

BUFFALO ECONOMIC RENAISSANCE CORPORATION

Property Disposition Guidelines

Effective Date: March 31, 2009

The Buffalo Economic Renaissance Corporation ("BERC") is required by Section 2896 of New York Public Authorities Law to adopt by resolution comprehensive guidelines regarding BERC's policies for the use, awarding, monitoring and reporting of contracts for the disposal of property (the "Guidelines").

Additionally, the statute requires BERC to designate a contracting officer who shall be responsible for BERC's compliance with, and enforcement of the Guidelines.

The following guidelines (the "Guidelines") are adopted pursuant to such requirement and are applicable with respect to the use, awarding, monitoring and reporting of all Property Disposition Contracts which are entered into by BERC.

Article I
DEFINITIONS

1. "Contracting Officer" shall mean the employee of BERC appointed by resolution of the Board of Directors of BERC to be responsible for the disposition of BERC property.
2. "Dispose" or "disposal" or "disposition" shall mean transfer of title or any other beneficial interest in personal or real property from BERC to any unrelated third party.
3. "Property" shall mean personal property in excess of Five Thousand Dollars (\$5,000.00) in value, real property, and any other legally transferable 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.
4. "Property Disposition Contracts" shall mean written agreements for the sale, lease, transfer or other disposition of property from BERC to any third party.
5. "Real Property" shall mean real property and interests therein.

ARTICLE II
APPOINTMENT AND DUTIES OF CONTRACTING OFFICER

A. Appointment

The Contracting Officer shall be an employee of BEREC appointed by the Board of Directors who is responsible for the supervision and direction over the custody, control and disposition of Property, and for BEREC's compliance with and enforcement of these Guidelines. The Contracting Officer is the Director of Real Estate of BEREC.

B. Duties

The duties of the Contracting Officer shall include the following:

1. Maintain adequate inventory controls and accountability systems for all Property under BEREC's control.
2. Periodically conduct an inventory of Property to determine which Property may be disposed of.
3. Prepare an annual written report of all Property. Each report shall include a listing of all Real Property, a full description of all real and personal Property disposed of during the reporting period, the price received and the name of the purchaser for all such Property sold during each reporting period. Each report shall be completed and delivered to the New York State Comptroller, the Director of the Budget, the Commissioner of General Services and the New York State Legislature no later than ninety (90) days following the completion of BEREC's fiscal year.
4. Disposal of Property as promptly as possible in accordance with these Guidelines, as directed by BEREC.

ARTICLE III
PROPERTY DISPOSITION REQUIREMENTS

A. Method of Disposition

Subject to such exceptions and/or requirements set forth in these Guidelines, in the event that BEREC elects to dispose of any of its Property, BEREC shall endeavor to dispose of such Property for at least the fair market value of the Property. The disposition of Property may be made by sale, exchange, or transfer, for cash, credit or other Property, with or without warranty, and upon such terms and conditions as are determined by BEREC, to be appropriate and reasonable and consistent with these Guidelines. All dispositions of BEREC real property, or any interest therein, shall require an appraisal by an independent appraiser which must be included in the record of such transaction.

B. Award and Approval of Property Disposition Contracts

1. Compliance with Guidelines; Approval Requirements. All dispositions of Property shall be conducted in accordance with these Guidelines by or under the supervision of the Contracting Officer. Any proposed dispositions of Property subject to these Guidelines shall be presented to the BEREC Real Estate Committee for consideration, and if approved by said committee, shall be submitted to the BEREC Board of Directors for approval or other appropriate action.

2. Disposition by Public Bid.

(a) All Property Disposition Contracts shall be made only after publicly advertising for bids, unless the criteria set forth in Article III (B)(3) below has been satisfied for such contracts to be made by negotiation or public auction.

(b) Whenever public advertising for bids is required, (i) the advertisement for bids shall be made at such 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; (ii) all bids shall be publicly disclosed at the time and place stated in the advertisement; and (iii) the award 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 BEREC and New York State, price and other factors considered.

(c) Any public bid for the disposition of Property may be rejected, refused, or declined by BEREC or the Contracting Officer on any basis or grounds allowable at law.

3. Disposition by Negotiated Sale/Public Auction. The following dispositions are exempt and excepted from the public bidding requirements set forth above in Article III(B)(2) entitled "Disposition by Public Bid," and may be consummated through a negotiated sale or by public auction:

(a) Disposition for a public purpose: BEREC may dispose of Property for less than fair market value of the Property where the disposition of such Property is intended to further the public health, safety or welfare or an economic development interest of New York State or a political subdivision thereof (hereinafter, a "Public Purpose"). Such Public Purpose may include but shall not be limited to:

(i) the furtherance of applicable or governing zoning plans, comprehensive plans, regional plans, or urban renewal plans approved for or related to the Property.

(ii) the creation or retention of job opportunities, or the creation or retention of a substantial source of revenues;

(iii) the prevention or remediation of a significant threat to the environment or public health or safety; or

(iv) such other Public Purpose as may be documented in writing and approved by resolution of the Board of Directors of BEREC

(b) Disposition of certain Personal Property: BEREC may dispose of personal property where such personal Property is of a nature and quantity which, if it were to be disposed of through public advertisement and bidding, would adversely affect the state or local market for such personal property

(c) Disposition of Low FMV Property: BEREC may dispose of Property, the fair market value of which does not exceed Fifteen thousand Dollars (\$15,000).

(d) Disposition Following Receipt of Unacceptable Bid Prices: BEREC may dispose of Property where the bid prices received by BEREC after public advertising are not commercially reasonable (either as to all or some part of the Property) as determined by BEREC in its sole discretion.

(e) Disposition to New York State: BEREC may dispose of Property to New York State or any political subdivision of New York State.

(f) Disposition Authorized By Law: BEREC may dispose of Property where such disposition is otherwise authorized by Law.

4. Reporting Requirements Regarding Negotiated Dispositions

(a) Preparation of Written Statements: The Contracting Officer shall prepare a written statement explaining the circumstances of each negotiated disposition of Property pursuant to Article III(B)(3) involving any of the following:

(i) the negotiated disposition of personal property which has an estimated fair market value in excess of Fifteen Thousand Dollars (\$15,000.00);

(ii) the negotiated disposition of Real Property that has an estimated fair market value in excess of One Hundred Thousand Dollars (\$100,000.00);

(iii) the negotiated disposition of Real Property that will be 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 (\$100,000.00) for any of such years;

(iv) the negotiated disposition of Real Property that will be 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

(v) 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.

(b) Submission of written statements. Written statements prepared pursuant to this Section Article III (B)(4) shall be submitted to the New York State Comptroller, the Director of the Budget, the Commissioner of General Services, and the State Legislature not less than ninety (90) days prior to the date on which the disposition of Property is expected to take place. The Contracting Officer shall maintain a copy of all written statements at BEREC's principal office.

ARTICLE IV GENERAL PROVISIONS

A. Annual Review and Submission of Guidelines

These Guidelines shall be annually reviewed and approved by the BEREC Board of Directors. On or before the 31st day of March of each year, BEREC shall file with the New York State Comptroller a copy of the most recently reviewed and adopted guidelines, including the name of the Contracting Officer, and shall post the guidelines on BEREC's website. Guidelines posted on BEREC's website shall be maintained at least until the procurement guidelines for the following year are posted on BEREC's website.

B. Effect of Awarded Contracts

These Guidelines are intended for the guidance of the officers, directors and employees of BEREC only. Nothing contained herein is intended or shall be construed to confer upon any person, firm or corporation any right, remedy, claim or benefit under, or by reason of, any requirement or provision hereof, or be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, these Guidelines. Without limiting the generality of the preceding sentence, any deed, bill of sale, lease, or other instrument executed by or on behalf of BEREC, purporting to transfer title or any other interest in Property shall be conclusive evidence of compliance with these Guidelines insofar as 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 lack of compliance with these Guidelines prior to the closing.

C. New York Not-for-Profit Corporation Law §509

In compliance with New York Law, BEREC shall not sell, mortgage or lease real property unless authorized by 2/3 vote of the full Board.