

Document Title:  
**Guidelines and Procedures for the  
 Acquisition of Real Property by the Canal  
 Corporation**

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 Corporation**

Note: Revision # should be listed in descending order starting with most recent version at the top

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Guidelines and Procedures for the Acquisition of Real Property by the Canal Corporation

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# Guidelines and Procedures for the Acquisition of Real Property by the Canal Corporation

## 1 PURPOSE AND SCOPE

These Guidelines for the Acquisition of Real Property (“Guidelines”), which comply with Title 2, Article 9 of the Public Authorities Law, establish the procedures that detail the Canal Corporation’s (“Corporation”) policy and instructions regarding the acquisition of real property. In addition, the Guidelines designate a contracting officer who is responsible for the Corporation’s compliance with, and enforcement of, the Guidelines.

The powers and duties relating to the New York State canal system, which were transferred to and merged with the Power Authority of the State of New York (“Power Authority”) pursuant to Section 5 of the Canal Law, may be exercised by the Power Authority directly or through the Corporation on behalf of the people of the State of New York.

## 2 APPLICABILITY

These Guidelines apply to all New York State Canal Corporation employees who intend to Acquire Real Property for the New York State Canal Corporation.

## 3 INITIALISMS (ACRONYMS) AND DEFINITIONS

**Contracting Officer** - shall mean the officer or employee appointed by resolution of the Corporation’s Trustees to be responsible for compliance with, and enforcement of, the Guidelines for the acquisition of real property. The “Contracting Officer” is hereby designated to be the Power Authority Assistant General Counsel – Real Estate, or the equivalent(s), or designee.

**Corporation** – Canal Corporation

**Acquisition or Acquire** – shall mean to obtain title to or any other beneficial interest in real property in accordance with applicable statutes and these Guidelines.

**Fair Market Value** – shall mean the estimated dollar amount that a willing buyer would pay to a willing seller for the Real Property in an arms-length transaction in the appropriate marketplace and under similar circumstances.

**OSC** – Office of the State Comptroller

**PAL** – Public Authorities Law

**PARIS** – Public Authorities Reporting System

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**Real Property** – shall mean real property, including land, tenements and hereditaments owned by the Corporation, and any other interest in such real property, to the extent that such interest may be conveyed to another person or entity for any purpose, excluding an interest securing a loan or other financial obligation of another party.

**Relative** – is any person living in the same household as the Corporation employee or any person who is a direct descendant of the Corporation employee’s grandparents or the spouse of such descendant, as referred to in Article 5 of these Guidelines.

## 4 RESPONSIBILITY

The Board shall adopt by resolution Guidelines for the Acquisition of Canal Corporation Real Property and which designate a Contracting Officer who is responsible for compliance with and enforcement of, these Guidelines.

## 5 PROCEDURE IMPLEMENTATION

### 5.1 COMPLIANCE OVERVIEW

- 5.1.1 These Guidelines are being adopted consistent with the Public Authorities Law (“PAL”).
- 5.1.2 The Corporation may Acquire Real Property through purchase, eminent domain, state transfers of jurisdiction, lease and by other legal means.
- 5.1.3 The Corporation’s New York statutory authority for land acquisition includes, without limitation, the Canal Law, the Public Authorities Law, the Real Property Law, the Public Lands Law, the Eminent Domain Procedure Law and the Highway Law, as amended.

### 5.2 DUTIES OF THE CORPORATION

- 5.2.1 The Corporation will maintain adequate inventory controls and accountability systems for all Real Property under the Corporation’s control.
- 5.2.2 Real Property to be Acquired by the Corporation will be in support of existing facilities, operations or in support of new initiatives being pursued by the Corporation.

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- 5.2.3 The compensation for and the procedure for such Acquisition must be consistent with these Guidelines and the Corporation's Real Estate Expenditure Authorization Procedures as amended.
- 5.2.4 The Corporation will arrange for the transfer or Acquisition of any Real Property identified for Acquisition in accordance with these Guidelines and the Corporation's Real Estate Expenditure Authorization Procedures and as soon as reasonably practical under the circumstances.
- 5.2.5 Public Authorities Law Section 2879-a establishes a framework for the Office of the State Comptroller ("OSC") to review and approve certain contracts.
- a) Any contract in excess of \$1,000,000 that is to be awarded by a state authority 1) to a "single source" or "sole source", or pursuant to any other means of procurement that is not competitive, or 2) where the monies to be paid in whole or in part have been appropriated by the state to the state authority for such contractual expenditure ("Eligible Contract"), must be reported in advance of execution to the OSC. Upon execution, all such Eligible Contracts must be filed with the OSC within 60 days.
- b) If the OSC has previously identified a contract or category of contract as "reviewable" ("Reviewable Contract"), such Reviewable Contract must include language stating that it is subject to OSC approval and the executed Reviewable Contract must be submitted to the OSC for review. If the OSC does not act to disapprove the Reviewable Contract within 90 days, the contract is valid.

### 5.3 ETHICAL CONSIDERATIONS

- 5.3.1 No Corporation employee who is involved in the Acquisition of Real Property, may ask any purchaser, grantor, lessor or officers, directors or employees of such current or prospective purchaser, grantor or lessor to reveal: (a) the political party affiliation of the individual; (b) whether the individual or entity has made campaign contributions to any political party, elected official, or candidate for elective office; or (c) whether the individual voted for or against any political party, elected official or candidate for elective office.
- 5.3.2 No Corporation employee may take part in any Acquisition decision involving the payment of more than \$1,000: (i) to a Relative; or (ii) to any entity in which a Relative owns or controls 10% or more of the stock of such entity (or 1% in the case of a corporation whose stock is regularly traded on an established securities exchange); or serves as an officer, director or partner of that entity. If such situation arises, the

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employee must advise his or her supervisor of the relationship, and must be recused from any and all discussions or decisions relating to the matter.

## 5.4 ACQUISITION REPORTS BY THE CORPORATION

- 5.4.1 The Corporation shall publish the following reports in accordance with these Guidelines:
- a) Pursuant to Section 2800 of the Public Authorities Law, the Corporation shall furnish a report for incorporation in the Corporation's annual report which is distributed to the Governor, the Chairman and Ranking Minority Member of the Senate Finance Committee, the Chairman and Ranking Minority Member of the Assembly Ways and Means Committee, the State Comptroller and the State Authorities Budget Office. This report shall include (a) a listing of all Real Property having an estimated Fair Market Value greater than fifteen thousand dollars (\$15,000.00) that the Corporation Acquired during such reporting period and the name of the seller of the Real Property and the price paid by the Corporation for the Real Property, and (b) a description of the total amounts of Real Property purchased without competitive bidding, including (i) the nature of the Real Property, (ii) the names of the counterparties, and (iii) where the price for the Real Property purchased exceeds Fair Market Value, a detailed explanation of the justification for making the purchase without competitive bidding, and a certification by the Power Authority's Chief Executive Officer and Chief Financial Officer that they have reviewed the terms of such purchase and determined that it complies with applicable law.
  - b) The Corporation may be called upon periodically to submit information regarding the Acquisition of Real Property to organizations implementing the PAL or other statutes regulating the Acquisition of Real Property, such as the Authority Budget Office through the Public Authorities Reporting System ("PARIS").
  - c) The Corporation's Governance Committee meets at least three times per year and Corporation staff may be required to prepare and present ongoing reports regarding the Acquisition of Real Property.

## 6 VIOLATIONS

Violations of these Guidelines and related policies and procedures by employees may result in disciplinary action up to and including termination. In addition, where the conduct engaged in is illegal, violators may be subject to prosecution under applicable federal, state or local laws.

## 7 REFERENCES

Public Authorities Law



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**8 PROCEDURE REVIEW AND EXPIRATION**

This document will be reviewed and updated as business needs require. However, a mandatory review will be required on the anniversary date of the approved document.

**Revision cycle: Every Year**

**9 ATTACHMENTS**

N/A