

New York State Comptroller
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Empire State Development

Real Property Portfolio (Follow-Up)

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Prepared by the Division of State Government Accountability



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Authority

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 and Article X, Section 5 of the State Constitution; Article II, Section 8 of the State Finance Law; and Section 2803 of the Public Authorities Law, we have followed up on the actions taken by officials of Empire State Development (ESD) to implement the recommendations contained in our initial audit report, *Real Property Portfolio* (Report [2022-S-14](#)).

Background, Scope, and Objectives

ESD's mission is to promote a vigorous and growing state economy; encourage business investment and job creation; and support diverse, prosperous local economies across New York State through the efficient use of loans, grants, tax credits, real estate development, marketing, and other forms of assistance. As part of fulfilling its mission, ESD invests in infrastructure and innovation, supports the development of new businesses and industries that will contribute to the development of the economy, provides early-stage support for new ventures, and strengthens the State's innovation-based economy through partnerships with universities. ESD operates as a public authority that consolidates the operational efforts of the Urban Development Corporation, the Department of Economic Development, and other economic development agencies.

Public authorities, such as ESD, can make valuable contributions to New York by financing, constructing, and operating capital improvements that benefit the public, and by working with public and private sector partners to spur economic development and meet public needs. To facilitate greater efficiency, transparency, and accountability for the State's public authorities, the State enacted the Public Authorities Accountability Act of 2005 and the Public Authorities Reform Act of 2009. Both pieces of legislation made key amendments to the Public Authorities Law (PAL) regarding the accounting of, reporting on, and disposal of authorities' real property holdings.

Specifically, PAL §2896 requires public authorities to develop comprehensive guidelines detailing the authority's policy and instruction on the use, awarding, monitoring, and reporting of contracts for disposal of property; maintaining adequate inventory controls and accountability systems for all property under the authority's control; periodically inventorying property to determine if properties can be disposed of; and no less than annually publishing a report listing all real property of the authority, including full descriptions of the properties disposed of during the reporting period along with the name of the purchaser. ESD is also required to annually report and certify to the accuracy of information on their real property holdings to the State Comptroller through an online reporting system (the Public Authorities Reporting Information System, jointly maintained by the State Comptroller and the Authorities Budget Office).

Under PAL §2897, when authorities dispose of real property, the property should be disposed of for the fair market value after publicly advertising for bids, unless specific exceptions are met; then disposals may be negotiated. Authorities must prepare explanatory statements of the circumstances of each disposal made by negotiation when the fair market value exceeds \$100,000; when the property was disposed of by lease if the estimated annual rent over the lease term exceeds \$15,000; or when the property was disposed of by exchange, regardless of

value, when any part of the consideration is real property. PAL §2897 allows for disposals for less than fair market value in certain instances. These include if the property is transferred to a government or other public entity and the terms and conditions of the transfer require that the ownership and use of the property remain with the government or any public entity. Below-market transfers are also allowed when the transfer is within the purpose, mission, or governing statute of the public authority.

When proposing below-market transfers, authorities must provide certain information to their boards and the public. This includes a description of the property, an appraisal of the fair market value of the property and any other information establishing the fair market value sought by the board, a description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer. Benefits could include, but are not limited to, the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, and the benefits, if any, to the communities where the property is located. Lastly, authorities must present to their governing boards a statement of the value to be received compared to the fair market value. Prior to approving disposals for less than fair market value, the board should consider this information and make a written determination that there is no reasonable alternative to the proposed below-market transfer that would achieve the same purpose as the transfer.

ESD, through the Urban Development Corporation Act, can dispose of real property and acquire it to own, hold, improve, and rehabilitate. ESD may also transfer to a subsidiary any real property for any project to carry out the purposes of growing the State economy, preventing economic stagnation, encouraging job creation, reducing the level of public assistance to indigent individuals/families, and achieving stable and diversified local economies. Generally, the acquisition and disposal of properties are part of a broader project defined in a General Project Plan (GPP). The GPP helps define the project's objectives, scope, and anticipated community economic benefits (e.g., affordable housing, schools, open space). Most of ESD's properties are owned and managed by individual ESD-owned subsidiary corporations that have unique missions focused on economic development projects in particular geographic areas. As of April 2026, ESD has 14 subsidiaries, and all but one are currently actively participating in a project.

The objectives of our initial audit, issued on August 21, 2024, were to determine whether ESD fully and accurately accounted for and reported on its real property holdings and the need to either hold or dispose of properties, and if ESD disposed of real property in a manner beneficial to the State. The audit covered the period from April 2019 through June 2023.

The audit found ESD did not comply with PAL's requirements to publish a report detailing its real property portfolio, including descriptions of properties disposed of during the reporting period. During our audit, ESD officials created and published their real property portfolio report in December 2022, which included their inventory of real property and dispositions for the fiscal year ending March 31, 2022. Prior to the publication of the report, ESD provided us with five inaccurate or incomplete iterations of its property list. Some of the changes were a result of expected shifts in ESD's holdings, such as the disposition of properties over time; however, other changes resulted from inaccuracies and incomplete data that occurred because ESD had not

established strong processes or procedures to obtain and ensure the reliability of the information it maintains on its real property portfolio.

Additionally, as of June 2023, ESD reported it owned 130 properties—of those, 71 (55%) were vacant. Notably, three were former correctional facilities (Downstate, Bayview, and Lincoln) located in or near New York City, which, according to ESD, had potential for use in developing additional housing (including affordable housing). An additional 28 (39%) of the 71 vacant properties were in Niagara Falls, and all but one didn't have definitive development plans.

Lastly, ESD disposed of 10 properties at below-market value between April 2019 and May 2023. While each of the 10 disposals was completed in compliance with PAL's requirements, the below-market transfers for seven properties, disposed of by one of ESD's subsidiaries, did not include sufficient information about the anticipated economic benefits of the projects compared to the value received and the fair market value of the properties. Specifically, the subsidiaries disposed of seven properties acquired as part of the second phase of the State's Buffalo Billion Initiative for \$3 that were originally purchased for \$1.36 million.

The objective of our follow-up was to assess the extent of implementation, as of May 2026, of the three recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

ESD made significant progress in addressing the problems we identified in the initial audit report. Of the initial report's three audit recommendations, two were implemented and one was partially implemented.

Follow-Up Observations

Recommendation 1 – Develop and implement processes and procedures to ensure ESD's real property portfolio is accurate and required reporting and publishing requirements are met.

Status – Implemented

Agency Action – In March 2024, ESD reviewed and approved guidelines reassigning responsibilities regarding its real property portfolio from the Contract Administration to a newly created Asset Management team (Team) within the Real Estate Development and Planning (REDP) department. According to ESD officials, prior to November 2024, the Team held quarterly meetings to review the status of properties, acquisitions, and dispositions, but it now holds semi-annual meetings focused on specific geographic areas, with various units participating, including Legal, Project Development, and Contract Administration. The smaller meetings allow for greater staff participation and a focus on specific ESD properties. The Team follows up with other ESD personnel throughout the year to track transactions, monitor project developments, and manage properties in the portfolio.

Additionally, in fall 2023, ESD began using a property management software database to track and manage ESD's real property portfolio. The database includes detailed summaries with the property name, acquisition and disposition details, lease information, property use, and transaction information. Copies of documents such as deeds, leases, requests for proposals

(RFPs), and appraisals are also stored in the database and tracked by staff entry, date, and time. ESD's procedure manuals instruct staff how to use the database to produce property management and transactions reports. According to officials, the annual report portfolio is maintained in a separate master list; staff verify it for accuracy before publication, using reports generated from the database, such as active properties currently under ESD ownership. ESD has met its reporting and publishing requirements and published the real property portfolio for the fiscal years ended March 31, 2024 and 2025.

Recommendation 2 – Periodically assess vacant properties and identify solutions that maximize the economic benefits to the surrounding localities and the State, which may include, but not limited to, collaboration with other Affected State Entities to align solutions with the State's goals.

Status – Implemented

Agency Action – During our initial audit, as of June 2023, only 12 of 71 vacant properties had ongoing development plans. As of November 2025, 43 of 71 had ongoing development plans in various stages, including issuing RFPs, selecting developers, and dispositions to developers. Additionally, as of April 2026, ESD's REDP department has 35 active projects (including eight of the 71 vacant properties). ESD officials stated they are focused on Executive Order 30—which encourages and supports developing housing across the State by directing Affected State Entities (generally those under control of the Executive) to consider the goal of creating housing in any policy or programmatic decisions—to identify underutilized portions of land for housing development. REDP's Project Management Manual, updated October 2023, states that Project Managers are responsible for implementing real estate development projects that foster community and economic development and generate additional revenue or housing/other opportunities for ESD and the State. Project sites are determined by the viability of fulfilling goals, many of which are currently focusing on creating affordable housing. ESD tracks project milestones, project phase, location, elected officials involved in the project, updates from ESD internal teams, and deliverables with expected completion due by fiscal quarter.

We reviewed examples of ESD's ongoing projects, including assessments of current properties, such as an anchor-tenant study for a vacant property still in the planning phase and a zoning study and test fit for the former Bayview Correctional Facility, which ESD is converting into both affordable housing and supportive housing in New York City. In April 2024, ESD disposed of the vacant Victoria Theater and is currently overseeing a project on the property that includes 191 affordable and market-rate residential rental apartments, 25,000 square feet of retail space, and 25,000 square feet of Cultural Arts Space. Additionally, in February 2024, Livingston Correctional Facility was transferred to Livingston County on the condition that ESD has the right to repossess the property if the county is unable to create job-generating economic development within 10 years of sale.

Recommendation 3 – Establish and implement policies directing ESD and subsidiary management to provide sufficiently detailed information for proposed transfers, especially those below fair market value.

Status – Partially Implemented

Agency Action – ESD’s 2026 property disposition guidelines continue to mirror the PAL, without adding directions or clarification about the level of detail needed when preparing materials and information for proposed transfers submitted to the board for approval. ESD stated they provide all legally required and factually substantiated information staff decides is relevant and important to the board. ESD has not issued any additional policies or directives to improve consistency of the detail of information provided to the board when properties are disposed of below fair market value. However, we reviewed five of the 10 properties ESD disposed of between November 2024 and March 2026 below fair market value and found that the documentation provided to the board was sufficiently detailed to understand why the below-market transfers were warranted.

Of the 10 dispositions, two were disposed of for a total of \$245,000, while the remaining eight were disposed of for \$5. We requested and reviewed the materials provided to the board for five of the eight properties. For the five properties we reviewed, three were disposed of for one project regarding vacant buildings at the Kingsboro Psychiatric Center, and two were easements for utilities at Wende Correctional Facility and a development in Niagara Falls. For both easements, ESD provided a background summary for the proposal, details for each easement, information on other offers made, appraisals of the fair market value, an environmental review, and a map of the land proposed for easement. ESD’s documentation included reasons why the easements were necessary to facilitate electrical service for projects that had already begun.

The final transfer we reviewed was of Kingsboro Psychiatric Center for the nominal value of \$0. For this transfer, ESD included project synopsis, project description including the GPP and any modifications, and public review and comment. The GPP included projections such as estimated housing units, age and income demographics for the housing, property sizes, number of jobs, type of jobs expected, and financial terms. The Summary of Essential Business Terms explained property acquisition and disposition details and further clarified ESD’s role in the transfer as reconveying the titles (transferring title upon completion of an existing loan, rather than selling the properties for a profit). ESD also explained that the price was set by the original owner of the properties—the Dormitory Authority of the State of New York in collaboration with the Office of Mental Health and Homes and Community Renewal—and ESD was acting to transfer the titles upon completion of the project phases.

Although the dispositions we reviewed were sufficiently detailed to understand the reason for the below-market disposition, we maintain that documented policies and procedures establish expectations, provide specific direction to employees in their daily decision-making, and provide assurance that decisions are documented consistently. ESD should develop and implement policies to direct their staff accordingly.

Reporting Requirements

ESD officials are requested, but not required, to provide information about any actions planned to address the unresolved issues discussed in this follow-up within 30 days of the report’s issuance. We thank the management and staff of ESD for the courtesies and cooperation extended to our auditors during this follow-up.



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