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MANUAL 500-2

SECTION 02.9

ACQUISITIONS

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BUREAU OF MANAGEMENT ANALYSIS AND PROJECTS



1. Purpose

The New York State Thruway Authority (Authority) recognizes that, from time to time, it will be necessary to acquire real property interests (e.g., fee-simple, leasehold, easement, etc.) for Authority purposes. This procedure outlines the method by which the Authority will take title to real property identified by the Authority as necessary for Authority purposes. Acquisitions under the delegated Contracts Program are not included in this procedure.

2. Applicable Law and/or Guidance

New York Public Authorities Law, Article 2, Title 9

New York Eminent Domain Procedure Law (EDPL)

New York State Finance Law §§139-j and 139-k

Thruway Real Property Management Policy (25-6-02)

Executive Instruction entitled Inappropriate Lobbying Influence In Procurements

3. Introduction

Pursuant to Article 2, Title 9 of the Public Authorities Law, the Authority is responsible for the financing, construction, reconstruction, improvement, development, maintenance and operation of the highway system known as the Thruway. In furtherance of such responsibilities, the Authority has the power to acquire and hold in the name of the State, by purchase or appropriation, real property, or rights or easements in such real property.

The Board shall approve all acquisitions of real property under the Authority's jurisdiction, except as otherwise delegated (e.g., under the Contracts Program).

Acquisitions involving real property shall be completed as promptly as possible in accordance with the Thruway Real Property Management Policy.

4. Procedure

Based upon practical considerations, it is the Authority's policy to acquire fee-simple and partial interests (except leasehold interests) in real property by appropriation and to do so by requesting the New York State Department of Transportation (DOT) to undertake such acquisitions on the Authority's behalf. Given the lead time and the detailed coordination that are necessary to complete such acquisitions, such requests should be initiated as soon as possible.



The Authority’s acquisition of leasehold interests in real property shall be undertaken in-house via negotiation or a competitive process.

4.1. Review of the Proposed Acquisition

Prior to carrying out an acquisition, an analysis shall be conducted and a determination made regarding whether the acquisition is necessary for Authority’s corporate purposes and, if such acquisition is of a leasehold interest, whether it should be carried out via negotiation or a competitive process. The THRUWAY ACQUISITION ANALYSIS/RECOMMENDATION (TAAR) (TA-N5100) will be used to document this analysis and recommendation and shall be included in the Transaction Record.

4.1.1. Acquisitions will be recommended by the Office of Real Property Management (ORPM), with the concurrence of the Department Head having charge over an impacted program area and approved by the Contracting Officer.

4.1.2. For acquisitions of leasehold interests that have contracts involving an estimated annualized expenditure in excess of \$15,000, the provisions of the Procurement Lobbying Law (as consolidated under State Finance Law §§ 139-j and 139-k) apply. See Executive Instruction entitled INAPPROPRIATE LOBBYING INFLUENCE IN PROCUREMENTS for requirements. For acquisitions of leasehold interests that have contracts involving an estimated annualized expenditure of \$15,000 or less, the process continues with 4.1.3.

4.1.2.1. For acquisitions of leasehold interests that are negotiated, ORPM coordinates the negotiation and notifies the property owner when the “restricted period” begins and who the official contacts are during the negotiation process. Such restricted period shall commence on the date that the TAAR is approved by the Contracting Officer.

4.1.2.2. For acquisitions of leasehold interests that involve a competitive process, ORPM coordinates the process in accordance with the Authority’s procurement policies and procedures. The “restricted period” shall commence on the date that the request for proposals (RFP) or invitation for bids (IFB) is noticed/issued to the public. The official contact(s) during the procurement process will be identified in the RFP or IFB.



- 4.1.3. For fee-simple and partial interests (except leasehold interests), ORPM coordinates with DOT and/or Division personnel, as appropriate, to conduct any necessary site visits. For leasehold interests, ORPM coordinates with Division personnel to conduct any necessary site visits.
- 4.1.4. ORPM initiates and/or coordinates the reviews required by the State Environmental Quality Review Act (SEQRA) following SOP-STATE ENVIRONMENTAL QUALITY REVIEW ACT (500-2-02.4).
- 4.1.5. Where a survey and appraisal are required, ORPM follows SOP-APPRAISALS AND SURVEYS (500-2-02.2). For transactions involving the acquisition of real property by DOT for and on behalf of the Authority, the following additional steps will be taken:
 - 4.1.5.1. The Authority's Bureau of Design Support Services, Engineering Real Property Unit (ERPU) coordinates the survey process with DOT's Regional Right-of-Way Mapping Unit.
 - 4.1.5.2. Upon receipt of the preliminary survey map, ORPM forwards a copy to DOT regional real estate office and requests that DOT carry out the acquisition for and on behalf of the Authority.
 - 4.1.5.3. Upon receipt of the final survey map, ORPM undertakes the appraisal phase of the process or forwards the survey map to DOT regional real estate office and requests that it initiate the appraisal process in accordance with DOT policies and procedures.
- 4.1.6. ORPM confirms that the estimated cost of the acquisition is within the Authority's budget or requests a budget revision, if necessary.
- 4.1.7. ORPM keeps the Contracting Officer apprised of the acquisition process.
- 4.1.8. Following completion of the foregoing preliminary portion of the acquisition process, ORPM prepares a Board agenda item for the Contracting Officer's review and submission to the Board for approval.
- 4.1.9. The Board either authorizes or rejects the proposed acquisition. ORPM notifies the property owner, the Division Director (DD) and/or DOT (where applicable) and any other relevant Authority personnel of the Board's approval or rejection. If rejected, the process stops here.



4.2. Completing the Acquisition

- 4.2.1. Acquisitions of real property other than leasehold interests will be handled through DOT using the following steps:
 - 4.2.1.1. DOT coordinates the preparation of acquisition documents, signatures and all submittals to the Offices of the Attorney General (OAG) and the State Comptroller (OSC). If OAG or OSC rejects the proposed acquisition, DOT notifies ORPM. ORPM notifies the Contracting Officer, ERPU, the property owner and other relevant Authority personnel. The process stops here.
 - 4.2.1.2. DOT coordinates filing of the acquisition map and recordation of the notice of appropriation and forwards ORPM two copies of the same with filing/recording data. ORPM keeps one copy of the map and notice in the Transaction Record and forwards one copy to ERPU for its file and to enter the acquisition into the Authority's Geographic Information System.
 - 4.2.1.3. DOT notifies OSC to pay the acquisition amount and copies ORPM on the notice. ORPM notifies Accounts Payable and requests a copy of the OSC check warrant for the Transaction Record. The process stops here.
- 4.2.2. Acquisitions of leasehold interests will be handled by the Authority, using the following steps:
 - 4.2.2.1. ORPM drafts the lease agreement and related documents and coordinates their review by the Legal Department.
 - 4.2.2.2. ORPM sends the lease agreement to the property owner for execution. For leases where the total contract payment exceeds \$50,000, ORPM includes notice that the lease agreement is not final until approved by OAG and OSC. The letter directs the property owner to execute the lease and return it to the Authority.
 - 4.2.2.3. Upon receipt of the executed lease agreement from the property owner, ORPM forwards it to the General Counsel, Contracting Officer, Chief Financial Officer, and Executive Director for respective execution. For leases where the total contract payment is \$50,000 or less, the process continues with 4.2.3.



- 4.2.2.4. For leases where the total contract payment exceeds \$50,000, ORPM submits the executed lease agreement to OAG for approval as to form and manner of execution.
- 4.2.2.5. Upon approval by OAG, ORPM submits the executed lease agreement, along with the rest of the procurement record, to OSC following SOP-SUBMITTALS TO THE OFFICES OF THE ATTORNEY GENERAL AND THE STATE COMPTROLLER (500-2-02.3).
- 4.2.2.6. If rejected by OAG or OSC, ORPM attempts to reconcile the basis for rejection or re-engages the solicitation process. If rejection is final, ORPM notifies the property owner, the Legal Department, Purchasing, the Contracting Officer and other relevant Authority personnel. If approved by OSC, the process continues with 4.2.3.
- 4.2.3. ORPM forwards a copy of the fully executed lease to the relevant Division office, Accounts Payable, the Legal Department, Purchasing and other relevant Authority personnel as applicable. ORPM maintains the original document in the Transaction Record.

5. Complying with §139-j and §139-k of the State Finance Law (Procurement Lobbying Law)

Any contact (inquiry, etc.) made regarding a real property transaction following approval for negotiated acquisitions and subsequent to the first notice of a competitive process for acquisition of such real property (RFP, IFB) is subject to the Procurement Lobbying Law and must be recorded. See the Executive Instruction entitled INAPPROPRIATE LOBBYING INFLUENCE IN PROCUREMENTS.

6. Responsibilities

Board authorizes acquisitions of real property that are not otherwise delegated.

Chief Financial Officer executes the lease agreement as to available funds.

Contracting Officer is responsible for compliance with and enforcement of Authority policies as they apply to acquisitions and must approve all acquisitions; and presents proposed acquisitions to the Board for authorization or rejection and keeps the Board apprised of the progress of the acquisition.



Department Head having charge over a program area impacted by the acquisition receives the TAAR and must concur with ORPM's recommendation for the acquisition to progress.

Engineering Real Property Unit coordinates the survey process.

Executive Director, or designee, executes the lease agreement on behalf of the Authority.

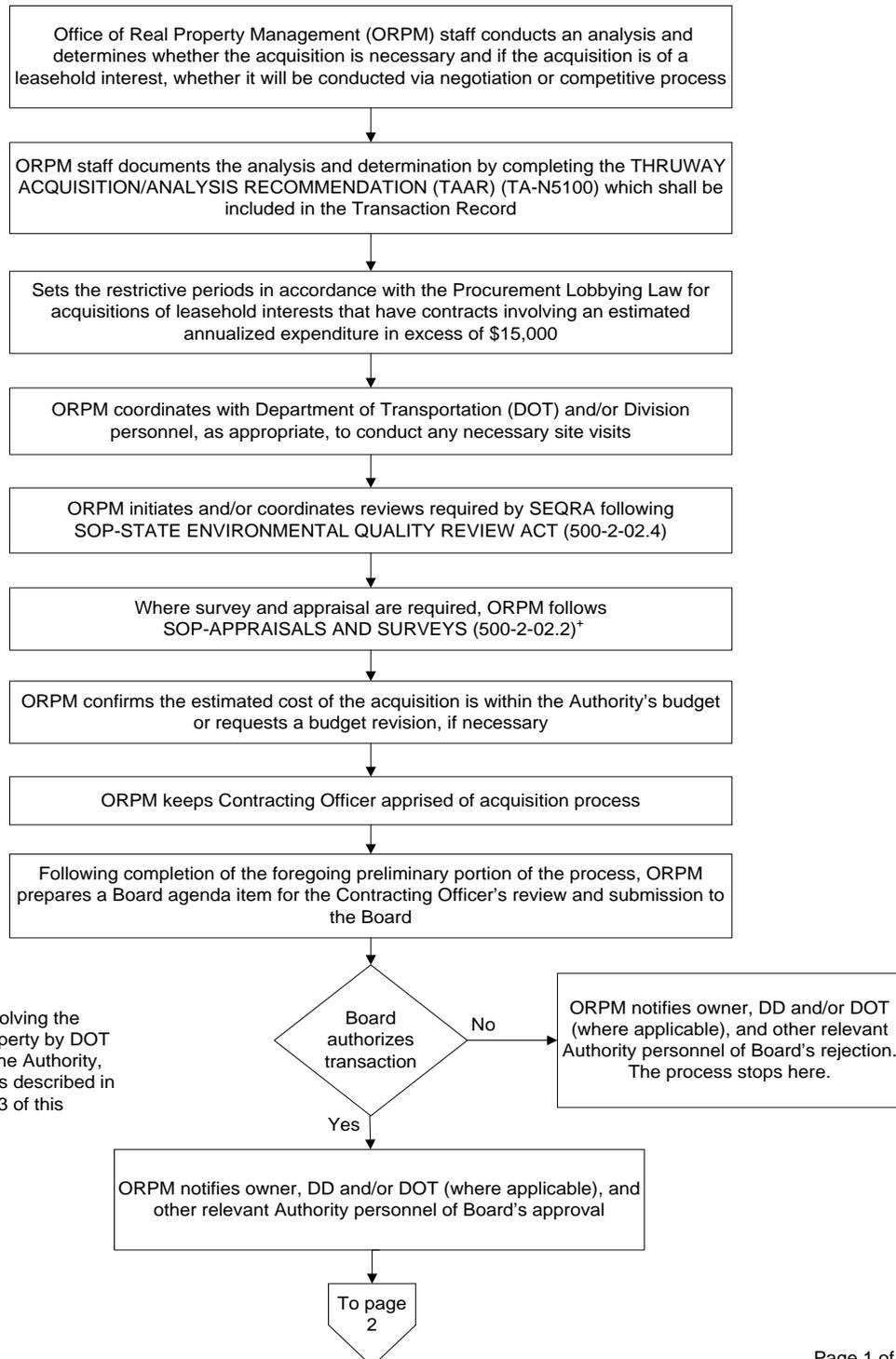
General Counsel, or designee, reviews the lease agreement drafted by ORPM and executes such lease agreement as to form and manner of execution as a prelude to OAG's in-kind review and execution.

ORPM conducts an analysis and recommends acquisitions, coordinates the acquisition process for the Authority, including coordination with DOT as may be relevant. Once a lease agreement is fully executed and, if relevant, approved by OSC, ORPM performs all aspects of lease administration.



7. Flowchart

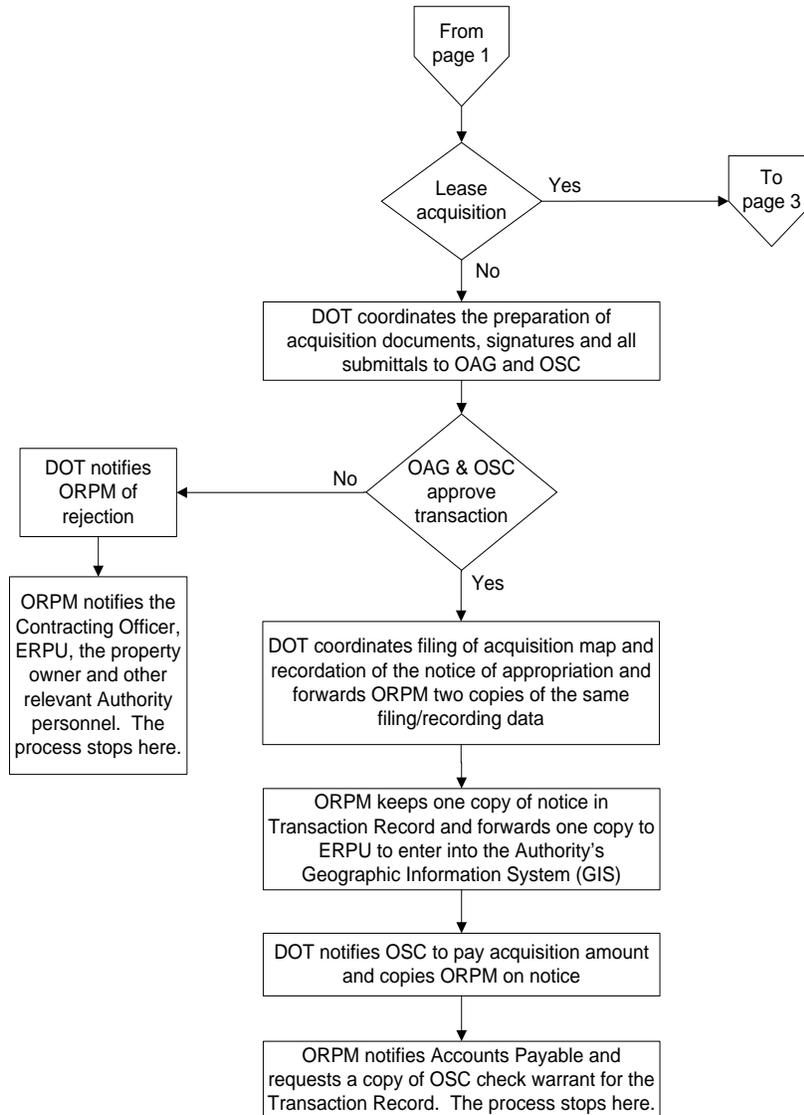
Acquisition



+ For transactions involving the acquisition of real property by DOT for and on behalf of the Authority, follow additional steps described in 4.1.5.1 through 4.1.5.3 of this procedure.



Acquisition (Cont.)





Acquisition (Cont.)

