

FAP 220-15-00
ACQUISITION OF REAL PROPERTY

1. In accordance with KRS 56.463, DRP shall be responsible for the acquisition of all real property interests, by purchase or donation, for all departments, agencies and administrative bodies of state government, except the Kentucky 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 – KRS 164A.630.
2. All requests for acquisition of real property shall include:
 - a. A description of the property including a map and source deed;
 - b. An explanation of the need; and
 - c. A statement concerning the means of financing the acquisition, including an applicable inter-agency account number as all costs of acquiring real property shall be the responsibility of the requesting agency.
3. **Preliminary Stages:**
 - a. An agency 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 shall provide the DRP the appropriate documents to initiate the acquisition process. Prior to requesting the acquisition, the agency shall 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, DRP shall conduct all further discussions with the landowner.
 - c. Once the landowner has executed a contract obligating him to sell the property to the Commonwealth (conditionally or otherwise), DRP shall, by a competitive bid process among attorneys on the FAC approved title attorney list, obtain a title opinion and a commitment by a title insurance company authorized to do business in the Commonwealth of Kentucky, to issue an Owner's Title Insurance Policy insuring the Commonwealth's interest in any property acquired. Following closing and recording of the deed, the title insurance company shall then provide a title policy to the DRP with the Commonwealth of Kentucky listed as an insured party. The title opinion, title insurance commitment and final title insurance policy shall all be reviewed by the FAC Office of General Counsel.
 - d. If applicable, DRP shall bid out appraisal(s) of real property utilizing appraisers under contract with the Kentucky Transportation Cabinet. For property interest estimated to cost \$200,000 or more, two (2) appraisals shall be performed. DRP shall perform a desk review of the appraisal and/or hire a review status appraiser as necessary.
4. **Formal Declaration of Need:**
 - a. A written formal declaration of need shall be prepared and signed by the appropriate agency personnel and submitted to DRP.
 - b. Based on said determination, DRP shall prepare an Official Order for the secretary of the FAC to review and approve. The Official Order shall authorize acquisition of the property not to exceed the fair market value.
 - c. Upon the Secretary's approval, DRP 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:
 1. Officials of the requesting agency may be asked to accompany a representative of DRP 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.

2. The requesting agency shall cooperate with DRP during the acquisition phase.

5. **Contract Phase:**

- a. **Negotiation:** Agents of DRP shall negotiate in the name of the Commonwealth with the landowner. If the landowner is agreeable, a Land Contract shall be entered into with the landowner.
- b. **Survey:** If required by law, the FAC shall obtain a survey of the property.
- c. **Environmental Review:** The FAC 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.

6. **Condemnation:**

- a. If the landowner refuses the Commonwealth's offer to purchase the property and a determination has been made by the director of DRP that the property cannot be acquired under by the steps outlined, the requesting agency shall be notified in writing.
- b. If the agency is able to acquire property through condemnation and determines it is necessary to proceed:
 - 1. The agency shall address to the secretary of the FAC a formal request to condemn the property;
 - 2. The request shall be sent to the director of DRP, and DRP shall then prepare an Official Order authorizing condemnation; and
 - 3. The agency's formal request and the Official Order shall be submitted for approval to the secretary of the FAC. If the request is approved, DRP shall move forward with acquisition.

7. **Final Steps:**

- a. DRP shall coordinate with FAC legal staff for preparation of closing documents.
- b. DRP shall conduct the closing with the landowner and record the necessary documents at the local courthouse.
- c. DRP shall provide a copy of the recorded deed or other necessary legal documents to the acquiring agency, Office of the Controller and the Secretary of State.

Relates to: KRS 45A.045; KRS Chapter 56