

**MOHAWK VALLEY WATER AUTHORITY
SURPLUS PROPERTY DISPOSITION POLICY**

Adopted: February 20, 2008

Adopted:: March 15, 2010

I. Introduction

From time to time, the Mohawk Valley Water Authority, hereafter referred to as the “Water Authority”, disposes of surplus property which is no longer needed for the accomplishment of its mission. This policy establishes guidelines that the Water Authority will follow for disposing of such property. This policy will be annually reviewed and approved by the Board of the Water Authority.

A copy of this policy will be filed on or before the 31st day of March in each year, following approval by the Board, with the State Comptroller’s office and will be posted on the Water Authority’s web site, www.mvwa.us.

II. Legislative Requirements

This policy is derived from Section 1226-f (5) of the Water Authority’s enabling act and the Public Authorities Accountability Act of 2005.

III. Definitions

- A. “Board” means the Board of the Mohawk Valley Water Authority.
- B. “Contracting Officer” means the officer or employee of the Water Authority who is appointed by resolution of the Board to be responsible for the disposition of surplus property.
- C. “Dispose”, “disposal” or “disposition” means transfer of title or any other beneficial interest in surplus personal or real property.

- D. “Surplus Personal Property” means personal property having an estimated value equal to or in excess of five hundred dollars and determined by the Contracting Officer to be no longer necessary for use in fulfilling the purposes of the Water Authority.
- E. “Surplus Real Property”: means real property determined by the Board to be no longer necessary for use in fulfilling the purposes of the Water Authority.
- F. “Real Property”: means lands, structures, franchises, rights and interests in land, air space, waters, land underwater, riparian rights and air rights and any and all things and rights included within said term and includes, not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgements, mortgages or otherwise.

IV. Contracting Officer

The Contracting Officer for the Water Authority is its Comptroller.

V. Duties

- A. Each Department Head of the Water Authority shall:
 - i. Maintain adequate inventory controls and accountability systems for all property owned by the Water Authority under his or her control;
 - ii. Periodically inventory such property to determine which property shall be disposed of;

- iii. Annually produce and deliver to the Contracting Officer a current inventory of all such property;
- iv. Produce and deliver to the Contracting Officer a list of surplus personal and real property under his or her control, which is no longer needed in fulfilling the mission of the department and is ready for disposal.

B. The Contracting Officer shall:

- i. Coordinate with all Department Heads before making a final determination that personal property is surplus because it is no longer necessary for fulfilling the purposes of the Water Authority.
- ii. Report to the Board when property has been determined by a department head to be surplus real property.
- iii. Transfer or dispose of surplus personal property as promptly and practicably as possible in accordance with these guidelines.
- iv. Following review and approval by the Board, publish, not less than annually, a report listing all real property owned by the Water Authority. Such report shall also contain a full description of all surplus real and personal property disposed of during the annual period. The report shall state the price received by the Water Authority and the name of the purchaser for the surplus real and personal property disposed of during the period.

- v. Deliver copies of such report to the State Comptroller's office, the Director of Budget for the State of New York, the Commissioner of General Services and the New York State Legislature.

VI. Custody and Control

The Contracting Officer shall have custody and control of Water Authority surplus real and personal property, pending its disposition.

VII. Supervision and Direction

The Contracting Officer shall supervise and direct the disposition of surplus personal property of the Water Authority.

VIII. Disposition of Surplus Personal Property at Fair Market Value

The Contracting Officer shall dispose of surplus personal 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. The Contracting Officer shall execute documents for the transfer of title or other interest in such property and shall take such other action as necessary or proper to dispose of such property consistent with the provisions of the Public Authorities Accountability Act of 2005, the Water Authority's enabling act, and this policy.

No disposition of surplus personal property, which because of its unique nature is not subject to fair market pricing shall be made unless an appraisal of the value of such property has been made by an independent appraiser and included in the record of the transaction.

IX. Disposition of Surplus Personal Property by Public Advertising

Except as provided in Paragraph X all dispositions of surplus personal property shall be made after public advertising for bids. Advertisement shall be made at such time prior to the disposal 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.

Bids shall be publicly disclosed at the time and place stated in the advertisement.

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 the Water Authority, price and other factors considered; provided that all bids may be rejected when it is in the public interest to do so.

X. Disposition of Surplus Personal Property by Negotiation and Other Methods

Disposals and contracts for disposal of surplus personal property may be negotiated or made by public auction without regard to Paragraph IX of these guidelines but subject to obtaining such competition as is feasible under the circumstances, if:

- (i) the personal property involved is of a nature and quantity which, if disposed of under Paragraph IX of this subdivision, 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;
- (ii) the fair market value of the property does not exceed fifteen thousand dollars;
- (iii) bid prices after advertising there for are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;

(iv) 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;

(v) 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 Water Authority's enabling legislation permits), the purpose and the terms of such disposal are documented in writing and approved by resolution of the Board; or

(vi) such action is otherwise authorized by law.

XI. Disposition of Surplus Personal Property having an estimated value less than \$500.

Surplus personal property having an estimated value less than \$500.00 shall be disposed of under the direction of the Contracting Officer if the method, manner, time, place and other terms of the disposition are commercially reasonable.

XII. Disposition of Surplus Personal Property having an estimated value in excess of \$500,000

If the fair market value of surplus personal property is reasonably expected to be in excess of \$500,000, the independent engineer retained by the Board pursuant to the terms of the Financing Agreement dated October 30, 1996 shall concur in writing with the determination of the Contracting Officer that the property is no longer needed in connection with the operation of the Regional System and the proceeds of the disposition of such personal property shall be applied to the replacement of such property or transferred to the Upper Mohawk Valley Regional Water Finance Authority and deposited at the Finance Authority's discretion in the Bond Redemption Fund or the Repair and Improvement Fund.

XIII. Disposition of Surplus Real Property

a) Following receipt of a report from the Contracting Officer that real property has been determined by a department head to be no longer necessary to the fulfillment of the mission of the department the Board shall make a determination whether such real property should be declared surplus real property.

b) The provisions of section 1226-f (5) of the Public Authorities Law govern the disposition of surplus real property which was acquired by the Water Authority from the City of Utica. Section 1226-f (5) also governs the disposition of the southern reservoir property.

c) All other surplus real property shall be disposed of in the manner determined by the Board. In making such a determination the Board shall be guided by the procedures for disposition of surplus personal property described in this policy. The Contracting Officer will follow the directions of the Board in the disposal of such surplus real property.

XIV. Disposition of Surplus Real Property having an estimated value in excess of \$500,000

If the fair market value of surplus real property is reasonably expected to be in excess of \$500,000, and such real property is not real property described in Paragraph XIII (b), the independent engineer retained by the Board pursuant to the terms of the Financing Agreement dated October 30, 1996 shall concur in writing with the determination of the Board that the property is no longer needed in connection with the operation of the Regional System and the proceeds of the disposition of such personal property shall be transferred to the Upper Mohawk Valley Regional Water Finance Authority and deposited at the Finance Authority's discretion in the Bond Redemption Fund or the Repair and Improvement Fund.

XV. Property Transaction Explanatory Statements

The Contracting Officer shall submit to the Comptroller, Director of the Budget, Commissioner of General Services and the Legislature a written explanation of the circumstances involving the disposal of surplus real and/or personal property through a negotiated transaction not less than 90 days prior to the scheduled date of that transaction in the following circumstances:

- i. Personal property having an estimated fair market value greater than \$15,000;
- ii. Real property having an estimated fair market value greater than \$100,000 except any real property disposed of by lease or exchange;
- iii. Real property disposed of by lease for a term of five years or less, having estimated fair annual rent greater than \$100,000 for any such years;

- iv. 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 greater than \$100,000;
- v. Real property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property;
- vi. Related personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.

XVI. Employees and Members Participation.

Employees and members of the Water Authority shall not participate as bidders or as purchasers in any personal or real property dispositions by the Authority.

Adopted: February 19, 2008

Reviewed: March 15, 2010