

1 **DEPARTMENT OF ADMINISTRATIVE SERVICES**2
3 **DIVISION 45**4 **DISPOSITION AND ACQUISITION OF REAL PROPERTY INTERESTS**5 **125-045-0200**6 **Purpose**

7 These rules are adopted under the authority of ORS 184.340, 270.015 and 270.100 and establish the procedures that
8 must be followed by Agencies to acquire and to sell, transfer, exchange or otherwise dispose of interests in real
9 property. These rules also establish procedures for the operation of the Public Lands Advisory Committee (PLAC);
10 collection of funds for the support of the Statewide Lands Inventory Program and PLAC; and the management and
11 operation of the Statewide Lands Inventory Program.

12 Stat. Auth.: ORS 184.340, 270.015 & 270.100

13 Stats. Implemented: ORS 244.010 & 270.010

14 Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

15 **125-045-0205**16 **Definitions**

17 The following definitions apply to the rules in this Division 045:

18 (1) "Acquiring Agency" means an Agency that proposes to acquire a Real Property Interest and is not an Exempt
19 Acquiring Agency.

20 (2) "Acquisition" means obtaining rights of ownership in a Real Property Interest by an Agency through a purchase,
21 exchange, conveyance or other transfer of that Real Property Interest.

22 (3) "Administrator" means the Administrator of the Department's Facilities Division.

23 (4) "Agency" means any board, commission, department or agency of the State of Oregon, whose costs are paid from
24 funds held in the State Treasury and that are authorized to acquire or dispose of Real Property Interests.

25 (5) "Appraisal" means a written report by a licensed and experienced real estate appraiser estimating the fair market
26 value of a Real Property Interest prepared in accordance with OAR 125-045-0215.

27 (6) "Appraised Fair Market Value" means the fair market value of a Real Property Interest as determined by an
28 Appraisal.

29 (7) "Clearing House Process" means the notification process whereby agencies notify the Department of terminal
30 dispositions or acquisitions of State Real Property Interests and Department notifies other state agencies and political
31 subdivisions under OAR 125-045-0220 and 125-045-0225.

32 (8) "Department" means the Oregon Department of Administrative Services.

33 (9) "Directed Appraisal" means a written report by a licensed and experienced real estate appraiser estimating the fair
34 market value of a Real Property Interest with restrictions or for a particular use, zone or conditional use in accordance
35 with OAR 125-045-0215.

- 36 (10) "Director" means the Director of the Department.
- 37 (11) "Disposing Agency" means an Agency that proposes to dispose of a Real Property Interest.
- 38 (12) "Division" means the Facilities Division of the Department.
- 39 (13) "Exempt Acquiring Agency" means an Agency that is not required by law to report to the Department its
40 intentions to acquire a Real Property Interest. At the time of the adoption of these rules the Exempt Acquiring Agencies
41 are:
- 42 (a) The Department of Transportation, if acquiring a highway right of way;
- 43 (b) The Oregon University System, if acquiring real property within the approved projected campus boundaries of
44 institutions subject to its authority; and
- 45 (c) The Parks and Recreation Department, if acquiring park properties.
- 46 (14) "Exempt Disposing Agency" means an Agency that is exempt by law from the requirement that it obtain
47 Department approval prior to the Terminal Disposition of a Real Property Interest, unless the Terminal Disposition will
48 be for less than the Appraised Fair Market Value. At the time of the adoption of these rules, the Exempt Disposing
49 Agencies are:
- 50 (a) The Department of Fish and Wildlife;
- 51 (b) The Department of Forestry, if disposing of State forestlands;
- 52 (c) The Department of State Lands;
- 53 (d) The Department of Transportation;
- 54 (e) The Oregon University System;
- 55 (f) The Parks and Recreation Department; and
- 56 (g) Any legislative or judicial branch of the State.
- 57 (15) "Governing Body" means a board or commission with constitutional or statutory governing authority to approve
58 the Acquisition or Terminal Disposition of a Real Property Interest. The term "Governing Body" includes but is not
59 limited to the following bodies:
- 60 (a) The Oregon Board of Forestry;
- 61 (b) The Oregon Board of Higher Education;
- 62 (c) The Oregon Fish and Wildlife Commission;
- 63 (d) The Oregon Parks and Recreation Commission;
- 64 (e) The Oregon Transportation Commission; and
- 65 (f) The State Land Board.
- 66 (16) "Improvements" means any and all structures on or attachments to Real Property Interests but excluding public
67 improvements as defined in ORS 279A.010.

- 68 (17) "In Reserve" as used in the Statewide Lands Inventory means an Agency-owned Real Property Interest that is not
69 currently being used by the Agency, but that the Agency intends to use to fulfill an anticipated future requirement, need
70 or benefit related to the mission of the Agency.
- 71 (18) "In Use" as used in the Statewide Lands Inventory means a State Real Property Interest that is actively being used
72 to serve the mission of the Agency.
- 73 (19) "Long Term Lease" means any lease, which the State does not have the right of termination for convenience, to
74 another Agency, Political Subdivision, private or public party, having a term, including options of twenty years or
75 more.
- 76 (20) "Office Quarters" means office space, office buildings and associated services, storage and parking facilities for
77 Agencies. Office space may include factory-built modular or portable units but excludes stand alone storages and
78 parking facilities.
- 79 (21) "Political Subdivision" means a local governmental unit, including a county, city, town, port, dock, commission or
80 district, that exists under the laws of Oregon and that has the power to levy taxes.
- 81 (22) "Property Restrictions" means any restrictions placed on a Real Property Interest or on the sale proceeds from the
82 Terminal Disposition of the Real Property Interest including deed reversion clauses or constitutional or statutory
83 requirements to deposit all or a portion of the sale proceeds into specified funds other than the general fund.
- 84 (23) "Proposal" means a written offer to purchase a State Real Property Interest submitted in response to a Request for
85 Proposals.
- 86 (24) "Proposer" means an individual or entity that submits a Proposal in response to a Request for Proposals.
- 87 (25) "Public Lands Advisory Committee" (PLAC) means the advisory committee established under ORS 270.120.
- 88 (26) "Real Property Interest" means any legal or equitable interest in land, or an option to acquire, or a leasehold
89 interest with a term, including options to renew or extension provisions that contemplate a total period of occupancy of
90 more than 20 years, together with all Improvements. For the purposes of these rules, a Real Property Interest does not
91 include:
- 92 (a) An Office Quarters lease, regardless of the term;
- 93 (b) An easement, unless the easement has an Appraised Fair Market Value of \$100,000 or greater; or
- 94 (c) Mineral or geothermal resources, as defined in ORS 273.755, the sale or other disposition of which is governed by
95 ORS 273.775 to 273.790 or other provisions of law governing these resources.
- 96 (27) "Request for Proposals" means a solicitation of offers to acquire a State Real Property Interest made pursuant to
97 OAR 125-045-0235.
- 98 (28) "Right of First Refusal" means a conditional privilege that the Disposing Agency, in the exercise of its discretion,
99 may grant to a qualified Proposer by OAR 125-045-0230 to match the best Proposal for the purchase of a State Real
100 Property Interest.
- 101 (29) "State" means the State of Oregon.
- 102 (30) "State Real Property Interest" means any Real Property Interest that is owned in the name of the State of Oregon.
- 103 (31) "Statewide Lands Inventory" means the inventory of State Real Property Interests maintained by the Department
104 on a computer database.

105 (32) "Surplus" as used in the Statewide Lands Inventory means a State Real Property Interest that is not currently used
106 or is not needed or desirable to support a future need, use or function of the Agency.

107 (33) "Terminal Disposition" means the alienation of a State Real Property Interest through a sale, exchange,
108 conveyance, donation, lease or other transfer of that interest.

109 Stat. Auth.: ORS 270.015(2) & 270.100(1)(d)
110 Stats. Implemented: ORS 244.010, 270.010, 270.100, 270.105, 270.110, 270.120, 270.130 & 270.135
111 Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06; DAS 8-2009, f. & cert. ef. 7-21-09

112 **125-045-0210**

113 **Alternative Rules for Acquisitions and Terminal Dispositions by State Agencies**

114 (1) These rules apply to all Agencies seeking the Acquisition or Terminal Disposition of a Real Property Interest, with
115 the exception of:

116 (a) The Department of Veterans' Affairs in any transaction for the acquisition or sale, or both, by the Director of
117 Veterans' Affairs of a home or farm under ORS 88.720, 273.388, 406.050, 407.135, 407.145, 407.375 and 407.377; and

118 (b) Any other Agency subject to constitutional or statutory authority that supersedes all or some of these rules.

119 (2) Any Agency subject to a Governing Body may adopt rules for the Acquisition and Terminal Disposition of Real
120 Property Interests. Rules adopted by an Agency will not supersede these rules, however, unless the Agency's rules have
121 been certified by the Division pursuant to this rule.

122 (3) If an Agency believes that it is exempt from all or a part of these rules due to superseding constitutional or statutory
123 authority, the Agency shall, at least 30 days prior to the Acquisition or Terminal Disposition, provide notice to the
124 Division. The notice shall include the following information:

125 (a) The specific requirements of these rules from which the Agency claims to be exempt;

126 (b) The constitutional or statutory authority that the Agency believes supersedes these rule(s); and

127 (c) Identification of the Agency's rules and the date they were filed with the Secretary of State.

128 (4) The Division shall determine whether the Agency's rules are consistent with ORS 270.005 to 270.140. If the
129 Agency's rules are determined to be consistent, the Division shall certify the Agency's rules and shall notify the Agency
130 that it may use Agency rules in lieu of these rules.

131 (5) Upon obtaining certification by the Division and after obtaining approval by the Agency's Governing Body, the
132 Agency may acquire and dispose of Real Property Interests in accordance with its certified rules.

133 (6) The Division will maintain a master file of all Agencies whose rules are certified exempt from all or a part of these
134 rules. This master file will include the Agency's request for exempt certification, identification of the filed rules that the
135 Agency will be using and a copy of the Division's written determination.

136 (7) Once certified exempt, an Agency may not use amended rules filed for the Acquisition and Terminal Disposition of
137 Real Property Interests in lieu of these rules until the Agency's restructured rules have again been certified exempt by
138 the Division.

139 (8) Notwithstanding OAR 125-045-0210, the Division may, upon 30 days prior notice to the Agency, withdraw its
140 certification of an Agency's rules as a result of a reexamination Department rules, policies and certifications or an
141 Agency's compliance with its certified rules. In such event, the Agency shall thereafter comply with 125-045-0210
142 through 125-045-0245 until new or revised rules have been certified by the Division.

143 Stat. Auth.: ORS 270.100(1)(d)
144 Stats. Implemented: ORS 270.015, 270.100, 270.105 & 270.110
145 Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06; DAS 10-2009, f. & cert. ef. 11-19-09

146 **125-045-0215**

147 **Appraisal and Determination of Value of Real Property Interests**

148 (1) Prior to Acquisition from or Terminal Disposition to a party other than an Agency of a Real Property Interest, the
149 Acquiring or Disposing Agency shall obtain an Appraisal of the Real Property Interest.

150 (2) For dispositions and acquisitions with an estimated fair market value of less than \$100,000, a letter of opinion from
151 a licensed real estate professional constitutes an Appraisal.

152 (3) If the estimated fair market value of the Real Property Interest is \$100,000 or greater, the Administrator:

153 (a) Shall either select or approve the selection of an appraiser by the Disposing Agency;

154 (b) Must approve of the form and substance of the written Appraisal and the final determination of Appraised Fair
155 Market Value by the appraiser; and

156 (c) May require that more than one Appraisal be obtained to establish the Appraised Fair Market Value.

157 (4) Upon written request by an Agency, the Administrator may preapprove the Agency's appraisal process provided the
158 process is consistent with this rule.

159 (5) Upon written request by an Agency, the Administrator may preapprove the Agency's use of a directed appraisal for
160 a particular use.

161 (6) Except for transfers from one Agency to another, an Agency shall not sell or dispose of any State Real Property
162 Interest for less than its Appraised Fair Market Value without complying with OAR 125-045-0245.

163 (7) Prior to Terminal Disposition of a State Real Property Interest to other than an Agency, and regardless of the
164 Appraised Fair Market Value of the State Real Property Interest, the Disposing Agency shall consider all the values of
165 the State Real Property Interest to the people of the State, including values for fish and wildlife habitat and public
166 access to other real property. If the Appraised Fair Market Price of the State Real Property Interest is greater than
167 \$100,000, the public will be invited to comment on the value of the State Real Property Interest. The Agency will
168 solicit public comment in the manner defined in OAR 125-045-0235 or in a method the Division approves.

169 Stat. Auth.: ORS 270.015(2) & 270.100(1)(d)
170 Stats. Implemented: ORS 270.100 & 270.105
171 Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06; DAS 10-2009, f. & cert. ef. 11-19-09

172 **125-045-0220**

173 **Acquisition of Real Property Interests**

174 (1) Except for Exempt Acquiring Agencies, before an Agency offers to acquire a Real Property Interest, it shall first
175 declare to the Division in writing its intent to acquire the Interest. The written declaration must include the following
176 information:

177 (a) A detailed description of the Real Property Interest sought to be acquired, including its approximate size in square
178 feet or acreage;

179 (b) Any particular requirements of the Agency that the Interest must satisfy;

- 180 (c) A description of the general or specific location where the Agency desires to acquire the Real Property Interest,
181 including a map if possible;
- 182 (d) The reason for the Acquisition;
- 183 (e) A completed notice using a form provided by the Division; and
- 184 (f) Any other information the Division may request.

185 (2) After receiving the declaration described in this rule and before an Acquiring Agency other than an Exempt
186 Acquiring Agency may unconditionally offer to acquire any Real Property Interest, the Division shall provide written
187 notice of the intended Acquisition to all other Agencies authorized by statute to own State Real Property Interests. In
188 addition to any other information the Administrator or Agency determines is desirable, written notice must include the
189 following:

- 190 (a) The information provided by the Acquiring Agency defined in OAR 125-045-0220(1);
- 191 (b) A request that the Agency give the Division written notice if the Agency controls a State Real Property Interest that
192 the Agency no longer needs and the State Real Property Interest may match the needs of the Acquiring Agency;
- 193 (c) The deadline for the Agency to respond to the Division, which may not be less than 30 days from the date of the
194 Division's notice, unless the Administrator determines that a shorter period is in the State's interest; and
- 195 (d) Any other information the Acquiring Agency and the Division elect to include in the notice.

196 (3) The Division may dispense with notice to Agencies if the Administrator adopts written findings that in the reasoned
197 judgment of the Division, it is unlikely that a State Real Property Interest could satisfy the Acquiring Agency's needs
198 and that as a result, notice would be a futile act.

199 (4) If an Agency responds timely to the written notice described in this rule, the Agency shall thereafter negotiate with
200 the Acquiring Agency for a sale or transfer of the Agency's State Real Property Interest. The Acquiring Agency may
201 not reject, without Division approval, a bona fide offer by another Agency to transfer to the Acquiring Agency a State
202 Real Property Interest that satisfies the Acquiring Agency's acquisition criteria.

203 (5) The Acquiring Agency may proceed with an Acquisition of a Real Property Interest from a source other than an
204 Agency after satisfying the requirements of OAR 125-045-0215 and this rule, provided the Acquisition is consistent
205 with other applicable provisions of law.

206 Stat. Auth.: ORS 270.015(2) & 270.100(1)(d)
207 Stats. Implemented:
208 Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

209 **125-045-0225**

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

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

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

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

217 (c) An explanation of the reason for disposal;

- 218 (d) A completed notice using a form provided by the Division; and
- 219 (e) Any other information the Division may request.
- 220 (2) To ensure that the Terminal Disposition best serves the interests of the State and the Disposing Agency, the
221 Disposing Agency is encouraged to create a disposition strategy for the property. The Disposing Agency's disposition
222 strategy should consider:
- 223 (a) The highest and best use of the Real Property Interest, consistent with the local planning goals;
- 224 (b) How the Real Property Interest might be marketed most effectively, given the nature of the Interest and likely
225 potential purchasers; and
- 226 (c) How the economic return to the State might be maximized.
- 227 (3) After receipt of a declaration to dispose of a State Real Property Interest, and before a Disposing Agency may
228 unconditionally offer to dispose of the State Real Property Interest, the Division shall provide notice of the intended
229 Terminal Disposition to all Agencies authorized by law to acquire Real Property Interests. Written notice to agencies
230 must include the following:
- 231 (a) A request that any Agency with an interest in acquiring the State Real Property Interest notify the Division in
232 writing of its interest;
- 233 (b) The information required to be provided under OAR 125-045-0225(1);
- 234 (c) The deadline for the Agency to provide written notice to the Division of its interest in acquiring the State Real
235 Property Interest, which may not be less than 30 days from the date the Division issues the notice, unless the
236 Administrator determines that a shorter period is in the State's interest; and
- 237 (d) Any other information the Division or the Disposing Agency elects to include in the notice.
- 238 (4) Notification by the Clearing House Process, will be given to agencies by at least one of the following methods:
- 239 (a) Mailed notice;
- 240 (b) Electronic mail notice;
- 241 (c) Posting notice of the intended Terminal Disposition on the Division's website; or
- 242 (d) Newspaper publication meeting the requirements defined in OAR 125-045-0235(3).
- 243 (5) The Division may dispense with notice to Agencies if the Administrator adopts written findings that in the reasoned
244 judgment of the Division it is unlikely that transfer of the State Real Property Interest to another Agency could satisfy
245 the Disposing Agency's needs and that as a result, notice would be a futile act.
- 246 (6) If one or more Agencies responds timely to the written notice described in this rule, the responding Agency or
247 Agencies shall negotiate with the Disposing Agency to determine if a sale, assignment, lease or other transfer can be
248 completed. The Disposing Agency may not reject another Agency's bona fide offer to acquire the State Real Property
249 Interest without Division approval.
- 250 (7) If two or more Agencies make bona fide offers to acquire the State Real Property Interest, the Disposing Agency
251 shall determine, in its reasonable discretion, which, if any, offer is most advantageous to the State and the Disposing
252 Agency. Prior to making this determination, the Division may solicit the advice of the PLAC. A Disposing Agency
253 need not use a competitive bidding process in connection with the Terminal Disposition of a State Real Property
254 Interest to another Agency.

- 255 (8) Before a Disposing Agency may dispose of a State Real Property Interest to other than another Agency, the
256 Division shall provide notice of the intended Terminal Disposition to Political Subdivisions. Written notice will be
257 given to each city, county, and school district within whose boundaries the State Real Property Interest is located.
258 Notification by the Clearing House Process, will be given to all other Political Subdivisions by at least one of the
259 following methods:
- 260 (a) Mailed notice;
- 261 (b) Electronic mail notice;
- 262 (c) Posting notice of the intended Terminal Disposition on the Division's website; or
- 263 (d) Newspaper publication meeting the requirements defined in OAR 125-045-0235(3).
- 264 (9) The Division may provide notice to Political Subdivisions at the same time as it provides notice to Agencies. The
265 Division may dispense with notice to Political Subdivisions if the Administrator adopts written findings that in its
266 reasoned judgment it is unlikely that transfer of the State Real Property Interest to a Political Subdivisions could satisfy
267 the Disposing Agency's needs and that as a result, notice would be a futile act.
- 268 (10) All notices to Political Subdivisions must include the following:
- 269 (a) A request that any Political Subdivision with an interest in acquiring the State Real Property Interest notify the
270 Division in writing of its interest;
- 271 (b) The information required to be provided under OAR 125-045-0225(1);
- 272 (c) The deadline for the Political Subdivision to provide written notice to the Division of its interest in acquiring the
273 State Real Property Interest, which may not be less than 30 days from the date of the Division's notice unless the
274 Administrator determines that a shorter period is in the State's interest;
- 275 (d) A reservation of the right of the Disposing Agency to reject any offers;
- 276 (e) Notice that a Political Subdivision's right to acquire the State Real Property Interest is subject and subordinate to the
277 right of Agencies to acquire the State Real Property Interest (required only if notice to Political Subdivisions is made
278 concurrently with notice to Agencies); and
- 279 (f) Any other information the Division or the Disposing Agency elects to include in the notice.
- 280 (11) If no Agency indicates an interest in acquiring the State Real Property Interest, or if a sale or other transfer to
281 another Agency cannot be finalized, any Political Subdivision that has made a timely response to the notice may
282 negotiate with the Disposing Agency to determine if a sale or other transfer can be completed.
- 283 (12) The Disposing Agency shall consider any bona fide offer submitted by a Political Subdivision but shall not be
284 obliged to sell or otherwise transfer the State Real Property Interest to the Political Subdivision.
- 285 (13) No Terminal Disposition of a State Real Property Interest to a Political Subdivision for less than the Appraised
286 Fair Market Value may occur without the written approval of the Administrator or Director in accordance with OAR
287 125-045-0245.
- 288 (14) If two or more Political Subdivisions make bona fide offers to acquire the State Real Property Interest, the
289 Disposing Agency shall determine, in its reasonable discretion, which, if any, offer is acceptable to the State.
- 290 (15) The Disposing Agency may place any conditions on the transfer of a State Real Property Interest to a Political
291 Subdivision it deems advisable, including but not limited to requirements that:

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

294 (b) Such State Real Property Interest not be resold to a private purchaser without the consent of the State.

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

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

298 Stat. Implemented: ORS 270.100, 270.120

299 Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06; DAS 8-2009, f. & cert. ef. 7-21-09; DAS 10-2009, f. & cert. ef. 11-19-
300 09

301 **125-045-0230**

302 **Right of First Refusal Determination**

303 (1) The State of Oregon may offer a Right of First Refusal to the parties described in ORS 270.010(2) in the unlikely
304 event the grant of such a right is consistent with applicable trust responsibilities.

305 (2) Prior to proceeding with the public notice and solicitation procedures described in this rule, the Disposing Agency
306 shall determine, with the advice of the Division, whether any party is entitled to a Right of First Refusal. The Disposing
307 Agency's determination is final and conclusive.

308 (3) If a Right of First Refusal is granted, the Disposing Agency shall attempt to locate and notify each party or parties
309 granted the Right.

310 (4) The Disposing Agency may place any conditions on the Right of First Refusal that it elects, provided that any
311 conditions are reviewed and approved by the Attorney General's Office. In addition, unless waived by the Agency in its
312 notice, no Right of First Refusal may be exercised unless the holder of the Right submits a timely and responsive offer
313 to acquire the State Real Property Interest for an amount not less than the minimum asking price.

314 (5) If more than one Right of First Refusal is granted, the holder of the Right that submits the highest offer shall be
315 given the first opportunity to acquire the Real Property Interest. If there is a tie between high bidders, the first to file its
316 offer shall be given the first opportunity. Once a party exercises a Right of First Refusal, all other Rights of First
317 Refusal are extinguished.

318 (6) A grant of a Right of First Refusal may be withdrawn if the Disposing Agency discovers facts and circumstances
319 that lead it to conclude that offering the right is not in the best interest of the state.

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

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

322 Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

323 **125-045-0235**

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

325 (1) This rule applies to sales and leases of State Real Property Interests only.

326 (2) If a Disposing Agency does not sell or transfer a State Real Property Interest to either an Agency or a Political
327 Subdivision or to a party that has been granted a Right of First Refusal, then the Disposing Agency may dispose of the
328 State Real Property Interest to any other party subject to the rules and procedures described in this rule.

329 (3) The Disposing Agency shall publish notice of the proposed Terminal Disposition of the State Real Property Interest.
330 The notice must be published not less than once a week for three successive weeks in one or more newspapers of

- 331 general circulation in the county or counties in which the State Real Property Interest is located. In addition, the
332 Disposing Agency may provide notice on its website. The published notice must include the following:
- 333 (a) A general description of the State Real Property Interest, including a legal description, if any;
- 334 (b) The asking price;
- 335 (c) The name and address of the person to contact to obtain any additional information concerning the State Real
336 Property Interest;
- 337 (d) A Request for Proposals, including the address to which the Proposal must be delivered and the date and time the
338 Proposal is due, which may not be less than 30 days from the date of the first notice;
- 339 (e) A requirement that a security deposit in the amount and form described in this rule must be submitted with the
340 Proposal;
- 341 (f) If applicable, a notice that the Terminal Disposition of the State Real Property Interest may be subject to a Right of
342 First Refusal;
- 343 (g) If not previously published, an invitation for public comment on the State Real Property Interest values defined in
344 OAR 125 045-0215(7) if the Appraised Fair Market Value is more than \$100,000;
- 345 (h) A reservation of the right of the Disposing Agency or the Division to accept or reject any Proposal; and
- 346 (i) Any other information the Disposing Agency elects to include.
- 347 (4) The Disposing Agency may use a multi-stage process, which may include, but need not be limited to, a Solicitation
348 of Interest (SOI), a Request for Qualifications (RFQ), a Request for Proposals (RFP), a straight offer to purchase, or a
349 combination of these. These documents must describe the process by which the Disposing Agency shall market the
350 property, and may direct interested parties to the Disposing Agency's website for information.
- 351 (5) The Division may post the current status of Surplus State Real Property Interests available for Terminal Disposition
352 on its website.
- 353 (6) All Proposals submitted in response to the published notice described in this rule must be accompanied by a deposit,
354 in the form of a certified check or sufficient bond furnished by a surety company authorized to do business in this State,
355 in favor of the State of Oregon in a sum not less than ten percent of the total amount of the proposed purchase price.
356 Deposits will be refunded to all unsuccessful Proposers after the closing of the sale to a successful Proposer or rejection
357 of all Proposals.
- 358 (7) Each Proposal must clearly identify the amount offered for the purchase of the State Real Property Interest, and
359 must include the following additional information:
- 360 (a) Any conditions upon the Proposer's offer to acquire the State Real Property Interest;
- 361 (b) A detailed statement explaining the Proposer's proposed use for the State Real Property Interest; and
- 362 (c) Any other information the Proposer believes is relevant to its Proposal.
- 363 (8) After the date and time for submitting Proposals has passed, the Disposing Agency shall open all Proposals that
364 have been timely delivered and that have the required deposit. The Disposing Agency shall evaluate all responsive
365 Proposals to determine the Proposal most advantageous to the State. The determination of the most advantageous
366 Proposal will be final and conclusive and is not subject to review by any court.
- 367 (9) The Disposing Agency shall notify the apparent successful Proposer and shall negotiate to determine if the transfer
368 can be consummated and a final agreement reached. If negotiations are unsuccessful, the Disposing Agency may:

- 369 (a) Notify the next highest ranking acceptable Proposal and shall similarly attempt to negotiate the Terminal
370 Disposition of the State Real Property Interest; and
- 371 (b) Continue the negotiation process until the Disposing Agency has exhausted the field of all Proposers; or
- 372 (c) Reject remaining Proposals.
- 373 (10) If the Disposing Agency and a Proposer reach a final agreement on the Terminal Disposition of the State Real
374 Property Interest and this agreement, where required, is approved by the Attorney General pursuant to ORS 291.047,
375 the Disposing Agency shall transfer the State Real Property Interest to the successful Proposer in accordance with the
376 terms of the agreement.
- 377 (11) The Disposing Agency, in its sole discretion, may reject any or all Proposals.
- 378 (12) If all Proposals are rejected, the Disposing Agency may market and sell the Real Property Interest in any manner
379 the Disposing Agency deems appropriate including but not limited to auction, direct negotiation with potential buyers,
380 announcing a new RFQ or RFP process, and acting through a real estate licensee, provided that:
- 381 (a) If required by ORS 291.047, any resulting agreement of sale must be approved by the Attorney General;
- 382 (b) If no agreement of sale is executed within 18 months of the publication of the first public notice of sale described in
383 this rule, no agreement of sale may be accepted without again first publishing a public notice of sale and complying
384 with the provisions of this rule; and
- 385 (c) The Disposing Agency shall publish the process selected in this subsection on its website.
- 386 Stat. Auth.: ORS 270.015(2), 270.100(1)(d)
387 Stats. Implemented: ORS 270.010, 270.110, 270.130, 270.135, 270.140
388 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; DAS 8-2009, f.
389 & cert. ef. 7-21-09
- 390 **125-045-0240**
- 391 **Transfer of Property with Deed Restrictions**
- 392 If the State's title to a State Real Property Interest is limited, qualified or restricted, whether by dedication or otherwise,
393 to use as a burial ground, cemetery, or for the purpose of interring the remains of deceased persons, the Disposing
394 Agency shall follow the procedures defined in ORS 270.110(2) prior to transfer of the State Real Property Interest.
- 395 Stat. Auth.: ORS 270.015(2)
396 Stats. Implemented: ORS 270.110
397 Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06
- 398 **125-045-0245**
- 399 **Department Approval**
- 400 (1) Prior to any Terminal Disposition of a State Real Property Interest at or above the Appraised Fair Market Value, all
401 Disposing Agencies, other than Exempt Disposing Agencies, shall obtain the written consent of:
- 402 (a) The Administrator if the Appraised Fair Market Value is less than \$1,000,000; or
- 403 (b) The Director if the Appraised Fair Market Value is \$1,000,000 or more.

404 (2) Prior to any Terminal Disposition of a State Real Property Interest for less than the Appraised Fair Market Value,
405 all Disposing Agencies, including Exempt Disposing Agencies, shall obtain the written consent of:

406 (a) The Administrator if the Appraised Fair Market Value is less than \$1,000,000; or

407 (b) The Director if:

408 (A) The Appraised Fair Market Value is \$500,000 or greater and the Real Property Interest is proposed to be
409 transferred for 80% or less of the Appraised Fair Market Value; or

410 (B) The Appraised Fair Market Value is \$1,000,000 or more.

411 (3) Notwithstanding OAR 125-045-0245(2), a Disposing Agency need not obtain the consent of the Administrator or
412 Director, as the case may be, prior to the Terminal Disposition of a State Real Property Interest for less than the
413 Appraised Fair Market Value if the Governing Body of the Disposing Agency has expressly approved the Terminal
414 Disposition for less than the Appraised Fair Market Value.

415 (4) An Agency disposing of a State Real Property Interest pursuant to OAR 125-045-0245(3) shall provide the
416 following information to the Administrator within 30 days following Terminal Disposition:

417 (a) The identify of the State Real Property Interest disposed of;

418 (b) The Appraised Fair Market Value of the Interest;

419 (c) The value received for the Interest; and

420 (d) Any other information requested by the Administrator.

421 Stat. Auth.: ORS 270.100(1)(d)

422 Stats. Implemented: ORS 270.100

423 Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

424 **125-045-0250**

425 **Public Lands Advisory Committee**

426 (1) In exercising its real property management and transaction functions under ORS 184.634, 270.005 to 270.015,
427 270.100 to 270.190, 273.416, 273.426 to 273.436 and 273.551, the Department shall receive advice from the Public
428 Lands Advisory Committee (PLAC).

429 (2) The PLAC shall consist of two members of the Legislative Assembly, two persons who serve in the executive
430 branch of state government, one real estate agent licensed under ORS 696.020, one qualified land use planner, and one
431 person qualified as a real estate management expert. Members of the PLAC shall appoint the Chair of the Committee.

432 (3) The PLAC shall meet quarterly or as often as the majority of its members determine. The Department may request
433 that the PLAC meet for the purpose of considering real property transactions, evaluate reports to the legislature, or to
434 review Agency reports on the status of the Statewide Lands Inventory.

435 (4) The PLAC may request that the Department and other Agencies controlling State Real Property Interests update the
436 PLAC on their individual land inventories and processes for evaluating whether property is needed to support an
437 Agency's mission.

438 (5) PLAC meetings shall be held in Salem. The Division, unless otherwise arranged by PLAC, will determine the
439 meeting location. The Division shall:

- 440 (a) Schedule and announce meeting dates and times;
- 441 (b) Prepare and distribute meeting agendas;
- 442 (c) Arrange times for Agency presentations; review and edit Agency material prior to meetings;
- 443 (d) Coordinate with Agencies in response to information requests from PLAC; and
- 444 (e) Prepare and distribute meeting minutes.
- 445 (6) The PLAC is advisory to the Department and is not a governing body as defined by ORS 192.610. Meetings of the
446 PLAC shall be treated as public meetings and shall follow the notification and other procedures described in the
447 Attorneys General Public Records and Meetings Manual.
- 448 (7) The PLAC shall not make a recommendation on a transaction or other documents reviewed without a majority of its
449 members present. If a duly scheduled and noticed meeting does not have a majority of the members present, those
450 present will be considered to be a subcommittee of the PLAC. The subcommittee shall report its findings and
451 recommendations to the next scheduled PLAC meeting when a majority is present and formal action may be taken at
452 that time.
- 453 (8) Members of the PLAC who are not members of the Legislative Assembly are entitled to compensation under ORS
454 292.495. Members of the PLAC who are members of the Legislative Assembly shall be paid compensation and shall be
455 reimbursed for expenses as provided in ORS 171.072, payable from funds appropriated to the Legislative Assembly.
456 Expenses of the PLAC shall be paid from Department funds that shall be recovered from Agencies pursuant to OAR
457 125-045-0270.
- 458 (9) The PLAC may hold meetings or portions of meetings in non-public Executive Session to discuss specific,
459 confidential deal points and negotiation strategies for particular property transactions.
- 460 Stat. Auth.: ORS 270.015(2), 270.100(1)(d)
461 Stats. Implemented:
462 Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06
- 463 **125-045-0255**
- 464 **Procedure for Submitting Property Transactions and Inventory Information for PLAC Review**
- 465 (1) The PLAC shall advise the Department on all Acquisitions and Terminal Dispositions valued at \$100,000 or more.
466 The Division and the Agency shall consider, but are not required to follow, the advice of the PLAC.
- 467 (2) Prior to each PLAC meeting, the Division shall provide reports to each member of the PLAC containing key
468 information on each Acquisition and Terminal Disposition to be reviewed by the PLAC, including:
- 469 (a) A brief summary of the proposed transaction;
- 470 (b) The reason for the PLAC review;
- 471 (c) Background summary information and a list of topics for consideration; and
- 472 (d) Any supporting documents, maps or photos.
- 473 (3) The PLAC may request information from Agencies controlling State Real Property Interests related to Agency land
474 inventories and the Agency's processes for identifying, acquiring and disposing of excess real property.

475 (a) If a request for Agency information is made, prior to submission, the Division will schedule a meeting with the
476 Agency to collect and review the documentation.

477 (b) At the conclusion of its evaluation, the Division will copy and distribute the documentation to the PLAC members
478 at least two weeks in advance of the PLAC scheduled meeting.

479 (4) The Division shall prepare draft meeting minutes after every PLAC meeting and distribute them to PLAC members
480 for review and comment. The Division shall revise the minutes following receipt of comments from the PLAC and
481 shall distribute revised minutes to the PLAC for approval at the beginning of the next scheduled PLAC meeting.

482 (5) By November 1st of each even numbered year, the Division shall prepare a summary report of the Statewide Lands
483 Inventory Program, available Surplus State Real Property Interests, and State Real Property Interests sold during the
484 current biennium for the PLAC to review. By January 1st of every odd numbered year, the Division, with PLAC
485 oversight, shall also prepare a summary report for Legislative review.

486 Stat. Auth.: ORS 270.015(2), 270.100(1)(d)
487 Stats. Implemented:
488 Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

489 **125-045-0260**

490 **Procedure for PLAC Review**

491 (1) The PLAC shall receive written material for its review at least two weeks in advance of a scheduled PLAC meeting.
492 In addition, the Department or the Agency will make a brief presentation during the meeting on specific agenda items.

493 (2) Following each presentation, the PLAC may ask questions and discuss issues with other PLAC members as needed.

494 (3) At the end of the discussion, the PLAC Chair shall ask members for advice or recommendations. The PLAC may
495 pose further questions to the Department or Agency, may comment on the proposed transaction or agenda item, or may
496 determine additional information is required and postpone comment.

497 Stat. Auth.: ORS 270.015(2) & 270.100(1)(d)
498 Stats. Implemented:
499 Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06

500 **125-045-0265**

501 **Statewide Inventory and Property Management**

502 (1) The Division shall maintain a computer Statewide Lands Inventory database. This database will catalog the size,
503 location, current use and value of all State Real Property Interests, as well as, identify Surplus State Real Property
504 Interests. The Division will use this data to respond to questions from the public, Agencies, the Legislature and
505 executive branch concerning Statewide Lands.

506 (2) The Division shall work with Agencies to establish appropriate categories of real property for cataloguing State
507 Real Property Interests. Agencies shall cooperate with the Division by providing State Real Property Interests' data,
508 which is accurate, up-to-date and complete. The Statewide Lands Inventory categories shall include information on
509 location, size, current use, value, and whether the Real Property Interest is in operational use, reserve, or surplus. Value
510 may be shown as a range within a list of categories: Forest \$80-\$180/acre; Range Land \$50-\$150/acre; Commercial
511 Office Land (Urban) \$2-\$5/per square foot. Agencies shall identify whether the State Real Property Interest is within an
512 urban growth boundary and, if the Real Property Interest is declared Surplus and sold, whether there are restrictions on
513 the use of proceeds.

514 (3) To the extent reasonably possible, the Division shall identify Real Property Interests in the Statewide Lands
515 Inventory by:

- 516 (a) The property identification numbers or characters used by the controlling Agency, and
- 517 (b) The property identifiers assigned by the county assessor, including applicable tax map lot numbers, street addresses,
518 GIS coordinates, latitude and longitude, section, township and range information.
- 519 (4) The Division shall post a quarterly report on the Department's website listing, by Agency, all State Real Property
520 Interests currently for sale. The Division shall forward questions that it receives relating to specific State Real Property
521 Interests to the appropriate Agency for response.
- 522 (5) In order to process Acquisitions and Terminal Dispositions of State Real Property Interests, as defined in OAR 125-
523 045-0220 and 125-045-0225, Agencies controlling State Real Property Interests shall provide the Department property
524 status information.
- 525 (6) On or before October 1st of each even numbered year, all Agencies controlling State Real Property Interests shall
526 submit a revised and updated inventory of any Surplus State Real Property Interests that it controls to the Division. The
527 inventory shall list separately any Surplus State Real Property Interest located within an urban growth boundary. Each
528 Agency that controls a State Real Property Interest shall also provide to the Division an interactive link to the Agency's
529 lands database to allow real time updates.
- 530 Stat. Auth.: ORS 270.015(2) & 270.100(1)(d)
531 Stats. Implemented:
532 Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06
- 533 **125-045-0270**
- 534 **Statewide Lands Inventory Program Costs**
- 535 (1) The Division shall project the biennial cost of the Statewide Lands Inventory. After deducting reserves for long-
536 term program upgrades and improvements, any fund balance remaining from the previous biennium will be subtracted
537 from the projected biennial cost. The final projected biennial cost will then be apportioned to Agencies as described in
538 this rule.
- 539 (2) To contribute to the cost of maintaining the Inventory, the Division shall charge each Agency that controls a State
540 Real Property Interest an annual maintenance fee equal to the Agency's proportionate share of the total annual cost
541 incurred by the Division. Each Agency's proportionate share of the maintenance fee will be calculated by dividing:
- 542 (a) The number of State Real Property Interests in the Inventory that are controlled by the Agency; by
- 543 (b) The total number of all State Real Property Interests listed in the Inventory as of June 30 each year.
- 544 (3) Maintenance fees will be billed annually in advance, on or before June 30 of each year. Maintenance fees are
545 payable within 30 calendar days of the date of billing. Late payments will incur a late fee charge of 8% per annum of
546 the amount due, with interest accruing from June 30.
- 547 (4) The Division may, at its discretion, waive an Agency's maintenance fee for any one year when the Division
548 determines that the cost of collection may exceed the amount of the annual fee, or otherwise represents a cost
549 inefficiency to the Division. Any fee so waived may be apportioned among the remaining Agencies for that year.
- 550 (5) Payments received by the Division under this rule are continuously appropriated to the Division to reimburse it for
551 the costs incurred by the Division in maintaining the Statewide Lands Inventory Program.
- 552 Stat. Auth.: ORS 270.100, 270.180(3) & 270.180(4), 270.180(5)
553 Stats. Implemented:
554 Hist.: DAS 4-2006, f. 5-12-06, cert. ef. 6-1-06
- 555