

CHAPTER 95. REAL ESTATE AND LEASING

[Authority: 62 O.S., § 34.6

[Source: Codified 9-12-14]

SUBCHAPTER 3. REAL PROPERTY DISPOSAL

260:95-3-1. Purpose

The purpose of the state's surplus real property program is to:

- (1) Maximize utilization of state-owned properties;
- (2) Return unused or underutilized state-owned property to private sector ownership;
- (3) Stimulate competition and maximize the return to the state;
- (4) Ensure properties are maintained during the disposal process in accordance with a maintenance plan established by Real Estate and Leasing Services;
- (5) Ensure funds are deposited in compliance with statutes; and
- (6) Advance the long-term capital assets plan of the state.

[Source: Added at 35 Ok Reg 1363, eff 9-14-18]

260:95-3-2. Definitions

The following words or terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise:

"Agency" means any state agency, board, commission or public trust having the State of Oklahoma as a beneficiary.

"Appraisal" means an estimate of the value of real property prepared by a qualified appraiser.

"Asset protection" means coverage provided through the Oklahoma Risk Management program.

"Director" or **"Director of Real Estate and Leasing Services"** means the person designated by the Director of the Office of Management and Enterprise Services to formulate, enter into or administer contracts for real property or make written determinations and finding with respect to them and carry out the duties of the Office relating to real property transactions and the inventory of real property.

"Fair market value" means the price which the property would bring if offered for sale in the open market by a seller willing but not obligated to sell and a buyer willing but not obligated to buy, both being fully informed of all purposes for which the property is best suited.

"Historic property" means a property that is listed on the National Registry of Historic Places or designated by the Oklahoma Historical Society as a property of historic interest or significance.

"Improvements" means buildings or other permanent or temporary structures or developments located on or attached to the land.

"Interested party list" means an electronic listing of all parties that have attended pre-bid conferences, site tours, or other publicly held meetings, tours or conferences held by the Office of Management and Enterprise Services regarding lease or disposal of a specific property, or parties who have requested to be added to the listing for a specific property.

"Liquidation" means disposal of property for less than ninety percent (90%) of the appraised value.

"Maintenance" means the repair or preventative up-keep of equipment, machinery, property and building features or fixtures.

"Owning agency" means the agency named as owner on the deed of record or the agency having management, operation and control of the property.

"Public agency" means an agency as defined in Title 74, Oklahoma Statutes, Section 1003(A)(1) for purposes of entering into agreements authorized by the Interlocal Cooperation Act.

"Real Estate and Leasing forms" means forms and documents the Director of Real Estate and Leasing Services approves for real property transactions and for providing information to the Office of Management and Enterprise Services.

"Real property" means land, and generally whatever is erected, growing upon or affixed to land; also rights issuing out of, annexed to, and exercisable within or about land.

"Real Property Inventory" means a comprehensive list of property submitted by the state agencies, boards, commissions and public trusts listing all real property owned, the value of the property and any underutilized property.

"State-owned property" means all property lawfully designated by the state for its own use; all property dedicated to the state and all property for which there is no other owner.

"Survey" means a map or plat drawn by a licensed surveyor after measuring a piece of land, to show its area, boundaries, contours, elevations, improvements and its relationship to the surrounding land. A property survey confirms that a particular piece of land or building is sited in accordance to its legal description.

[Source: Added at 35 Ok Reg 1363, eff 9-14-18]

260:95-3-3. Declaration of surplus property

(a) Upon determination that a property is surplus by the owning agency, the Office of Management and Enterprise Services, the Long-Range Capital Planning Commission, the legislature, or any other entity given statutory authority to compel an agency to declare a property surplus, the owning agency shall submit a letter to the Director of Real Estate and Leasing Services declaring the property surplus. The letter shall be signed by the director or chief executive officer of the owning agency. The letter shall, at a minimum, include the following:

- (1) The address or location of the property,
- (2) The type of property (land or structure),
- (3) The inventory number of the property, and
- (4) The reason the property is being declared surplus.

(b) The Director of Real Estate and Leasing Services shall respond to the letter declaring the property surplus with a letter acknowledging the declaration and requesting additional information, items and documents associated with the property. The request will include, but may not be limited to:

- (1) Point of contact in the owning agency for all information regarding this transaction;
- (2) A brief description of the property, including the interior and exterior of the building;
- (3) The historical significance of property, when applicable;
- (4) Copies of surveys, property or environmental inspections, or any other report pertaining to the property;
- (5) Copies of any current easements, leases, rental agreements or other agreements affecting the property;
- (6) Access to the property as needed;
- (7) Clear photographs of the property;
- (8) Floor plans for the buildings;
- (9) Information from staff that may be of interest as it relates to the property;
- (10) Abstracts;

- (11) A list of service providers for internet, security/alarm systems, and fire suppression systems if applicable;
 - (12) A list of the current utility service providers for electric, water and gas if applicable;
 - (13) Property, land, soil inspections and reports if available; and
 - (14) Current condition of the property, including any known defects, damage, repairs needed, and hazardous or environmental problems or any other problems or concerns associated with the property.
- (c) The owning agency shall supply all of the requested information and documentation and shall comply with the requests of the Director.
- (d) Real Estate and Leasing Services will include the property on the report of underutilized properties owned by the state.
- (e) Proceeds from the sale of surplus state property shall be deposited in the Maintenance of State Buildings Revolving Fund in accordance with 62 OS § 908.
- (f) Real Estate and Leasing Services will determine if the property is suitable for transfer to another state agency, direct sale to another public agency, disposal by public or sealed bid auction or a request for proposals. When appropriate, Real Estate and Leasing Services will consult with the Oklahoma Historical Society for assistance in making the determination of the appropriate reuse or disposition of the property and for authorization and recommendations on the treatment of historic properties.

[Source: Added at 35 Ok Reg 1363, eff 9-14-18]

260:95-3-4. Agency responsibilities after a property is declared surplus

- (a) Ownership does not transfer to the Office of Management and Enterprise Services when a property is declared surplus. After a property is declared surplus, the owning agency shall continue to be responsible for all maintenance and expenses associated with the property until the property is conveyed to a new owner. In cases where the owner of the property is the State of Oklahoma, and no specific agency is given ownership through deed or statute, the agency that was financially responsible for the maintenance of the property at the time the property was declared surplus shall be considered the owning agency and will continue to be responsible for the property until title is conveyed to a new owner or use and enjoyment is transferred to a new state agency.
- (b) The owning agency shall be responsible for all necessary costs associated with continued ownership of the property and expenses related to the sale of the property. These include, but are not limited to:
- (1) All continued maintenance of the property, including repairs requested by Real Estate and Leasing Services;
 - (2) Utilities serving the property;
 - (3) Continued asset protection;
 - (4) Mowing and/or landscaping;
 - (5) Clean-up of the property;
 - (6) Removal of all agency personal property and surplus personal property;
 - (7) Any required appraisals;
 - (8) Any required surveys;
 - (9) Any required title research;
 - (10) Any required studies or assessments;
 - (11) Costs of notices and advertising;
 - (12) Seller's closing costs; and

(13) Any miscellaneous expenses associated with the continued ownership or sale of the property.

(c) Agencies may be reimbursed for pre-approved expenses associated with the sale at the time of closing. Reimbursements require prior approval by Real Estate and Leasing Services. Real Estate and Leasing Services has final authority in determining if an expense is eligible for reimbursement.

[Source: Added at 35 Ok Reg 1363, eff 9-14-18]

260:95-3-5. Reuse or repurposing of surplus property

If a surplus property is appropriate for repurposing or reuse by another state agency, providing no historic factors preclude reuse or repurposing, Real Estate and Leasing Services will:

- (1) Make a determination that it is in the best interest of the state to attempt to reuse or repurpose the property;
- (2) Attempt to match the property with a suitable agency for ownership;
- (3) Assist the potential new owning agency with space planning and any required forms and authorizations for property acquisition;
- (4) Assist with the procurement of any necessary surveys, appraisals, studies, or assessments;
- (5) Prepare all documents necessary for transfer;
- (6) Make a recommendation for transfer to the Long-Range Capital Planning Commission;
- (7) Facilitate the execution and filing of documents transferring ownership; and
- (8) Deposit proceeds from the transfer in the appropriate fund.

[Source: Added at 35 Ok Reg 1363, eff 9-14-18]

260:95-3-6. Direct sale of property to another public agency

(a) If a surplus property is appropriate for direct sale to a non-state public agency, the sale price shall not be less than fair market value.

(b) The entity purchasing the property will be responsible for all costs and fees associated with the sale, including, but not limited to:

- (1) One complete appraisal, obtained by the state;
- (2) Any required surveys;
- (3) Any required assessments;
- (4) Any miscellaneous expenses arising from the sale; and
- (5) Closing costs.

(c) If direct sale to a non-state public entity is determined by the Office of Management and Enterprise Services to be in the best interest of the state, Real Estate and Leasing Services will:

- (1) Negotiate the sales price on behalf of the owning agency.
- (2) Prepare all documents necessary for transfer;
- (3) Make a recommendation for transfer to the Long-Range Capital Planning Commission;
- (4) Facilitate the execution and filing of documents transferring ownership; and
- (5) Deposit proceeds from the sale in the appropriate fund.

[Source: Added at 35 Ok Reg 1363, eff 9-14-18]

260:95-3-7. Disposal of surplus property by public auction or sealed bids

(a) If a surplus property is not suitable for transfer to another state agency or direct sale to a non-state public agency, and no conditions or factors exist making the surplus property appropriate for the Request for Proposals process, surplus property shall be disposed of through public auction or by sealed bid auction.

(b) Real Estate and Leasing Services will cause the notices of the public auction or request for sealed bids to be published in accordance with 61 OS § 327. Notices shall include the appraised value of the property.

(c) Real Estate and Leasing Services will advertise the sale of the property. Methods of advertising may include:

- (1) Posting signs and banners;
- (2) Conducting public viewings of the property;
- (3) Publishing electronic notices or advertisements;
- (4) Press releases;
- (5) Social media;
- (6) Listing the property on the Real Estate and Leasing Services web page;
- (7) Listing the property on real estate industry listings;
- (8) Listing the property on public listings, and
- (9) Other methods of advertising as appropriate.

(d) If an award is made, the bid shall be awarded to the highest bidder; however, no bid shall be accepted for less than ninety percent (90%) of the appraised value of the property unless the property is being liquidated in accordance with 260:95-3-9. Real Estate and Leasing Services reserves the right to reject any and all bids.

(e) When a property is disposed of through sealed bid auction, the following process shall be followed:

- (1) Sealed bid packets shall be available to potential bidders on the Real Estate and Leasing Services website and by request. The packets will include instructions for potential bidders.
- (2) Bids must be in sealed envelope bearing the words "Sealed Bid" and the notice number.
- (3) Bids must include a check for ten percent (10%) of the bid price to serve as earnest money.
- (4) Bids will be stamped in by Real Estate and Leasing Services with a date and time stamp.
- (5) Bids may be modified or withdrawn until close of business on the closing date.
- (6) Bids must be received by Real Estate and Leasing Services by close of business on the closing date or postmarked no later than the closing date to be considered. If postmarked by the closing date, bids must also be received by Real Estate and Leasing Services no later than the bid opening date and time. Late bids will not be considered and will be returned to the bidder unopened.
- (7) Bids will be opened publicly by Real Estate and Leasing Services. The date, time and location of the bid opening will be in the bid packet and will be published on the Real Estate and Leasing Services website.
- (8) Any changes to the solicitation or answers to any questions will be emailed to all parties on the interested party list and posted on the Real Estate and Leasing Services website.
- (9) The Director of Real Estate and Leasing Services may waive minor deviations in the bid documents.

[Source: Added at 35 Ok Reg 1363, eff 9-14-18]

260:95-3-8. Sale or lease, and redevelopment of property through Requests for Proposals

(a) The Director of Real Estate and Leasing Services may invite the presentation of written proposals for purchase or lease, and redevelopment, of a surplus property provided it meets one or more of the following criteria:

- (1) The property is listed on the National Register of Historic Places;
- (2) The property is designated by the Oklahoma Historical Society as a property of historical interest or significance;

- (3) The property is located within the Oklahoma State Capitol Complex; or
- (4) The property is located within a campus owned by the State of Oklahoma.
- (b) The Request for Proposals and Evaluation tools shall be created by a development committee with members from the owning agency and Real Estate and Leasing Services. Other Office of Management and Enterprise Services staff or other people having suitable expertise may serve on the development team at the invitation of the Director of Real Estate and Leasing Services. If the property is an historic property, a designee of the Oklahoma Historical Society shall serve on the development team.
- (c) Real Estate and Leasing Services will advertise the Request for Proposals. Methods of advertising may include:
 - (1) Posting signs and banners;
 - (2) Conducting public viewings of the property;
 - (3) Publishing electronic notices or advertisements;
 - (4) Press releases;
 - (5) Social media;
 - (6) Listing the property on the Real Estate and Leasing Services web page;
 - (7) Listing the property on real estate industry listings;
 - (8) Listing the property on public listings, and
 - (9) Other methods of advertising as appropriate.
- (d) The following procedure shall be followed for submission and acceptance of Proposals.
 - (1) Proposals shall be submitted in a sealed envelope bearing the words "Sealed Proposal" and the notice number.
 - (2) Proposals will be stamped in by Real Estate and Leasing Services with a date and time stamp.
 - (3) Proposals may be modified or withdrawn until close of business on the closing date.
 - (4) Proposals must be received by Real Estate and Leasing Services by close of business on the closing date to be considered.
 - (5) Proposals may be modified or withdrawn until close of business on the closing date.
 - (6) Any changes to the solicitation or answers to any questions will be emailed to all parties on the interested party list and posted on the Real Estate and Leasing Services website.
 - (7) There will be no public opening of Requests for Proposals.
 - (8) The Director of Real Estate and Leasing Services may waive minor flaws in the proposal documents.
- (e) All information contained in the proposals is subject to the Open Records Act; however, release of information in the proposals shall be delayed until an award of contract is made by Real Estate and Leasing Services.
- (f) Agencies shall not release information in the proposals to governing boards or commissions until an award of contract is made by Real Estate and Leasing Services.
- (g) The evaluation team shall consist of members from the owning agency, the Office of Management and Enterprise Services, a member of the Long-Range Capital Planning Commission or designee, and other members with suitable expertise for the specific property, as determined by the Director of Real Estate and Leasing Services. If the property is a historic property, a designee of the Oklahoma Historical Society shall serve on the evaluation team.
 - (1) Names of members of the evaluation team may be kept confidential until an award of contract is made by Real Estate and Leasing Services.

(2) Members of the evaluation team shall not publicly discuss or release information from the proposals or evaluation process until an award of contract is made by Real Estate and Leasing Services.

(h) Proposals shall be evaluated principally on:

(1) The proposal's economic benefits, cultural benefits, job creation potential, advancement of long-term capital asset plan or other benefits to the State of Oklahoma and the general public;

(2) The qualifications and experience of the redeveloper;

(3) The financial ability of the redeveloper to complete the redevelopment in a timely fashion; and

(4) When applicable, the fidelity of the proposed renovation or redevelopment with the historic significance of the property.

(i) The Office of Management and Enterprise Services may enter into negotiations with one or more respondents and may enter into contracts with the respondent or respondents selected by the committee.

(j) The Office of Management and Enterprise Services may reject any and all proposals.

[Source: Added at 35 Ok Reg 1363, eff 9-14-18]

260:95-3-9. Disposal of surplus property through liquidation

(a) The Director of Real Estate and Leasing Services may determine it is in the best interest of the state to dispose of a property through liquidation, in compliance with 74 OS § 61.8 and 61 OS § 327, when the property has been offered for sale through public auction or sealed bids two (2) or more times and no acceptable bids were received. In determining if it is in the best interest of the state to liquidate a property, the Director of Real Estate and Leasing Services may consider the following:

(1) If continued ownership creates a liability for the state;

(2) If environmental factors are present that affect the desirability and value of the property; or

(3) If undue expenses to the citizens and State of Oklahoma are created by continued ownership of the property.

(b) Upon determining liquidation of a property is in the best interest of the state, the Director of Real Estate and Leasing Services shall make a recommendation to the Long-Range Capital Planning Commission that the property be disposed of through liquidation.

(c) Upon receiving approval for liquidation of the property from the Long-Range Capital Planning Commission, the Director of Real Estate and Leasing Services may elect to offer the property through:

(1) Sealed bids,

(2) Public auction, or

(3) Electronic auction.

(d) The Director of Real Estate and Leasing Services shall cause proper notice to be published in accordance with 61 OS § 327, regardless of the method of auction.

(e) Real Estate and Leasing Services will advertise the liquidation of the property. Methods of advertising may include:

(1) Posting signs and banners;

(2) Conducting public viewings of the property;

(3) Publishing electronic notices or advertisements;

(4) Press releases;

(5) Social media;

(6) Listing the property on the Real Estate and Leasing Services web page;

- (7) Listing the property on real estate industry listings;
- (8) Listing the property on public listings, and
- (9) Other methods of advertising as appropriate.
- (f) If the Director of Real Estate and Leasing Services elects to offer the property through public or sealed bids, the procedure in 260:95-3-7 shall be followed, except Real Estate and Leasing Services may accept a bid of less than ninety percent (90%) of the appraised value.
- (g) Real Estate and Leasing Services may reject any and all bids.

[Source: Added at 35 Ok Reg 1363, eff 9-14-18]