

DEPARTMENT OF ADMINISTRATIVE SERVICES

DIVISION 45

DISPOSITION AND ACQUISITION OF REAL PROPERTY INTERESTS

125-045-0235

Terminal Dispositions of State Real Property Interests (Offers to Other Individuals or Entities)

- (1) This rule applies to sales and leases of State Real Property Interests only.
- (2) If a Disposing Agency does not sell or transfer a State Real Property Interest to either an Agency or a Political Subdivision or to a party that has been granted a Right of First Refusal, then the Disposing Agency may dispose of the State Real Property Interest to any other party subject to the rules and procedures described in this rule.
- (3) The Disposing Agency shall publish notice of the proposed Terminal Disposition of the State Real Property Interest. The notice must be published not less than once a week for three successive weeks in one or more newspapers of general circulation in the county or counties in which the State Real Property Interest is located. In addition, the Disposing Agency may provide notice on its ~~web site~~ website. The published notice must include the following:
 - (a) A general description of the State Real Property Interest, including a legal description, if any;
 - (b) The ~~minimum~~ asking price;
 - (c) The name and address of the person to contact to obtain any additional information concerning the State Real Property Interest;
 - (d) A Request for Proposals, including the address to which the Proposal must be delivered and the date and time the Proposal is due, which may not be less than 30 days from the date of the first notice;
 - (e) A requirement that a security deposit in the amount and form described in this rule must be submitted with the Proposal;
 - (f) If applicable, a notice that the Terminal Disposition of the State Real Property Interest may be subject to a Right of First Refusal;
 - (g) If not previously published, an invitation for public comment on the State Real Property Interest values defined in OAR 125 045-0215(7) if the Appraised Fair Market Value is more than \$100,000;
 - (h) A reservation of the right of the Disposing Agency or the Division to accept or reject any Proposal; and
 - (i) Any other information the Disposing Agency elects to include.
- (4) The Disposing Agency may use a multi-stage process, which may include, but need not be limited to, a Solicitation of Interest (SOI), a Request for Qualifications (RFQ), a Request for Proposals (RFP), a straight offer to purchase, or a combination of these. These documents must describe the process by which the Disposing Agency shall market the property, and may direct interested parties to the Disposing Agency's website for information.
- (5) The Division may post the current status of Surplus State Real Property Interests available for Terminal Disposition on its website.
- (6) All Proposals submitted in response to the published notice described in this rule must be accompanied by a deposit, in the form of a certified check or sufficient bond furnished by a surety company authorized to do business in this State, in favor of the State of Oregon in a sum not less than ten percent of the total amount of the proposed purchase price. Deposits will be refunded to all unsuccessful Proposers after the closing of the sale to a successful Proposer or rejection of all Proposals.
- (7) Each Proposal must clearly identify the amount offered for the purchase of the State Real Property Interest, and must include the following additional information:
 - (a) Any conditions upon the Proposer's offer to acquire the State Real Property Interest;
 - (b) A detailed statement explaining the Proposer's proposed use for the State Real Property Interest; and
 - (c) Any other information the Proposer believes is relevant to its Proposal.
- (8) After the date and time for submitting Proposals has passed, the Disposing Agency shall open all Proposals that have been timely delivered and that have the required deposit. The Disposing Agency shall evaluate all responsive Proposals to determine the Proposal most advantageous to the State. The determination of the most advantageous Proposal will be final and conclusive and is not subject to review by any court.
- (9) The Disposing Agency shall notify the apparent successful Proposer and shall negotiate to determine if the transfer can be consummated and a final agreement reached. If negotiations are unsuccessful, the Disposing Agency may:

- (a) Notify the next highest ranking acceptable Proposal and shall similarly attempt to negotiate the Terminal Disposition of the State Real Property Interest; and
 - (b) Continue the negotiation process until the Disposing Agency has exhausted the field of all Proposers; or
 - (c) Reject remaining Proposals.
- (10) If the Disposing Agency and a Proposer reach a final agreement on the Terminal Disposition of the State Real Property Interest and this agreement, where required, is approved by the Attorney General pursuant to ORS 291.047, the Disposing Agency shall transfer the State Real Property Interest to the successful Proposer in accordance with the terms of the agreement.
- (11) The Disposing Agency, in its sole discretion, may reject any or all Proposals.
- (12) If all Proposals are rejected, the Disposing Agency may market and sell the Real Property Interest in any manner the Disposing Agency deems appropriate including but not limited to auction, direct negotiation with potential buyers, announcing a new RFQ or RFP process, and acting through a real estate licensee, provided that:
- (a) If required by ORS 291.047, any resulting agreement of sale must be approved by the Attorney General;
 - (b) If no agreement of sale is executed within 18 months of the publication of the first public notice of sale described in this rule, no agreement of sale may be accepted without again first publishing a public notice of sale and complying with the provisions of this rule; and
 - (c) The Disposing Agency shall publish the process selected in this subsection on its website.

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

Stats. Implemented: ORS 270.010, 270.110, 270.130, 270.135, 270.140

Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06; DAS 2-2009(Temp), f. & cert. ef. 1-23-09 thru 7-17-09