation, the CNYRTA 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 CNYRTA regarding the use, awarding, monitoring and reporting of contracts for the disposal of CNYRTA property.
 - b. **Contracting Officer:** The Board shall designate one or more individuals to serve as the Contracting Officer(s) for purposes of disposing of CNYRTA property. The Contracting Officer(s) may, but need not be the same individual(s) for each instance where the CNYRTA purports to dispose of certain of its property.
 - c. **Review & 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 CNYRTA shall submit annually within PARIS a copy of its most recently adopted Guidelines to the Comptroller of the State of New York.
 - e. **Posting of Guidelines:** A full and complete copy of the most recently adopted Guidelines shall be posted on the CNYRTA website. 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 CNYRTA.
 - f. **Inventory Controls & Accountability:** The CNYRTA shall maintain adequate inventory controls and accountability for all CNYRTA 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 CNYRTA 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 CNYRTA shall cause a report to be completed, outlining which, if any of the CNYRTA 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 CNYRTA shall take all necessary actions to arrange for the prompt transfer or disposal of the subject property.

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II. Methods of Disposition – Any disposal of property by the CNYRTA, whether real or personal, shall be in accordance with the procedures contained in this Article II and in accordance with all other applicable provisions of these Guidelines.

- a. General Methods of Disposition: The CNYRTA may dispose of assets determined to be at the end of their useful life by public auction, sale, exchange, lease, transfer, donation or other terms and conditions deemed appropriate by the responsible executive of the asset(s) in question.
 1. In the event the CNYRTA must dispose of an asset prior to the end of its useful life, whether by transfer, damage or other loss, the CNYRTA will follow the policy and procedures as defined in the FTA Circular 5010.1D regarding such instances.
- b. Appraisal of Assets: CNYRTA will not dispose of any assets without an appraisal of the asset FMV. The method of determining FMV will vary depending on the asset and type of disposal method including, but not limited to: scrap value, public auction, third-party appraisal etc...
- c. Limitations on Disposals: The CNYRTA does not dispose of personal or real property for less than the fair market value of the subject properties (the "FMV"), except in the following circumstances:
 1. **Government & Public Entities**: 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.
 2. **Mission & Purpose**: The purpose of the transfer is within the purpose, mission or governing statute of the CNYRTA.
 3. **Other**: If the disposal is not to a governmental other public entity, or not within the purpose, mission or governing statute of CNYRTA, the CNYRTA provides written notification thereof to the governor, the speaker of the assembly, and the temporary president of the senate, and such proposed transfer is either approved, or no action is taken for sixty days after delivering notification of the proposed transfer during the months of January through June, provided that if such notification is received during the months of July through December, within sixty days of January first of the following year.

*Note: In the event there is a transfer of assets as described in items 1-3 above, the CNYRTA will follow all FTA guidelines for transferring assets with a FMV greater than \$5,000 for less than fair market value as noted in the FTA Circular 5010.1D. If the property is worth less than \$5,000 and at the end of its useful life, it may be treated as a donation under article II.c.4.

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4. Donations: In certain circumstances, the CNYRTA may consider requests to donate property. Property will only be eligible to be considered for donation, if the fair market value is less than \$5,000 **and** it has reached the end of its useful life; If property is eligible to be donated, the following must be documented and presented to the Chief Executive Officer for final donation approval. The documentation must include:
 - A full description of the asset, or assets being donated
 - Documented value/appraisal of the asset
 - The appraisal method will be determined on a case by case basis
 - Description of the purpose of the transfer and a reasonable statement of the kind and amount of benefit to the public of such a donation
 - Names of any private parties participating in the transfer
 - List of any other offers and their value made for the property (if any)
 5. Real Property: In certain negotiated disposals of real property, the CNYRTA may dispose of real property for less than its determined FMV. The explanations of such shall be reported in detail on an Explanatory Statement for Negotiated Disposals as noted in article III.c.
- d. Disposal by Commission of General Services: The CNYRTA may, in connection with the disposal of any of its properties, and in its sole discretion (unless otherwise required by any applicable laws), enter into an agreement with the Commissioner of General Services to dispose of certain of the Authority's properties.
 - e. Bids and Advertising for Disposal:
 1. Advertising – Except as set forth in Article II(f) below, any disposal made or authorized by the CNYRTA Contracting Officer may only be made after first publicly advertising for bids in accordance with applicable New York State laws and internal Authority procedures.
 2. 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.
 3. Opening of Bids - All bids received by the CNYRTA 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.
 4. Awarding of Contract - The CNYRTA 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: (B) conformed to the invitation to bid; and (B) will be most advantageous to the CNYRTA based on price and other factors. The CNYRTA reserves the right to reject any and/or

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all bids when the CNYRTA determines, in its sole discretion that it is in the public interest to do so.

- f. Negotiated Disposals or Disposal by Public Auction: The CNYRTA 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 circumstance, if:
1. 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;
 2. the FMV of the subject property does not exceed \$15,000;
 3. 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;
 4. 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;
 5. the property may be disposed of for less than FMV if 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
 6. the transaction is for health, safety or economic development purposes.

III. Disposal Reporting

- a. FTA Reporting: Transactions and/or information relating to personal and/or real property disposals for which the FTA retains an interest and net proceeds exceeding \$5,000 must be reported to the FTA. The CNYRTA will calculate the cost of the sale and residual net proceeds which are typically used to offset future grants.
- b. Annual Reporting Requirements: Annually by June 30, the CNYRTA will publish a report of all **real property** owned at the time thereof, as well as a listing and full description of all real property exceeding \$15,000 and/or personal property exceeding \$5,000 disposed of by the CNYRTA during the reporting period – including the amount received and the name of the purchaser of each piece of property. This report must be posted to the

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CNYRTA website, and submitted in the NYS Public Authority Reporting & Information System (PARIS).

- c. Public Authorities Law §2897(6)(d) Explanatory Statements Required for Certain Negotiated Disposals: The CNYRTA shall prepare explanatory statements of the terms and circumstances of any disposal resulting from **negotiations**, if any of the following are true:
1. The property being disposed of includes personal property that has an estimated FMV in excess of \$15,000;
 2. The property being disposed of includes real property that has an estimated FMV in excess of \$100,000;
 3. The transaction includes the disposal of real property by lease, if the estimated annual rent over the term of the lease is in excess of fifteen thousand dollars;
 4. 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

The explanatory statement made in accordance with this Article II(f) shall include;

- Description of the parties involved in the transaction
- Justification for disposing of the property by negotiation
- Identification of property, including its location
- Estimated fair market value of the property
- Proposed sale price of the property
- Size of the property
- Expected date of sale

Such explanatory statement made in accordance with this Article II(f) must be delivered to the following parties no less than 90 days prior to the scheduled date of transaction;

- Authorities Budget Office (ABO)
- NYS Comptroller
- Director of Budget
- Commissioner of General Services & the Legislature

IV. Operative Instructions to CNYRTA Staff:

- a. Unless otherwise indicated in writing, the Vice President of Finance for the CNYRTA shall be the Contracting Officer for the purposes of these Guidelines.
- b. CNYRTA departments and the employees thereof shall promptly report, in writing, to the CNYRTA Contracting Officer with respect to any properties deemed by such department to be ready for disposal. In making such reports, all FTA Guidelines for minimum useful life, if determined, should, when desirable for disposition purposes, be followed for any properties that were procured using federal grant funds. The Contracting Officer shall consult with appropriate CNYRTA personnel regarding the nature of funding (grant or

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non-grant) for any properties deemed by a department of the Authority as ready for disposal, in order to determine that its useful life under FTA regulation has been reached. For properties not procured with federal funds, or properties for which the federal government does not proscribe a minimum useful life, a normal business estimated useful life used for calculating depreciation shall be used as the minimum useful life.

- c. The Contracting Officer shall, in conducting the disposal process, proceed in accordance with the requirements of the PAAA, the FTA and as such requirements are amended from time to time.
- d. The CNYRTA staff, in conjunction with the Contracting Officer, shall ensure that any and all reporting and control responsibilities required of the Authority under applicable NYS and Federal guidelines, are met.