

Saratoga County Industrial Development Agency Policies Index

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County of Saratoga Industrial Development Agency

BY-LAWS

ARTICLE I

Name

Section 1.1.

The name of the Agency shall be "County of Saratoga Industrial Development Agency".

Offices

Section 1.2.

Location. The principal office of the Agency shall be located within the County of Saratoga at 40 McMaster St., Ballston Spa, NY. The Agency may also maintain additional offices within the County of Saratoga as the Board may from time to time determine.

ARTICLE II

Powers, Organization and Administration

Section 2.1.

Governing laws. The powers, organization and administration of the Agency shall be in accordance with the provisions of the General Municipal Law, Article 18-A, the Public Authorities law, the Public Authorities Accountability Act of 2005, and any other applicable laws and these By-Laws.

Section 2.2.

Powers of Members. Subject to the provisions of these By-Laws, the activities and affairs of the Agency shall be conducted and all corporate powers shall be exercised by or under the direction of the Board. The Board may delegate responsibility for management of the activities and affairs of the Agency to officers and employees of the Agency or committees of the Board, provided that these activities and affairs of the Agency shall be exercised under the ultimate direction of the Board.

Section 2.3.

Fiscal year. The fiscal year of the Agency, shall each begin January 1 and end December 31.

Section 2.4

Form of Seal. The seal of the Agency shall be in such form as may be determined, from time to time, by the Agency. The seal on any corporate obligation for the payment of money may be facsimile.

ARTICLE III

Meetings of the Authority

Section 3.1.

Annual Meeting. The first meeting in each fiscal year shall be the Annual Meeting of the Board and shall be held at the time and place, within the County of Saratoga, designated in the notice of same.

Section 3.2.

Regular Meetings. The Board may establish a schedule of regular meetings to be held, within the County of Saratoga, between the annual meetings. The regular business of the Board may be transacted at such meetings.

Section 3.3.

Special Meetings. Special meetings of the Board may be called by the Chair, or shall be called by the Secretary upon the written request of at least four Members. Each special meeting shall be held at the time and place, within the County of Saratoga, as the person calling same shall determine.

Section 3.4.

Notices. Notice of each annual and each special meeting of the Board shall be given by mailing the same, at least three days before the day on which the meeting is to be held, to the address of each Member designated by him or her for such purpose or by delivering it personally or telephonically at least 12 hours in advance of the time for which the meeting is called. Neither the business to be transacted at, nor the purpose of, any meeting of the Board need be specified in any notice unless so required by these By-Laws. Notice to the public shall also be given in accordance with the requirements of the Open Meetings Law.

Section 3.5.

Quorum and Exercise of Powers. A majority of the whole number of the Board shall constitute a quorum authorized to transact any business presented at any meeting of the Board. All action shall be taken by vote of a majority of the whole number of the Board. If at any meeting there is less than a quorum, a majority of those Members present may, from time to time, adjourn the meeting without notice to any absent Member.

Section 3.6.

Presiding Officer. At all meetings of the Board, the Chair shall be the presiding officer, except as hereinafter provided. In the event that a meeting occurs when the office of Chair is vacant or in the absence or disability of the chair, the Vice-Chair shall be presiding officer; except that if, in such event, the office of Vice-Chair is vacant or the Vice-Chair is absent or disabled, the Board shall choose, from among those Members present, a presiding officer to preside at such meeting.

Section 3.7.

Procedure. The order of business and all other matters of procedure at each meeting of the Board may be determined by the presiding officer.

ARTICLE IV

Officers Generally

Section 4.1.

Officers. The officers of the Agency shall be the Chair, Vice-Chair, Secretary and Assistant Secretary, Treasurer and Assistant Treasurer, Chief Executive Officer, Chief Financial Officer, Contracting Officer, General Counsel and such additional officers as may be designated by resolution of the Agency who shall hold office at the pleasure of the Board.

Section 4.2.

Acts of the Agency. All acts, agreements and documents of the Agency shall be performed or executed in the name of the Agency by an authorized officer. The following are each designated as an authorized officer of the Agency for such purposes: the Chair, the Vice-Chair, the Secretary, any Assistant Secretary, the Treasurer, any Assistant Treasurer, the Chief Executive Officer, Chief Financial Officer, Contracting Officer, General Counsel and any other person authorized, from time to time, by the Agency to perform any specific act or to execute any specific document.

Section 4.3.

Delegation by Authorized Officer. Except as provided in Section 4.4 hereof or any resolution of the Board, an authorized officer is authorized to approve contracts of the Authority provided that, in the case of procurement contracts, such contracts have been awarded in accordance with the Agency's Procurement Guidelines and Procedures as the same may be amended from time to time.

Section 4.4.

Contracts Requiring Board Approval. All contracts for the general corporate purposes of the Agency that are in excess of one thousand dollars (\$1,000) must be approved by the Board.

Section 4.5.

Removal and Vacancies. Any officer (other than the Chair) may be removed or have his or her authority suspended by the Board at any time, with or without cause. If an office becomes vacant for any reason, the Board shall have the power to fill such vacancy.

Section 4.6.

Officers Holding Two or More Offices. Any two or more offices may be held by the same person, except the office of Chair and except that no Member of the Board shall be appointed to serve as a Chief Executive Officer or Chief Financial Officer, provided further, no officer shall execute or verify any instrument in more than one capacity if such instrument is required by law or otherwise to be executed or verified by two or more officers.

Section 4.7.

Delegation by the Board. In the event of a vacancy in any office or the absence or disability of any officer or for any other reason that the Board may deem sufficient, the Board, except as otherwise provided by law or these By-Laws, may temporarily delegate the powers or duties of any officer to any other officer or to any Member.

ARTICLE V

Statutory Officers

Section 5.1.

The Board shall annually, at the annual meeting of the Board appoint/reappoint or elect from among its Members a Chairman, Vice-Chairman, a Secretary, Assistant Secretary, a Treasurer and Assistant Treasurer.

Section 5.2.

Term of Office. The Chair, Vice-Chair, the Secretary, Assistant Secretary and the Treasurer and Assistant Treasurer shall, unless otherwise determined by the Board, hold office until the next annual meeting of the Board and until their successors have been elected or appointed and qualified.

Section 5.3.

Chair. The Chair shall:

- a. serve as the Board's primary liaison with the Chief Executive Officer and other Staff Officers and supervise the flow of information from such senior management to the Members;
- b. coordinate the work of the Board's committees;
- c. preside at all meetings of the board at which he or she is present;
- d. enforce or cause to be enforced all laws and regulations relating to the administration of the Agency;

- e. call meetings of the Board when he or she deems it necessary;
- f. enforce these By-Laws and perform all the duties incident to the position of Chair; and
- g. exercise such other powers and perform such other duties as the Board may determine.

Section 5.4.

Vice-Chair. In the event that the office of Chair is vacant or in the absence or disability of the Chair, the Vice-Chair shall exercise the powers and perform the duties of the Chair. The Vice-Chair shall exercise such other powers and perform such other duties as the Board may determine.

Section 5.5.

Secretary. The Secretary shall enter or cause to be entered in the proper record of the Agency all the resolutions and proceedings of meetings of the Board, conduct or cause to be conducted the correspondence relating to the Board, issue or cause to be issued all notices of meetings of the Board and exercise such other powers and perform such other duties as the Board may determine.

Section 5.6.

Assistant Secretary. At the request of the Secretary or in the event that the office of Secretary is vacant or in the absence or disability of the Secretary, the Assistant Secretary shall exercise the powers and perform the duties of the Secretary. The Assistant Secretary shall exercise such other powers and perform such other duties as the Board may determine.

Section 5.7.

Treasurer. The Treasurer shall:

- a. be responsible for the care and custody of all funds and securities of the Agency, including the investment thereof, and deposit the funds and securities or cause the same to be deposited in the name of the Agency in a bank or banks, trust company or trust companies;
- b. render or cause to be rendered a statement of the financial condition of the Agency at the annual meeting and at each regular meeting thereof and at such other meetings as shall be required by the Agency;
- c. render or cause to be rendered a full financial report to the Board after the expiration of each fiscal year;
- d. give such certifications as are required by law with respect to financial statements and reports of the Agency; and
- e. exercise such other powers and perform such other duties as the Board may determine.

Section 5.8.

Assistant Treasurer. In the event that the office of Treasurer is vacant or in the absence or disability of the Treasurer, the Assistant Treasurer shall exercise the powers and perform the duties of the Treasurer. The Assistant Treasurer shall exercise such other powers and perform such other duties as the Board may determine.

ARTICLE VI

Staff Officers and Personnel

Section 6.1.

Staff Officers. The Board shall appoint a Chief Executive Officer, Chief Financial Officer, a General Counsel, and a Contracting Officer, all of whom shall hold office at the pleasure of the Board.

Section 6.2.

Chief Executive Officer. The Chief Executive Officer shall be the chief administrative and operating officer of the Agency and shall: subject to oversight by the Board, be responsible for the general supervision, efficient administration and operation and activities of the Agency; carry out the policies and directives of the Board; be responsible for obtaining and furnishing to the Board financial and other reports as may be required by the Agency; recommend to the Board, from time to time, such measures as the Chief Executive Officer shall deem necessary or advisable; furnish the Board with necessary information respecting any Business of the Agency; be responsible for supervising the implementation and maintenance of those systems and processes necessary to assess and address risks confronted by the Agency in the performance of its corporate objectives, including those systems and processes related to internal controls, financial reporting and measuring corporate performance, and for furnishing the Board with necessary information respecting those functions; be responsible for the preparation and submission to the Board of the proposed annual budget for adoption by the Board and of any amendments thereto, from time to time, for adoption by the Board; keep the Board informed as to the financial needs and condition of the Agency; and, exercise such other powers and perform such other duties as the Board may determine. The Chief Executive Officer shall certify the Annual Financial Report.

Section 6.3.

Chief Financial Officer. The Chief Financial Officer shall: supervise and direct the financial activities of the Agency; supervise and direct the Agency's investment program; supervise and direct the Agency's accounting functions; report on operations and financial performance; recommend and implement financial policies; develop financial management systems and appropriate internal controls necessary for accurate financial reporting; supervise the operation, maintenance and development of the Agency's computer hardware, software and communications infrastructure; and, exercise such other powers and perform such other duties as the Chief Executive Officer may determine.

Section 6.4.

General Counsel. The General Counsel shall be the chief legal officer of the Agency and shall advise and render opinions to the officers and Board as to all legal matters relating to the administration, operations and financings of the Agency and as to the laws governing the programs of the Agency; draft, examine and review for legal compliance all forms, contracts or other documents necessary for all phases of the Agency's work or purposes; coordinate with and assist bond counsel in the preparation of all documents related to the sale of the Agency's obligations and the investment of the proceeds; and, exercise such other powers and perform such other duties as the Chief Executive Officer may determine.

Section 6.5.

Bond Counsel. The Agency shall engage bond counsel qualified to determine eligibility of applicants for tax-exempt industrial development revenue bonds and civic facility bonds. Bond counsel shall have primary responsibility for the preparation of all documents and recording instruments required for completion of a financial assistance project sponsored by the agency and will further insure that the agency is in compliance with Article 18-A of the GML and any other statutes governing the operation of the agency.

Section 6.6

Contracting Officer. The contracting officer shall be responsible for the preparation of guidelines for the disposition of property as required by the Public Authorities Accountability Action of 2005. He or she shall assist the Board in its Annual Review and approval of said guidelines and their annual filing with the state comptroller. The contracting officer shall develop and maintain inventory controls and accountability systems for all property under the control of the Agency. He or she shall periodically inventory property to determine if disposal is appropriate. He or she shall prepare annual written reports for submission to the appropriate state officials required by the statute.

Section 6.7

Other Personnel. The Chief Executive Officer may, from time to time, within any limits which may be established by the Board, employ such other personnel as the Chief Executive Officer may deem necessary to exercise the powers and perform the duties and functions necessary or convenient in carrying out the objectives and purposes of the Agency, define their duties and functions and set their terms of employment.

Section 6.8

Training. Board members must participate in state approved training regarding their legal, fiduciary, financial and ethical responsibilities as director of the Agency within one year of appointment to the board. Board members must participate in continuing training as may be required to remain informed of best practices, and regulatory and statutory changes relating to effective oversight of management and financial activities of authorities.

ARTICLE VII

Committees

Section 7.1.

Committees. The Board shall have an Audit Committee and a Corporate Governance Committee and may create one or more other committees of the Board, as it deems necessary. Each committee shall consist of three or more Members of the Board, and shall exercise such powers and perform such duties of the Board to the extent provided in the resolution of the Board establishing such committee. The Chair of the Board shall be a non-voting member of the audit and Corporate Governance Committees.

Section 7.2.

Appointment and Removal. The Chair of the Agency shall have the power of appointment and removal, with or without cause, of members of all committees and designation and removal, with or without cause, of the Chairs of all committees.

Section 7.3.

Meetings. Meetings of any committee of the board may be held at such places, within the County of Saratoga, as the committee shall determine. Regular meetings of any committee of the Board shall be held at such times as may be determined by either the Board or such committee, and no notice shall be required for any regular meeting. Special meetings of any committee shall be called by the Secretary of the Agency upon the request of any two members thereof. Notice of special meetings of any committee of the Board shall be given by mailing the same, at least three days before the day on which the meeting is to be held, to the address of each member designated by him or her for such purpose or by delivering it personally or telephonically at least 12 hours in advance of the time for which the meeting is called. Neither the business to be transacted at, nor the purpose of, any meeting of any committee need be specified in any notice or written waiver of notice unless so required by these By-Laws. Committees may conduct meetings by telephone conference in accordance with the provisions of Section 3.6 hereof. All meetings shall be conducted in compliance with the Open Meetings Law.

Section 7.4.

Conduct of Meetings. The Chair of the committee or, in the event that the office of committee Chair is vacant or in the absence or disability of the committee Chair, the member of committee present who has the longest period of consecutive membership on the Board shall preside at each meeting of the committee. The Secretary of the Agency, except as otherwise provided by the Board, shall act as Secretary at all meetings of the committee, and in absence of the Secretary or any Assistant Secretary, a temporary Secretary shall be appointed by the Chair of the committee meeting.

Section 7.5

Quorum and Voting. A majority of the whole number of the voting members of any committee shall constitute a quorum for the transaction of business, and all action shall be taken by vote of a majority of the members of a committee present may adjourn any meeting, from time to time, without further notice to any absent committee member.

Section 7.6.

Minutes. All committees shall keep minutes of their acts and proceedings, which shall be submitted to the Board.

ARTICLE VIII

Indemnification of Members, Officers and Employees

Section 8.1.

Right of Indemnification. Each Member, officer and employee of the Agency whether or not then in office, and any person whose testator or intestate was such a Member, Officer or Employee, shall be indemnified by the Agency in accordance with and to the fullest extent permitted by law for the defense of, or in connection with, civil or criminal actions or proceedings or appeals therein arising out of the Members', officers' or employees' exercise or carrying out of any of the Agency's purposes and powers; provided however, that no Member, officer or employee shall be reimbursed for attorney fees and expenses incurred by the Member, officer or employee is acquitted of such charges or the charges are dismissed, or if the attorney fees and expenses are incurred in connection with a grand jury appearance, no true bill is returned against the member, officer of employee.

Section 8.2.

Other Rights of Indemnification. The right of indemnification herein provided shall not be deemed exclusive of any other rights to which any such Member, officer or employee may now or hereafter be otherwise entitled and specifically, without limiting the generality of the foregoing, shall not be deemed exclusive of the rights, pursuant to statute or otherwise, of any such Member, officer or employee in any such action or proceeding to have assessed or allowed in his favor, against the Agency or otherwise his or her costs and expenses incurred therein or in connection therewith or any part thereof.

ARTICLE IX

Amendments

Section 9.1.

Procedure for Amending By-Laws. By-Laws of the Agency may be adopted, amended or repealed at any meeting of the Board, notice of which shall have referred to the proposed action, by vote of a majority of the whole number of the Members of the Board.

COUNTY OF SARATOGA INDUSTRIAL DEVELOPMENT AGENCY
Code of ethics

This Code of Ethics shall apply to all officers and employees of the County of Saratoga Industrial Development Agency. These policies shall serve as a guide for official conduct and are intended to enhance the ethical and professional performance of the Agency's directors and employees and to preserve public confidence in the Agency's mission.

Responsibility of Directors and Employees

1. Directors and employees shall perform their duties with transparency, without favor and refrain from engaging in outside matters of financial or personal interest, including other employment, that could impair independence of judgment, or prevent the proper exercise of one's official duties.
2. Directors and employees shall not directly or indirectly, make, advise, or assist any person to make any financial investment based upon information available through the director's or employee's official position that could create any conflict between their public duties and interests and their private interests.
3. Directors and employees shall not accept or receive any gift or gratuities where the circumstances would permit the inference that: (a) the gift is intended to influence the individual in the performance of official business or (b) the gift constitutes a tip, reward, or sign of appreciation for any official act by the individual. Gifts could be presented in the form of financial payments, services, loans, travel reimbursement, entertainment, hospitality, thing or promise from any entity doing business with or before the Agency.
4. Directors and employees shall not use or attempt to use their official position with the Agency to secure unwarranted privileges for themselves, members of their family or others, including employment with the Agency or contracts for materials or services with the Agency.
5. Directors and employees must conduct themselves at all times in a manner that avoids any appearance that they can be improperly or unduly influenced, that they could be affected by the position of or relationship with any other party, or that they are acting in violation of their public trust.
6. Directors and employees may not engage in any official transaction with an outside entity in which they have a direct or indirect financial interest that may reasonably conflict with the proper discharge of their official duties.
7. Directors and employees shall manage all matters within the scope of the Agency's mission independent of any other affiliations or employment. Directors, including ex officio board members, and employees employed by more than one

government shall strive to fulfill their professional responsibility to the Agency without bias and shall support the Agency's mission to the fullest.

8. Directors and employees shall not use Agency property or resources or disclose information acquired in the course of their official duties in a manner inconsistent with State or local law and the Agency's mission and goals.

Implementation of Code of Ethics

This Code of Ethics shall be provided to all directors and employees upon commencement of employment or appointment and shall be reviewed annually by the Governance Committee.

The board may designate an Ethics Officer, who shall report to the board and shall have the following duties:

- Counsel in confidence Agency directors and employees who seek advice about ethical behavior.
- Receive and investigate complaints about possible ethics violations.
- Dismiss complaints found to be without substance.
- Prepare an investigative report of their findings for action by the Executive Director or the board.
- Record the receipt of gifts or gratuities of any kind received by a director or employee, who shall notify the Ethics Officer within 48 hours of receipt of such gifts and gratuities.

Penalties

In addition to any penalty contained in any other provision of law, an Agency director or employee who knowingly and intentionally violates any of the provisions of this code may be removed in the manner provided for in law, rules or regulations.

Reporting Unethical Behavior

Employees and directors are required to report possible unethical behavior by a director or employee of the Agency to the Ethics Officer. Employees and directors may file ethics complaints anonymously and are protected from retaliation by the policies adopted by the Agency.

As amended December 2, 1994
December 19, 1995
October 25, 1999

SARATOGA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

INVESTMENT POLICY AND PROCEDURES

Purpose

These guidelines for the investment of public funds have been developed in accordance with Section 2925 of the Public Authorities Law. They are meant to detail the Agency's operative policy and instructions to officers and staff regarding the investing, monitoring and reporting of funds of the Agency.

These guidelines shall provide a means whereby current funds in excess of immediate needs are invested to produce maximum yield; that adequate safeguards are provided to investment transactions are maintained.

Investments

The following investment alternatives will be permitted.

Interest Bearing Deposit Accounts – These are any legal interest bearing deposits including certificates of deposits, money market deposit accounts and other savings or interest bearing deposit accounts.

Authorization

The Treasurer shall be authorized to commit the Agency to purchase or liquidate investments. The Treasurer may designate and empower the Chief Executive Officer to execute the purchase or sale of investments.

Investment Procedures

Once the Board determines the amount available for investment, calls are made to depositories and banks designated herein (Attachment A) to request quotes (bids) on their money market accounts, certificates of deposit of various maturity and appropriate securities.

All pertinent information shall be recorded on bid or quote sheets (Attachment B).

Available funds generally will be invested with the bank offering the highest yield while fulfilling the requirement that investments that require collateral shall be so collateralized at least at 100% of the higher of the maturity or market value of the investment including accrued interest. The Treasurer has the discrete authority to renew a certificate of deposit at a bank whose bid is negligibly less than the high bid.

Collateral is held; in trust for, in safekeeping, in a restrained account or otherwise specifically stated as being collateral for or pledges against public funds of Saratoga County IDA at third party banks of trading partners' or depositories' choice and by the Treasurer's authorization as agreed to by escrow/custodian agreements, (see attachment C) signed by all parties. Such agreements stipulating the parties' legal rights.

- a) Designated Depositories/Trading Partners – rights to interest income and substitution;
- b) Custodian Banks – rights to maintain collateral in book entry account form;
- c) County IDA – rights to first priority claim to collateral and interest in case of default and to prior authorization for withdrawals.

For amounts in excess of FDIC coverage, a pledge of obligations as collateral is required to secure the investment. The obligations which may be pledged are listed in Exhibit B of Attachment C.

These securities are also authorized for County investment purposes.

All investments with depositories and banks that are required to be collateralized must be preceded by the execution and filing with the Agency, an escrow/custodian agreement (Attachment C); a depository undertaking (Attachment D); and assignment of securities (Attachment E). Forms submitted by depositories may be accepted in place of Attachments provided they are in conformance with Financial Management Guidelines of N.Y.S. Office of Comptroller and are approved by Treasurer.

The Treasurer shall on a semiannual basis provide the Board of Directors with an investment report identifying all current (open) investment holdings by institution invested with, and any other information the Board may require.

Review

No less frequently than annually, the Board of Directors shall review this investment policy and its procedures and make changes as it deems appropriate. The investment policy and procedure changes resulting from such review shall be acted upon by Board Resolution.

Review of compliance with this document shall be part of the annual audit process by the Agency's independent auditor, and shall be made a part of the Agency's Annual Financial Report submitted to the Office of the State Comptroller.

A copy of the Annual Financial Report, Investment Report and audit shall be submitted to the Chief Executive Officer and Chief Fiscal Officer of Saratoga County

DESIGNATED DEPOSITORIESAdirondack Trust Company;

Saratoga Springs Branch
Saratoga Springs, NY

and

Malta Branch
Malta, NY

Berkshire Bank

Clifton Park Branch
Clifton Park, NY

Glens Falls National Bank & Trust Company:

Schuylerville Branch
Schuylerville, NY

Ballston Spa National Bank:

Ballston Spa, NY

TD Bank North (formerly Evergreen Bank of Glens Falls):

South Glens Falls Branch
South Glens Falls, NY

Saratoga National Bank & Trust Co:

Saratoga Springs Office
Saratoga Springs, NY

NBT Bank NA (formerly Central National Bank):

Wilton Office
Wilton, NY

County of Saratoga Industrial Development Agency

PROCUREMENT POLICY

SECTION 1. PURPOSE AND AUTHORITY. The purpose of this Part is to outline the procurement policy (the “Procurement Policy”) of Saratoga County Industrial Development Agency (the “Agency”) as set forth by the procurement policy resolution (the “Resolution”) adopted by the Agency on December 19, 1995 pursuant to Section 858-a(2) of Title One of Article 18-A of the General Municipal Law (the “Act”), as amended 2008.

SECTION 2. SECURING GOODS AND SERVICES. All goods and services will be secured by use of written requests for proposals, written quotations, or any other method that assures that goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances: purchases costing less than \$1,000; goods purchased from agencies for the blind or severely handicapped pursuant to Section 175-b of the State Finance Law; goods purchased from correctional institutions pursuant to Section 185 of the Correction Law; purchases under county contracts pursuant to Section 103 (3) of the General Municipal Law; or purchases pursuant to Section 4 of this policy.

SECTION 3. METHOD OF PURCHASE

(A) **General.** The following method of purchase will be used when required by this policy in order to achieve the highest savings:

<u>Estimated Amount of Purchase Contract</u>	<u>Method</u>
\$1,000	2 verbal quotations
\$3,000-and above	3 written/fax quotations or written request for proposals

<u>Estimated Amount of Public Works Contract</u>	<u>Method</u>
\$1,000 - \$2,999	2 verbal quotations
\$3,000 - \$4,999	2 written/fax quotations
\$5,000-and above	3 written/fax quotations or written request for proposals

(B) **Number of Proposals or Quotations.** A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement.

(C) **Documentation.** (1) Documentation is required of each action taken in connection with each procurement.

- (2) Documentation and an explanation is required whenever a contract is awarded to other than the lowest responsible offeror. This documentation will include an explanation of how the ward will achieve savings or how the offeror was not responsible. A determination that the offeror is not responsible shall be made by the purchaser and may not be challenged under any circumstances.

SECTION 4. CIRCUMSTANCES WHERE SOLICITATION OF ALTERNATIVE PROPOSALS AND QUOTATIONS NOT IN BEST INTEREST. Pursuant to General Municipal Law Section 104-b(2)(f), the procurement policy may contain circumstances when, or types of procurements for which, in the sole discretion of the members of the agency, the solicitation of alternative proposals or quotations will not be in the best interest of the Agency. In the following circumstances, it may not be in the best interests of the agency to solicit quotations or document the basis for not accepting the lowest bid:

- (A) **Professional Services.** Professional services or services requiring special or technical skill, training or expertise. The individual, company or firm must be chosen based on accountability, reliability, responsibility, skill, conflict of interests, reputation, education and training, judgment, integrity, continuity of service and moral worth. Furthermore, certain professional services to be provided to the Agency; e.g., legal and accounting services, impact liability issues of the Agency and its members, including securities liability in circumstances where the Agency is issuing bonds. These qualifications and the concerns of the Agency regarding its liability and the liability of its members are not necessarily found or addressed in the individual, company or firm that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures.

In determining whether a service fits into this category, the Agency shall take into consideration the following guidelines: (1) whether the services are subject to State licensing or test requirements; (2) whether substantial formal education or training is a necessary prerequisite to the performance of the services; and (3) whether the services require a personal relationship between the individual and agency members. Professional or technical services shall include, but not be limited to the following; services of an attorney (including bond counsel); services of a physician; technical services of an engineer engaged to prepare plans, maps and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management services; printing services involving extensive writing, editing or art work; management of municipally owned property; and computer software or programming services for customized programs, or services involved in substantial modification and customizing of pre-packaged software.

- (B) **Emergency Purchases.** Emergency purchases pursuant to Section 103(4) of the General Municipal Law. Due to the nature of this exception, these goods or services must be purchased immediately and a delay in order to seek alternate proposals may threaten the life, health, safety or welfare of the public. This section does not preclude alternate proposals if time permits.
- (C) **Purchases of Secondhand Goods.** Purchases of surplus and second-hand goods from any source. If alternate proposals are required, the Agency is precluded from purchasing surplus and second-hand goods at auctions or through specific advertised sources where the best prices are usually obtained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product.
- (D) **Goods or Services Under \$1,000.** The time and documentation required to purchase through this policy may be more costly than the item itself and would therefore not be in the best interests of the taxpayer. In addition, it is not likely that such de minimis contracts would be awarded based of favoritism.

SECTION 5. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN.

- (A) All Agency documents soliciting bids or proposals for Agency contracts shall contain or make reference to the following provisions:
 1. The Agency will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. For purposes of this Section, affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation; and
 2. The Agency shall state, in all solicitations or advertisements for employees, that, in the performance of the Agency contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
- (B) Any contract awarded by the Agency will include the provisions of Section (A) of this Section in any subcontract, in such a manner that the provisions will be binding upon each subcontractor as to work in connection with the Agency contract.

- (C) The provisions of this Section shall not be binding upon contractors or subcontractors in the performance of work or the provision of services or any other activity that are unrelated, separate or distinct from the Agency contract as expressed by its terms.
- (D) In the implementation of this Section, the Agency shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this Section. The Agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such law and if such duplication or conflict exists, the Agency shall waive the applicability of this Section to the extent of such duplication or conflict.
- (E) The Agency shall ensure that “certified businesses” (as defined in Section 310 of the Executive Law of the State of New York) shall be given the opportunity for meaningful participation in the performance of Agency contracts and to identify those Agency contracts for which certified businesses may best bid to actively and affirmatively promote and assist their participation in the performance of Agency contracts so as to facilitate the award of a fair share of Agency contracts to such businesses.

SECTION 6. POLICY REVIEW. This policy will be reviewed annually.

County of Saratoga Industrial Development Agency

PROPERTY DISPOSITION POLICY

SECTION 1. DEFINITIONS.

- A. “Contracting officer” shall mean the officer or employee of the County of Saratoga Industrial Development Agency (hereinafter, the “Agency”) who shall be appointed by resolution to be responsible for disposition of property.
- B. “Dispose” or “disposal” shall mean transfer of title or any other beneficial interest in personal or real property in accordance with section 2897 of the New York State Public Authorities Law.
- C. “Property” shall mean personal property in excess of five thousand dollars (\$5,000.00) in value, and 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 a loan or other financial obligation of another party.

SECTION 2. DUTIES.

- A. The Agency shall:
 - (i) maintain adequate inventory controls and accountability systems for all property owned by the Agency and under its control;
 - (ii) periodically inventory such property to determine which property shall be disposed of;
 - (iii) produce a written report of such property in accordance with subsection B herewith; and
 - (iv) transfer or dispose of such property as promptly and practicably as possible in accordance with Section 2 below.
- B. The Agency shall:
 - (i) publish, not less frequently than annually, a report listing all real property owned in fee by the Agency. Such report shall consist of a list and full description of all real and personal property disposed of during such period. The report shall contain the price received by the Agency and the name of the purchaser for all such property sold by the Agency during such period; and

(ii) shall deliver copies of such report to the Comptroller of the State of New York, the Director of the Budget of State of New York, the Commissioner of the New York State Office of General Services, and the New York State Legislature (via distribution to the Majority Leader of the Senate and the Speaker of the Assembly).

SECTION 3. TRANSFER OR DISPOSITION OF PROPERTY.

- A. Supervision and Direction. Except as otherwise provided herein, the duly appointed contracting officer (the "Contracting Officer") shall have supervision and direction over the disposition and sale of property of the Agency. The Agency shall have the right to dispose of its property for any valid corporate purpose.
- B. Custody and Control. The custody and control of Agency property, pending its disposition, and the disposal of such property, shall be performed by the Agency or by the Commissioner of General Services when so authorized under this section.
- C. Method of Disposition. Unless otherwise permitted, the Agency shall dispose of property for not less than its fair market value by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the Agency and/or contracting officer deems proper. The Agency may execute such documents for the transfer of title or other interest in property and take such other action as it deems necessary or proper to dispose of such property under the provisions of this section. Provided, however, except in compliance with all applicable law, no disposition of real property, any interest in real property, or any other 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.
- D. Sales by the Commissioner of General Services (the "Commissioner"). When the Agency shall have deemed that transfer of property by the Commissioner will be advantageous to the State of New York, the Agency may enter into an agreement with the Commissioner pursuant to which the Commissioner may dispose of property of the Agency under terms and conditions agreed to by the Agency and the Commissioner. In disposing of any such property, the Commissioner shall be bound by the terms hereof and references to the contracting officer shall be deemed to refer to such Commissioner.
- E. Validity of Deed, bill of Sale, Lease, or Other Instrument. A deed, bill of sale, lease, or other instrument executed by or on behalf of the Agency, purporting to transfer title or any other interest in property of the Agency in accordance herewith shall be conclusive evidence of compliance with the provisions of these guidelines and all applicable law 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 such compliance prior to closing.

F. Bids for Disposal; Advertising; Procedure; Disposal by Negotiation; Explanatory Statement.

- (i) Except as permitted by all applicable law, all disposals or contracts for disposal of property made or authorized by the Agency shall be made after publicly advertising for bids except as provided in subsection (iii) of this Section F.
- (ii) Whenever public advertising for bids is required under subsection (i) of this Section F:
 - (A) 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 proposed for disposition;
 - (B) all bids shall be publicly disclosed at the time and place stated in the advertisement; and
 - (C) 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 Agency, price and factors considered; provided, that all bids be rejected at the Agency's discretion.
- (iii) Disposals and contracts for disposal of property may be negotiated or made by public auction without regard to subsections (i) and (ii) of this Section F but subject to obtaining such competition as is feasible under the circumstances, if:
 - (A) the personal property involved is of a nature and quantity which, if disposed of under subsection (i) and (ii) of this Section F, 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;
 - (B) the fair market value of the property does not exceed fifteen thousand dollars (\$15,000.00);
 - (C) bid prices after advertising therefore are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;
 - (D) the disposal will be to the state or any political subdivision or public benefit corporation, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation;

- (E) 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 Agency, the state or a political subdivision (to include but not limited to, the prevention or remediation of a substantial threat to public benefit or safety, the creation or retention of a substantial source of revenues, or where the authority's enabling legislation permits or other economic development initiatives), the purpose and the terms of such disposal are documented in writing and approved by resolution of the board of the Agency; or such action is otherwise authorized by law.
- (iv) (A) An explanatory statement shall be prepared of the circumstances of each disposal by negotiation of:
- (1) any personal property which has an estimated fair market value in excess of fifteen thousand dollars (\$15,000.00);
 - (2) any real property that has an estimated fair market value in excess of one hundred thousand dollars (100,000.00), except that any real property disposed of by lease or exchange shall only be subject to classes (3) through (5) of this subparagraph;
 - (3) any real property disposal of by lease for a term of five (5) years or less, if the estimated fair annual rent is in excess of one-hundred thousand dollars (\$100,000.00); or
 - (4) any real property disposed of by lease for a term of more than five (5) years, if the total estimated rent over the term of the lease is in excess of one hundred thousand dollars (\$100,000.00); or
 - (5) 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) Each such statement shall be transmitted to the persons entitled to receive copies of the report required under all applicable law not less than ninety (90) days in advance of such disposal, and a copy thereof shall be preserved in the files of the Agency making such disposal.

This Policy is subject to modification and amendment at the discretion of the Agency and shall be filed annually with all local and state agencies as required under all applicable law.

The designated Contracting Officer for the Agency is Lawrence D. Benton