

DEPARTMENT OF ADMINISTRATIVE SERVICES

DIVISION 45

DISPOSITION AND ACQUISITION OF REAL PROPERTY INTERESTS

125-045-0225

Terminal Disposition of State Real Property Interests (Notices to Department, State Agencies and Political Subdivisions – Clearing House Process)

(1) Prior to the Terminal Disposition by an Agency of a State Real Property Interest, the Agency shall first declare in writing to the Division its intent to dispose of the Interest. The written declaration must include the following:

(a) A detailed description of the State Real Property Interest to be transferred, including its approximate size in square feet or acreage and its legal description;

(b) A map showing the location of the State Real Property Interest;

(c) An explanation of the reason for disposal;

(d) A completed notice using a form provided by the Division; and

(e) Any other information the Division may request.

(2) To ensure that the Terminal Disposition best serves the interests of the State and the Disposing Agency, the Disposing Agency is encouragedd to create a disposition strategy for the property. The Disposing Agency's disposition strategy should consider:

(a) The highest and best use of the Real Property Interest, consistent with the local planning goals;

(b) How the Real Property Interest might be marketed most effectively, given the nature of the Interest and likely potential purchasers; and

(c) How the economic return to the State might be maximized.

(3) After receipt of a declaration to dispose of a State Real Property Interest, and before a Disposing Agency may unconditionally offer to dispose of the State Real Property Interest, the Division shall provide notice of the intended Terminal Disposition to all Agencies authorized by law to acquire Real Property Interests. Written notice **to agencies** must include the following:

(a) A request that any Agency with an interest in acquiring the State Real Property Interest notify the Division in writing of its interest;

(b) The information required to be provided under OAR 125-045-0225(1);

(c) The deadline for the Agency to provide written notice to the Division of its interest in acquiring the State Real Property Interest, which may not be less than 30 days from the date the Division issues the notice, unless the Administrator determines that a shorter period is in the State's interest; and

(d) Any other information the Division or the Disposing Agency electss to include in the notice.

(4) Notification by the Clearing House Process, will be given to agencies by at least one of the following methods:

(a) Mailed notice;

(b) Electronic mail notice;

(c) Posting notice of the intended Terminal Disposition on the Division's website; or

(d) Newspaper publication meeting the requirements defined in OAR 125-045-0235(3).

~~(4)~~**(5)** The Division may dispense with notice to Agencies if the Administrator adopts written findings that in the reasoned judgment of the Division it is unlikely that transfer of the State Real Property Interest to another Agency could satisfy the Disposing Agency's needs and that as a result, notice would be a futile act.

~~(5)~~**(6)** If one or more Agencies responds timely to the written notice described in this rule, the responding Agency or Agencies shall negotiate with the Disposing Agency to determine if a sale, assignment, lease or other transfer can be completed. The Disposing Agency may not reject another Agency's bona fide offer to acquire the State Real Property Interest without Division approval.

~~(6)~~**(7)** If two or more Agencies make bona fide offers to acquire the State Real Property Interest, the Disposing Agency shall determine, in its reasonable discretion, which, if any, offer is most advantageous to the State and the Disposing Agency. Prior to making this determination, the Division may solicit the advice of the PLAC. A Disposing Agency need not use a competitive bidding process in connection with the Terminal Disposition of a State Real Property Interest to another Agency.

~~(7)~~**(8)** Before a Disposing Agency may dispose of a State Real Property Interest to other than another Agency, the Division shall provide notice of the intended Terminal Disposition to Political Subdivisions. Written notice will be

given ~~by mail~~ to each city, county, and school district within whose boundaries the State Real Property Interest is located. Notification by the Clearing House Process, shall will be given to all other Political Subdivisions by at least one of the following methods:

(a) Mailed notice;

(b) Electronic mail notice:

~~(a)~~**(c)** Posting notice of the intended Terminal Disposition on the Division's ~~web site~~**website**; or

~~(b)~~**(d) Newspaper p**ublication meeting the requirements defined in OAR 125-045-0235(3).

~~(8)~~**(9)** The Division may provide notice to Political Subdivisions at the same time as it provides notice to Agencies. The Division may dispense with notice to Political Subdivisions if the Administrator adopts written findings that in its reasoned judgment it is unlikely that transfer of the State Real Property Interest to a Political Subdivisions could satisfy the Disposing Agency's needs and that as a result, notice would be a futile act.

~~(9)~~**(10)** All notices to Political Subdivisions must include the following:

(a) A request that any Political Subdivision with an interest in acquiring the State Real Property Interest notify the Division in writing of its interest;

(b) The information required to be provided under OAR 125-045-0225(1);

(c) The deadline for the Political Subdivision to provide written notice to the Division of its interest in acquiring the State Real Property Interest, which may not be less than 30 days from the date of the Division's notice unless the Administrator determines that a shorter period is in the State's interest;

(d) A reservation of the right of the Disposing Agency to reject any offers;

(e) Notice that a Political Subdivision's right to acquire the State Real Property Interest is subject and subordinate to the right of Agencies to acquire the State Real Property Interest (required only if notice to Political Subdivisions is made concurrently with notice to Agencies); and

(f) Any other information the Division or the Disposing Agency elects to include in the notice.

~~(40)~~**(11)** If no Agency indicates an interest in acquiring the State Real Property Interest, or if a sale or other transfer to another Agency cannot be finalized, any Political Subdivision that has made a timely response to the notice may negotiate with the Disposing Agency to determine if a sale or other transfer can be completed.

~~(41)~~**(12)** The Disposing Agency shall consider any bona fide offer submitted by a Political Subdivision but shall not be obliged to sell or otherwise transfer the State Real Property Interest to the Political Subdivision;

~~(42)~~**(13)** No Terminal Disposition of a State Real Property Interest to a Political Subdivision for less than the Appraised Fair Market Value may occur without the written approval of the Administrator or Director in accordance with OAR 125-045-0245;

~~(43)~~**(14)** If two or more Political Subdivisions make bona fide offers to acquire the State Real Property Interest, the Disposing Agency shall determine, in its reasonable discretion, which, if any, offer is acceptable to the State;

~~(44)~~**(15)** The Disposing Agency may place any conditions on the transfer of a State Real Property Interest to a Political Subdivision it deems advisable, including but not limited to requirements that:

(a) Any State Real Property Interest sold or transferred to a Political Subdivision. be subject to a deed restriction that the property be used solely for a public purpose or benefit; and

(b) That such State Real Property Interest not be resold to a private purchaser without the consent of the State;

~~(45)~~**(16)** The Disposing Agency need not use a competitive bidding process in connection with the Terminal Disposition of a State Real Property Interest to a Political Subdivision.

Stat. Auth.: ORS 270.015(2), 270.100(1)

Stat. Implemented: ORS 270.100, 270.120

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