



NEW YORK STATE

OLYMPIC REGIONAL DEVELOPMENT AUTHORITY

Property Disposition Policy Effective June 26, 2024

I. SUMMARY

This Policy describes the operative policy, procedures, and instructions regarding the identification of ORDA real and personal property for disposal, and the use, awarding, monitoring, and reporting of contracts for the disposal of real and personal property under the ownership or control of the New York State Olympic Regional Development Authority (“ORDA”).

This Policy further designates a Contracting Officer who is responsible for ORDA’s compliance with and enforcement of this Policy.

This Policy replaces and supersedes the policy dated May 2008.

II. PURPOSE

The purpose of this policy is to provide guidelines for the inventory and proper designation of real and personal property for disposal, and consistency in the manner in which such disposal process is carried out.

Attached as Exhibit A is a Property Disposition Summary and Checklist for staff to use in implementing this Policy.

III. BACKGROUND

Under ORDA’s enabling statute at Public Authorities Law § 2611 (3), ORDA is authorized to “acquire, lease, hold and dispose of real and personal property or any interest therein for its corporate purposes”.

Public Authorities Law § 2896 sets forth the duties of public authorities with respect to the disposal of property. This includes the adoption of comprehensive guidelines for contracts for the disposal of its property; the publication at least annually of a list of all of ORDA’s real property, as well as certain information regarding the real and personal property disposed of in the preceding period; and the designation of a Contracting Officer who is responsible for assuring ORDA’s compliance with its property disposal guidelines.

Pursuant to Public Authorities Law § 2897 (3), a public authority such as ORDA may dispose of real or personal property by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, or on such other terms as the Contracting Officer deems proper. Subject to the exceptions and criteria set forth in the statute, an authority may not dispose of real or personal property in its possession for less than fair market value. Public authorities are also authorized, pursuant to Public Authorities Law

§ 2897 (4), to enter into an agreement with the Office of General Services to dispose of the authority's property when it would be advantageous to the State to do so.

ORDA also manages and controls certain real property that is not subject to its disposal. This includes: land that is within the Forest Preserve on which certain ORDA venues are located, that is occupied and managed by ORDA under a Memorandum of Understanding ("MOU") with the New York State Department of Environmental Conservation ("NYSDEC"); and land within the Town of North Elba Public Parks and Playgrounds District ("Park District"), which is managed in accordance with ORDA's agreement with the Town Board of the Town of North Elba as Trustee for the District ("Park District Agreement").

IV. POLICY

It is the policy of ORDA to require that the real and personal property in its possession be periodically inventoried to determine which property shall be disposed of, that it produce a written report of such property in accordance with section 2896 of the Public Authorities Law, that it maintain adequate inventory controls and accountability systems for all real and personal property within its possession and control, and that all activities concerning the inventory, identification, disposal and reporting on the real and personal property in ORDA's possession be managed and overseen by a Contracting Officer designated by the ORDA Board of Directors.

It is further the policy of ORDA that the disposition of the real and personal property in its possession comply with section 2897 of the Public Authorities Law, and all other applicable law for contracting for the disposal of property, as well as duly adopted Board policies and rules.

Consistent with the requirements of the Public Authorities Law, this policy will be filed with the New York State Office of the Comptroller and made available to the public on the ORDA website.

A. DEFINITIONS

For the purposes of this Policy, the following definitions will apply:

1. "Auction" includes but is not limited to the use of a reputable auction site conducted either on-line or at an on-site/in-person auction, as well as the offer of items for public auction on the ORDA website. In all cases of the use of auction for property disposition, the Venue Manager will first obtain the approval of the Contracting Officer after establishing and documenting a minimal acceptable bid for purchase, based on market conditions and best value to the organization. The intent to offer ORDA personal property through auction shall be publicly noticed on the ORDA website and may also be noticed on ORDA official social media marketing sites.

2. “Contracting Officer” means the Vice President for Operations, who shall be appointed by resolution of the Board of Directors to be responsible for the disposition of ORDA property and the implementation of this Policy.

3. “Dispose” or “disposal” means the transfer of title or any other beneficial interest in personal or real property from ORDA to a third party. The terms “dispose” and “disposal” do not include either the rental or lease of ORDA venues for events by third parties, or the rental or lease of ORDA facilities to the US Olympic Committee or other national or international sports organizations.

4. The term “negotiation” includes the exchange of ORDA personal property through a trade-in on the purchase by ORDA of new or used personal property, subject to the process set forth herein for establishing the value of the property to be exchanged, and the approval of the Contracting Officer.

5. “Personal property” means any ORDA asset that is not real property and which has a value in excess of five thousand dollars in value. Surplus computer and other information technology equipment is excepted from the definition of “personal property” under this Policy.

6. “Real property” means real estate to which ORDA holds title in its corporate capacity under the terms of an official deed that has been duly recorded in the office of the clerk of the County in which such property is located.

7. “Transferee” means the person or entity taking possession of real or personal property that has been disposed of by ORDA in accordance with the terms of this Policy.

8. “Venue Managers” means the persons who are responsible for managing each of the ORDA venues, whether in an acting or official capacity, including but not limited to the Olympic Center, the Mt. Van Hoevenberg Nordic Center, Whiteface Mountain Ski Center, Gore Mountain Ski Center, Belleayre Mountain Ski Center, and the Olympic Ski Jumps.

B. GUIDELINES

It is the responsibility of the Contracting Officer and all Venue Managers to ensure that all personal property under their control is properly inventoried, recorded, and reported in accordance with the procedures in this Policy, and that the disposal of any ORDA personal property complies with the procedures and requirements of this Policy.

It is the responsibility of the Contracting Officer to work with the ORDA President & CEO to ensure that all ORDA real property is properly inventoried, recorded and reported in accordance with the procedures in this Policy, and that the disposal of any ORDA real property complies with the procedures and requirements of this Policy, and with all applicable procedures and requirements of New York law.

V. PROCEDURE FOR DISPOSING OF PERSONAL PROPERTY

A. Identifying Personal Property For Disposal

By June 1 of every year, Venue Managers will prepare and submit to the Contracting Officer an inventory of the personal property under their control, and a list of any personal property recommended for disposal. Recommendations for disposal of surplus computer and related equipment is the sole the responsibility of the Information Technology Manager, and Venue Managers shall not dispose of any computer or related equipment.

Prior to including an item of personal property on the list for disposition, Venue Managers must first make a good faith effort to determine that there is no need for the property by other Venue Managers. Any personal property that is relocated from one venue to another must be identified and accounted for on each Venue Manager's annual inventory. In addition, in identifying personal property for disposal Venue Managers shall:

1. Identify and include on the personal property list all personal property which has not been used in the prior fiscal year, is not expected to be used in the coming fiscal year, and in the judgment of the Venue Manager is no longer in ORDA's best interest to continue to possess;
2. Document the date and the manner in which such property was acquired by ORDA, including the source of funding and in particular whether any federal funding was used by ORDA to purchase the personal property.
 - a. If the property that may be subject to disposal is property that was transferred to ORDA from the Town of North Elba, the Contracting Officer shall contact the Town of North Elba for written permission to dispose of such personal property, and to obtain direction as to how to direct any revenue that may be generated as a result.
 - b. If the property that may be subject to disposal is property that was transferred to ORDA from the New York State Department of Environmental Conservation, then in accordance with Interim MOU No. AM12059, after properly identifying the property and accounting for it on the inventory supplied by DEC, the property may be disposed of in accordance with the procedures and requirements of this policy.

c. In the event that federal funding was utilized to purchase any part of personal property that has been identified for disposal, the Contracting Officer shall be provided with a copy of the grant or other agreement under which such funds were provided, and no such property shall be disposed of unless the Contracting Officer has made a determination that such disposal will occur in conformance with the terms of such grant or other agreement.

3. Document any unique qualities attributable to any item of personal property including artistic or historical significance, rarity, or limitations on the available market that may affect either the options for disposition through a competitive bid process or the ability to estimate the property's fair market value;

4. Consider and to the extent practicable quantify or otherwise describe the usable life of the property, its potential use for parts and/or whether the sale of its parts should be considered or should be considered for recycling, the Venue Manager's ability to keep the facility neat and clean, and other relevant factors related to ORDA's interests with respect to that item of personal property and the basis for its inclusion on the personal property disposition list;

5. Document the lack of need for each item of personal property by other Venue Managers including the date and method of communication used to offer the property to them (email, telephone, other), and the responses of the other Venue Managers;

6. Document any other factors considered in recommending the item for disposal;

7. Document the fair market value or, if there is no valuation possible through reference to an active market for similar property, due to either the unique nature of the property or the unique circumstances of the proposed transaction, then in those circumstances the Venue Manager shall obtain an appraised value of the property by an independent appraiser.

Venue Managers shall obtain the approval of the Contracting Officer prior to having an item appraised, and shall follow the direction of the Contracting Officer in retaining the services of an independent appraiser, and documenting the results of the appraisal.

B. Method of Disposal

1. Competitive bids

a. Unless the criteria in section V.B.2. are met, the Contracting Officer will publicly advertise for bids for personal property that each Venue Manager has identified for disposal in accordance with the

requirements of this Policy. The bid process shall provide sufficient time prior to disposal or contracting for disposal of the property, to allow full and free competition consistent with the value and nature of the property.

b. The advertisement will state the length of time that the bid process will remain open, and the time and place that the bids will be publicly disclosed. Wherever practical, the Contracting Officer should seek a minimum of three (3) written bids.

c. Upon the close of the bid period, the Contracting Officer will determine whether to make an award or whether to reject all bids as not being in the public interest. Any bids that do not equal or exceed the fair market or appraised value of the personal property will be rejected as not being in the public interest. If one or more bids equal or exceed the fair market or appraised value of the property, the Contracting Officer shall consider which responsible bidder's bid, conforming to the invitations for bids, will be most advantageous considering price and other factors such as market conditions and best value to ORDA.

d. The Contracting Officer will promptly and in writing notify the responsible bidder of the award.

2. Negotiation and public auction

a. In lieu of the bid process described in section V.B.1. herein, with the approval of the Contracting Officer, Venue Managers may dispose of personal property through negotiation or public auction if:

i. the fair market or appraised value of the item of personal property is less than or equal to \$15,000.00; or

ii. Bid prices after advertising are not reasonable, either as to all or some part of the property, or have not been arrived at in open competition; or

iii. The personal property involved has qualities separate from the utilitarian purpose of the property such as artistic quality, antiquity, historical significance, rarity, or other quality of similar effect that would tend to increase its value, and the nature, quality and value of such property has been documented by the Venue Manager to the satisfaction of the Contracting Officer.

b. In addition, with the approval of the Contracting Officer, Venue Managers may dispose of personal property through negotiation if:

i. The value of the property exceeds \$15,000.00 and the Venue Manager or Contracting Officer prepares an explanatory statement that is approved by the President and CEO which sets forth: (a) the estimated fair market value or appraised value of the property; (b) the reason(s) why disposition without competitive bidding will be in the best interest of the public and the factors considered in reaching that conclusion; (c) whether the Venue Manager or Contracting Officer propose disposing of the property through sale or exchange; and (d) the criteria that was or will be used to select the entity with whom the negotiated sale or exchange will occur; or

ii. The property is to be sold in such quantity that, if it were disposed of through a competitive bid process as set forth in section V.B.1. herein, would adversely affect the State or local market for such property, the Venue Manager can document this fact to the satisfaction of the Contracting Officer as well as the fact that satisfactory terms of disposal can be obtained by negotiation, and the Venue Manager can document to the satisfaction of the Contracting Officer the criteria that was or will be used to select the entity with whom the negotiated sale will occur; or

iii. 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 through a negotiation, the terms of which are satisfactory to the Contracting Officer, and the Venue Manager can document to the satisfaction of the Contracting Officer the method by which the State or local political subdivision was contacted and chosen for the purpose of engaging in the negotiation process.

c. With the approval of the Contracting Officer, Venue Managers may dispose of personal property for a negotiated value that is less than fair market value if the disposal of such property is clearly within ORDA's purpose, mission, and authority of its enabling statute and:

i. The entity receiving such property 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 other public entity; or

ii. The Contracting Officer has received approval from the ORDA President and CEO to pursue the process set forth in Public Authorities Law § 2897 (7) (a) (iii) for proposing the

transfer of personal property for an amount below its fair market value to other than a governmental entity, to the Governor, the speaker of the assembly, and the temporary president of the senate. In the event such proposed transfer is not denied, the Contracting Officer shall strictly adhere to the criteria and procedure set forth in Public Authorities Law § 2897 (b) for documenting the details of the proposed transfer and, in accordance with the requirements of Public Authorities Law § 2897 (c), obtaining a written determination by the ORDA Board of Directors that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer.

d. For personal property that is disposed of by negotiation for less than fair market value and which has an appraised or fair market value of over \$15,000.00, the Contracting Officer shall prepare an explanatory statement of the circumstances of the disposal including but not limited to the reason(s) that disposal of the property for less than fair market value will be in the public interest, and the factors or criteria used to reach that conclusion.

VI. PROCEDURE FOR DISPOSING OF REAL PROPERTY

A. No Venue Manager shall dispose of or enter into agreements for the disposition of real property in ORDA's possession.

Any proposal for the sale of ORDA real property must be made to the Contracting Officer, who must obtain the approval of the ORDA President & CEO, and the ORDA Board of Directors.

Prior to requesting approval to consider the disposition of ORDA real property, the Contracting Officer shall obtain written verification that ORDA has marketable title to such property, and shall document: (1) the reason(s) that such property should be disposed of; and (2) the reason(s) why such disposal would be in the public interest and in the best interest of ORDA.

The Contracting Officer shall assure that no part of any real property that is identified for disposal by ORDA, is or consists of land that belongs to: the State of New York as Constitutionally-protected Forest Preserve; the Town of North Elba; the Town of North Creek; the Town of Highmount; or to any other Federal, State, or local government entity.

B. The Contracting Officer shall summarize the information required in VI.A. herein and present it to the President & CEO, with a recommendation for action. If the recommendation is to pursue the sale of the property, then upon the approval of the President & CEO, the Contracting Officer shall obtain an appraisal of the property by an independent appraiser.

C. The President & CEO shall present a resolution to the ORDA Board of Directors, proposing the sale of the ORDA real property, which reflects its marketable title, its appraised value, and the reasons for disposing of the real property, including any benefit to ORDA and/or the public that may result, and any benefit to or potential impact on local government. In the event of any anticipated impact to local government, the President & CEO shall contact local government stakeholders to obtain their input to the proposal. The Contracting Officer shall undertake any necessary review pursuant to the State Environmental Quality Review Act (SEQRA), the Adirondack Park Agency Act, and any other applicable laws and regulations that may be required.

D. **Method of Disposal**

1. **Competitive bids**

a. Unless the criteria in section VI.C. are met, the Contracting Officer will publicly advertise for bids for real property that the President & CEO has identified for disposal. The bid process shall provide sufficient time prior to disposal or contracting for disposal of the property, to allow full and free competition consistent with the value and nature of the property, and shall explicitly put bidders on notice that any final sale, its terms, and the timing of the closing process, must be approved by the ORDA Board of Directors through an officially scheduled board meeting.

b. The advertisement will state the length of time that the bid process will remain open, and the time and place that the bids will be publicly disclosed. Wherever practical, the Contracting Officer should seek a minimum of three (3) written bids.

c. Upon the close of the bid period, the Contracting Officer will determine whether to make an award or whether to reject all bids as not being in the public interest. Any bids that do not equal or exceed the fair market or appraised value of the personal property will be rejected as not being in the public interest. If one or more bids equal or exceed the fair market or appraised value of the property, the Contracting Officer must consider which responsible bidder's bid, conforming to the invitations for bids, will be most advantageous to ORDA considering price and other factors such as market conditions and best value to ORDA.

d. The Contracting Officer will promptly and in writing notify the responsible bidder of the award.

e. The proposed terms of sale shall be authorized through a resolution by the ORDA Board of Directors.

2. **Negotiation**

- a. Subject to the approval of the President & CEO, and a resolution of the ORDA Board of Directors, the Contracting Officer may dispose of real property by negotiation if the disposal of such property is clearly within ORDA's purpose, mission, and authority of its enabling statute and:
 - i. the appraised value of the property is less than or equal to \$100,000.00; or
 - ii. Bid prices after advertising are not reasonable, either as to all or some part of the property, or have not been arrived at in open competition; or
 - iii. Disposition will be made to the State or any political subdivision.

- b. Subject to the approval of the President & CEO, and a resolution of the ORDA Board of Directors, the Contracting Officer may negotiate for the sale of real property for below fair market or appraised value, where the value of such property is in excess of \$100,000.00, if the disposal of such property is clearly within ORDA's purpose, mission, and authority of its enabling statute and:
 - i. The entity receiving such property 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 other public entity; or
 - ii. The Contracting Officer has received approval from the ORDA President & CEO to pursue the process set forth in Public Authorities Law § 2897 ((7) (a) (iii) for proposing the transfer of real property for an amount below its fair market value to other than a governmental entity, to the Governor, the speaker of the assembly, and the temporary president of the senate. In the event such proposed transfer is not denied, the Contracting Officer shall strictly adhere to the criteria and procedure set forth in Public Authorities Law § 2897 (b) for documenting the details of the proposed transfer and, in accordance with the requirements of Public Authorities Law § 2897 (c), obtaining a written determination by the ORDA Board of Directors that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer.

- e. For real property that is disposed of by negotiation for less than fair market value and which has an appraised value of over

\$100,000.00, the Contracting Officer shall prepare an explanatory statement of the circumstances of the disposal including but not limited to the reason(s) that disposal of the property for less than fair market value will be in the public interest, and the factors or criteria used to reach that conclusion.

VII. DOCUMENTATION AND REPORTING

A. Property Transfer Documentation and Disposition of Revenue

1. The Contracting Officer may accept cash or credit from the transferee for the sale of real or personal property by bid, negotiation, or auction, or may enter into a contract for sale or exchange of such property.

If the sale is for cash or credit, the Contracting Officer shall provide either a receipt or bill of sale to the transferee which clearly describes the property being conveyed and its sale price, which should accurately correspond to any bid documents, and the result of the bid, auction, or negotiation process.

The terms of any contract shall clearly describe the property being conveyed and shall clearly state the value received by ORDA for its sale or exchange, based on the result of any bid, audit, or negotiation process.

Any contract, bill of sale or receipt shall clearly state that the property is being conveyed "as is", that ORDA provides no warranties of any kind in connection with the sale of the property and that the transferee accepts all risk that may accompany the purchase, exchange, use, or disposition of the property, with a disclaimer of all liability to ORDA in connection with any subsequent disposition of the property by the transferee.

2. A deed, bill of sale, lease, or other instrument executed by or on behalf of ORDA (as authorized by the ORDA Board of Directors for the sale or transfer of real property), purporting to transfer title or any other interest in ORDA property, shall be conclusive evidence of compliance with the relevant provisions of the Public Authorities Law insofar as concerns title or other interest of any bona fide transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to the closing or other completion of sale.

3. Revenue generated from the sale of personal property will generally be realized by the Venue that held the property, but all final decisions in this regard shall be made by the Contracting Officer. Revenue generated from the sale of real property will be realized by ORDA as directed by the President & CEO.

4. All revenue from the sale of personal property shall be directed to the Director of Finance who will work with the Contracting Officer or his or her designee to prepare a bill of sale, receipt, or contract of sale or exchange, and to post the revenue realized from the disposal to appropriate Venue's personal property inventory roster.

5. Documentation of the sale of real property shall be in such form as is generally acceptable under NY law and in using such formats and forms as directed by the Contracting Office.

6. Documentation of the exchange of property where no revenue is generated shall be submitted to the Director of Finance along with such other documentation as required by the Director of Finance.

B. Reporting

1. By not later than January 1 of each year, the Contracting Officer shall compile an updated inventory of all real property in ORDA's possession, as well as all real property that ORDA rents, leases, manages or otherwise controls. The report shall include a list and full description of all real and personal property disposed of during the preceding year, the price received by ORDA for each item of real or personal property disposed of, and the name of the purchaser of all such property sold by ORDA during such period.

2. Such report shall be published on the ORDA website and copies of the report shall also be delivered to the Comptroller, the Director of the Budget, the Commissioner of General Services, the legislature, and the Authorities Budget Office.

VIII. SALES BY THE COMMISSIONER OF GENERAL SERVICES

When it shall be deemed advantageous to the State, as recommended by the Contracting Officer and approved by the President & CEO, ORDA may enter into an agreement with the Commissioner of General Services where under such agreement the Commissioner may dispose of ORDA property under terms and conditions acceptable to ORDA and the Commissioner of General Services. In disposing of any such property of ORDA's, the Commissioner of General Services shall be bound by the terms of Public Authorities Law § 2897 and references to the contracting officer shall be deemed to refer to the Commissioner of General Services.