

## 203 – Property Acquisitions

The following are Finance and Administration Cabinet policies: **FAP 220-15-00 Real Property Acquisitions** and **FAP 220-16-00 Surplus Real Property Disposition**

### **FAP 220-15-00 REAL PROPERTY ACQUISITION**

*In accordance with KRS Chapters 45A and 56, the Finance and Administration Cabinet, Division of Real Properties, shall be responsible for the acquisition of all real property interests, for purchase or donation, for all departments, agencies, and administrative bodies of state government, except Transportation Cabinet highway right-of-way purchases, the Kentucky Community and Technical College System and those universities which have elected to administer their real property functions pursuant to KRS 164A.555 to 164A.630. All requests for acquisition of real property shall include a description of the property which must include a map and source deed, an explanation of the need, and a statement concerning the means of financing the acquisition with an account number for use as all costs of acquiring real property shall be borne by the requesting agency through the project account in eMARS.*

#### **1. Preliminary Steps.**

- a. The agency interested in acquiring an interest in real property shall have a preliminary discussion with the landowner to determine the landowner's willingness to consider the Commonwealth acquiring a real property interest. If the landowner is willing, the agency must provide the Finance and Administration Cabinet the appropriate documents to initiate the acquisition process. Prior to requesting the acquisition, the agency must consider all current regulations or issues relating to the property and how it will be managed properly by the agency if acquired.*
- b. Once the acquisition process is initiated, the Finance and Administration Cabinet, Division of Real Properties (Real Properties) will conduct all further discussions with the landowner.*
- c. Real Properties shall obtain title work utilizing the Finance and Administration Cabinet's approved list of attorneys. The title opinion shall be conducted based on the source deed(s) provided by the agency. The title must be researched a minimum of sixty (60) years. The title opinion shall be reviewed by Finance and Administration Cabinet legal staff to determine if the property interest to be conveyed has met the requirement of clear and marketable title.*
- d. If applicable, Real Properties shall obtain appraisal(s) of real property utilizing appraisers under contract with the Finance and Administration Cabinet from the Transportation Cabinet's approved list of appraisers. For property interest estimated to cost \$200,000 or more, two appraisals shall be performed if the property interest is to be purchased. The Finance and Administration Cabinet's Division of Real Properties shall perform a desk review of the appraisal and/or hire a review status appraiser as necessary.*

## **2. Formal Declaration of Need and Approval of the Secretary of Finance**

*Once the preliminary steps have been conducted and the appropriate information is shared with the requesting agency, a written formal determination of need shall be prepared and signed by the appropriate agency personnel and submitted to the Division of Real Properties. Based on said determination, Real Properties shall prepare an Official Order for the Secretary of the Finance and Administration Cabinet to review and approve. The Official Order shall authorize acquisition of the property not to exceed the fair market value. Upon the Secretary's approval, Real Properties shall be responsible for coordinating, directing and performing all aspects of the acquisition process. The requesting agency shall not be directly involved in the acquisition of the land except as follows:*

- a. Officials of the requesting agency may be asked to accompany a representative of the Finance and Administration Cabinet to assist in an explanation to the landowner of the Commonwealth's necessity to acquire the real property interest and the agencies future management of the property if applicable.*
- b. The requesting agency shall cooperate with the Division of Real Properties during the acquisition phase.*
- c. The Agency shall be responsible for setting up an account in eMARS to pay for all costs relating to and including the acquisition of the property*

## **3. Contract phase**

- a. Negotiation - Agents of the Division of Real Properties shall negotiate in the name of the Commonwealth of Kentucky with the property owner. If the property owner is agreeable, a Land Contract shall be entered into with the landowner.*
- b. Survey - If required by law or determined necessary, the Finance and Administration Cabinet shall obtain a survey of the property.*
- c. Environmental Review – the Finance and Administration Cabinet shall conduct an environmental review of the property, and if environmental concerns are found, further testing shall be procured at the expense of the acquiring agency.*

## **4. Condemnation**

*If the landowner refuses an offer to purchase and a determination has been made by the director of the Division of Real Properties that the property cannot be acquired by the steps outlined, the requesting agency shall be notified. If the agency is statutorily permitted to acquire a real property interest through condemnation and determines it is necessary to proceed with the acquisition, the agency must submit a formal request to the Secretary of the Finance and Administration Cabinet. An Official Order authorizing condemnation shall be submitted and approved by the Secretary of the Finance and Administration Cabinet prior to initiating condemnation process.*

## **5. Final Steps**

*a. Real Properties shall work with Finance and Administration Cabinet legal staff for preparation of closing documents.*

*b. Real Properties shall conduct closing with owner and record the necessary documents at the local courthouse.*

*d. Real Properties shall provide a copy of the recorded deed or other necessary legal documents to the acquiring agency, Office of the Controller/Statewide Accounting, the Secretary of State, and Inventory and Compliance.*

**6. Consider the need for a Phase I Environmental Site Assessment (ESA). See Section 212 - Hazardous Materials item 212.6 Environmental Site Assessment.**

## **FAP 220-16-00 SURPLUS REAL PROPERTY DISPOSITION**

*Pursuant to KRS Chapters 45A and 56, the Finance and Administration Cabinet, Department for Facilities and Support Services, Division of Real Properties shall be responsible for the disposition of all real property owned by the Commonwealth of Kentucky except property owned by universities and the Kentucky Community and Technical College System that have elected to administer their real property functions pursuant to KRS 164A.555 to 164A.630.*

*The agency requesting to surplus property shall forward to the Division of Real Properties a written request declaring the property surplus with all supporting documentation. Unless the secretary of the Finance and Administration Cabinet determines it is in the best interest of the Commonwealth to proceed otherwise, the property shall be sold by sealed bid or at public auction, subject to the provisions of KRS 45A.045, KRS 56.463 and the following procedures:*

- 1. Upon receipt of the agency's written request and all supporting documentation requested by the Division of Real Properties, including the agency's recommended manner of disposition, the Division of Real Properties shall review and evaluate the request.*
- 2. The Division of Real Properties shall notify any governmental agency deemed to have a likely interest of the surplus real property availability.*
- 3. If the Division of Real Properties concurs with the agency's recommendation, an Official Order authorizing the disposition shall be submitted to the secretary of the Finance and Administration Cabinet for review and final approval.*
- 4. If required by law, or if it is determined to be necessary by the Division of Real Properties, a survey and appraisal of the property shall be performed.*
- 5. The Division of Real Properties shall publicize the availability of surplus real property. The publication shall include a description of the property, date of bid opening, auction date and any special restrictions. The requesting agency shall be responsible for advertising costs and any signage on surplus real property.*
- 6. All administrative costs associated with disposition of the property shall be the responsibility of the requesting agency. If the secretary of the Finance and Administration Cabinet approves a negotiated sale, associated costs may be passed on to the grantee.*