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U.S. Postal Service Facilities Guide to Real Property Acquisitions and Related Services

Reference

RE-1

Document Category

Policy

Content

Provides information to United States Postal Service personnel, suppliers, and the general public about the authority and responsibility of the Postal Service with respect to supporting Postal Service needs to acquire, manage, and dispose of real property and related rights and interests.

Owner

Senior Vice President, Facilities and Infrastructure

Executive Leadership Team (ELT) Sponsor

Deputy Postmaster General/Chief Operating Officer and Human Resources Officer

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Summary of Major Changes

This policy supersedes the October 2015 edition of Handbook RE-1, *U.S. Postal Service Facilities Guide to Real Property Acquisitions and Related Services*.

Summary of Major Changes:

- Ensured accuracy in language regarding the PMG's delegation of authority to Senior Vice President, Facilities and Infrastructure, in alignment with the current delegation letter.
- Updated language regarding the General Services Administration to reflect current policy that all facilities-specific intergovernmental agreements must be approved by the Director, Facilities Real Estate and Assets (or Designee).
- Updated language to reflect current debriefing process, including changing the timeline for request of a debrief from 15 days to 3 days and adding a reference to 39 CFR §§ 106.107-08.
- Removed language pertaining to the RAEC process and dollar threshold specifications for appraisals; removed the following sections as obsolete: Exceptions, Land Leases, Purchasing, and Estimate of Value.
- Removed extraneous language pertaining to the Freedom of Information Act.

Availability

This document is available for Postal Service employees at <http://blue.usps.gov>.

Address questions about this policy to the owner.

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1 Purpose

This document provides information to United States Postal Service (Postal Service) personnel, suppliers, and the general public about Postal Service acquisition, management, and disposal of real property and real estate-related services. It sets forth information regarding internal guidelines that do not affect individual rights and obligations.

2 Scope

This document does not create any right to judicial review regarding compliance or noncompliance with its guidelines. It does not create any right, benefit, or trust responsibility, substantive or procedural, enforceable by law or equity by any party against the Postal Service. Additionally, this document is not a Postal Service regulation.

3 Roles and Responsibilities

The table below lists the key roles and their responsibilities as they relate to Postal Service acquisition, management, and disposal of real estate and real estate-related services.

Role	Responsibility
<i>Senior Vice President, Facilities and Infrastructure</i>	<ul style="list-style-type: none">Manages policies and procedures unique to the acquisition, management, development, redevelopment, and disposal of real estate including real estate-related services.
<i>Federal Preservation Officer (FPO)</i>	<ul style="list-style-type: none">Coordinates Postal Service policies with respect to its New Deal Art Collection and other artwork owned by the Postal Service.Fulfills the responsibilities of a Federal Preservation Officer or Agency Official under the National Historic Preservation Act and its implementing regulations.Provides technical guidance and support regarding the conservation of historic sites and artifacts, and construction and repair projects impacting historical properties.

4 Policies

4.1 Applicability

The policies in this document apply to activities of the Postal Service with respect to real estate and related services. Agreements for developing or redeveloping real estate for joint or non-Postal Service use are not generally covered by this document and must be coordinated with Headquarters Facilities Real Estate and Assets. In addition, facilities-specific intergovernmental agreements and other facilities-related matters between the Postal Service and General Services Administration or other federal entities must be approved by the Director, Facilities Real Estate and Assets, or designee. This approval shall be in addition to, not a substitute for, any other review or approval procedures that may apply to agreements with federal entities.

4.2 Deviations

Deviations from the policies in this document require prior written approval of the Senior Vice President, Facilities and Infrastructure or designee.

5 Authority

5.1 Procurement Authority

The Postal Reorganization Act, codified at 39 United States Code (U.S.C.) § 401(5), empowers the Postal Service to acquire, in any lawful manner, any interest in real property it deems necessary or convenient in the transaction of its business. This section also authorizes the Postal Service to “hold, maintain, sell, lease, or otherwise dispose of” such property interests.

5.2 Delegation of Authority

Although the Vice President, Supply Management is generally responsible for purchasing policies and procedures, the Postmaster General (PMG) has delegated to the Senior Vice President, Facilities and Infrastructure responsibility for policies and procedures unique to the acquisition, management, development, redevelopment, and disposal of real estate (hereinafter referred to collectively as real estate projects).

5.3 Contracting Authority

The PMG has delegated unlimited contracting authority to the Senior Vice President, Facilities and Infrastructure for real estate and related services, including authority to:

- a. Develop policies and procedures unique to real estate and related services and approve deviations to those policies and procedures.
- b. Appoint, recertify, and terminate contracting officers (COs) authorized to contract for real estate and related services.
- c. Ratify any unauthorized contractual commitments for real estate or related services, regardless of the dollar value.
- d. Redelegate the authorities of a, b, and c of this section.

This contracting authority is not to be confused with budget approval or project approval.

5.4 Funding

5.4.1 Budget Approval

Each fiscal year, Facilities submits an estimated budget to Finance for approval. Approval of the budget does not mean that funds for projects are committed; rather, it authorizes the appropriate officials to initiate the projects. When the required documentation and alternatives are obtained for each project, Finance reviews the project and, if appropriate, authorizes funding.

5.4.2 Project Approval

The approvals required for Facilities to undertake any real estate project are based on the type and size of the project. The approval thresholds for capital and expense items by size and type of project are referenced in Postal Service Policy F-66, *Finance and Strategy Policy*. For purposes of approval authority, real estate projects undertaken as part of a unitary plan (either for contemporaneous or sequential development, in one or several locations) are considered a single project.

5.5 Applicable Laws and Regulations

The Postal Reorganization Act exempts the Postal Service from mandatory compliance with federal laws dealing with public or federal contracts, property, works, and funds, except those specifically made applicable to the Postal Service by statute. In some cases, a waiver may be obtained under the specific procedures and guidelines of the statute or policy. In addition, the Postal Service has voluntarily chosen to comply as a matter of policy with certain federal statutes and regulations.

Some of the acts, executive orders (E.O.), and regulations that apply to Postal Service real estate projects, or with which the Postal Service voluntarily complies, include the following:

a. Acts

- (1) Architectural Barriers Act of 1968 (42 U.S.C. § 4151), as amended
- (2) Contract Disputes Act of 1978 (41 U.S.C. § 601)
- (3) Contract Work Hours and Safety Standards Act (40 U.S.C. § 327 and 40 U.S.C. § 3701)
- (4) Davis-Bacon Act (40 U.S.C. § 276a, restated at 40 U.S.C. § 3141)
- (5) Freedom of Information Act (FOIA) (5 U.S.C. § 552) and Privacy Act (5 U.S.C. § 552a)
- (6) Intergovernmental Cooperation Act of 1968 (31 U.S.C. § 6501)
- (7) Miller Act (40 U.S.C. § 270a, restated at 40 U.S.C. § 3131)
- (8) National Historic Preservation Act of 1966, as amended (NHPA) (54 U.S.C. §§ 306101–306114, 306121–306122 [formerly Sections 106, 110, and 111])
- (9) Occupational Safety and Health Act (29 U.S.C. § 651)
- (10) Prompt Payment Act (31 U.S.C. § 3901)
- (11) Public Buildings Act of 1959, as amended (40 U.S.C. § 601 et seq.)
- (12) Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.)
- (13) Vietnam Era Veterans Readjustment Assistance Act of 1972 (38 U.S.C. § 4212)

b. Executive Orders

- (1) Convict Labor (E.O. 11755)

c. Regulations

- (1) Relocating retail services; adding new retail service facilities (39 CFR § 241.4)
- (2) Postal Service Relocation Regulations (39 CFR § 777, Relocation Assistance and Real Property Acquisition)

6 Real Estate Activities

6.1 Sovereign Immunity

The Postal Service has immunity from state and local regulation except where Congress has waived such immunity. The Postal Service complies with local zoning, planning, and building

codes to the extent required by 39 U.S.C. § 409(f) and as practical and consistent with Postal Service operational needs.

6.2 Obligations

Postal Service leases and other contracts are obligations of the Postal Service and are not backed by the full faith and credit of the United States government.

6.3 Insurance

The Postal Service does not obtain casualty or liability insurance coverage for its properties, whether owned or leased, nor does it maintain and operate a formal program of self-insurance.

6.4 Indemnification

The Postal Service does not indemnify contractors for real estate and related services, except where an exception and the specific contractual wording have been approved in accordance with internal Postal Service procedures.

6.5 Rules

6.5.1 Standards of Conduct

Postal Service employees are held to the highest standard of conduct in the performance of their duties and must conduct themselves to avoid even the appearance of any impropriety. All employees must adhere to the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR § 2635, the Supplemental Standards of Ethical Conduct for Employees of the United States Postal Service, 5 CFR § 7001, and Rules of Conduct for Postal Employees, 39 CFR § 447.

6.5.2 Competition

Generally, purchases valued at more than \$25,000 are made on the basis of adequate competition. Adequate competition means soliciting a sufficient number of qualified suppliers to ensure that the required quality and quantity of goods and services are obtained when needed, and that the price is fair and reasonable.

The Postal Service develops competition in procuring real estate and real estate-related services through a variety of methods, including without limitation:

- a. Competitive solicitation
- b. Prequalification of indefinite quantity contractors
- c. Using a buyer broker, when deemed appropriate
- d. Procuring noncompetitive or sole source services

Note: The requirement for competition may be waived by the proper approving official when certain conditions exist. Additionally, certain real estate projects are specifically exempted from competition requirements.

6.5.3 Anticompetitive Practices

Any suspected anticompetitive practice involving real estate matters must be reported promptly through normal management channels to the Senior Vice President, Facilities and Infrastructure. An anticompetitive practice is any practice designed to eliminate competition or restrain trade. Such practices may violate federal antitrust laws and be subject to prosecution by the U.S. Attorney General.

6.5.4 Conflicts of Interest

An organizational conflict of interest exists when:

- a. The nature of the work to be performed under a contract may give a supplier an unfair competitive advantage.
- b. A supplier has other interests that may impair its objectivity or ability to perform satisfactorily.

An organizational conflict of interest can diminish a supplier's capacity to provide impartial, technically sound, objective research assistance or advice, or would result in a biased work product, or might result in an unfair competitive advantage. COs should use reasonable efforts to identify potential conflicts of interest and consult with assigned counsel to mitigate or avoid them.

6.5.5 Contingent Fees

Suppliers of real estate or real estate-related services may not pay a fee to an agent contingent upon the agent's soliciting or obtaining the award of a contract. The prohibition does not apply to contingent fee arrangements between suppliers and bona fide employees or bona fide agencies employed by suppliers to secure business.

6.5.6 Supplier Clearances

All individuals performing services pursuant to Postal Service real estate contracts who will have access to occupied Postal Service facilities, or Postal Service information and resources, including Postal Service computer systems, must obtain clearance before being provided that access or, at a minimum, obtain prior approval from the CO. Clearance procedures are in the *Administrative Support Manual (ASM)*. Access to Postal Service facilities must be obtained from the local postmaster or Postal Service CO, where necessary.

6.5.7 Debarment, Suspension, and Ineligibility

Except as provided otherwise in 39 CFR § 601.113, COs may not solicit proposals from, award contracts to, or consent to subcontracts with debarred, suspended, or ineligible suppliers.

6.5.8 Bonds

In accordance with the Miller Act (40 U.S.C. § 270a, restated at 40 U.S.C. § 3131), the CO may require performance and payment bonds or alternate payment protection for any leased construction, alteration, or repair work.

6.5.9 Debriefings

For Facilities actions taken in connection with a real estate services or construction contract, a request for debriefing must be submitted to the CO within 3 business days of such action. Refer to 39 CFR §§ 106.107-08.

6.6 Acquisition of Real Property

6.6.1 General

Postal Service policy is to acquire real estate and real estate-related services as it deems necessary or convenient in the transaction of its business on terms and conditions in the best interest of the Postal Service and in accordance with 39 U.S.C. § 401 and 39 CFR § 777.31.

6.6.2 Eminent Domain

The Postal Service exercises its right of eminent domain in accordance with the provisions of its Acquisition Procedures set forth at 39 CFR § 777.31. Written approval of the PMG must be obtained before using or threatening use of condemnation. However, non-adversarial (e.g., friendly) condemnation may be used with the written approval of the Senior Vice President, Facilities and Infrastructure, and the General Counsel.

6.6.3 Prohibited Actions

To avoid actual or apparent conflicts of interest, the Postal Service is prohibited except in limited situations from entering into new agreements to option, purchase, or lease real estate or contract for real estate services from:

- a. Any employee of the Postal Service or member of the employee's immediate family.
- b. Any individual bound by a personal services contract to the Postal Service, or members of the individual's immediate family.
- c. Any business organization substantially owned or controlled by Postal Service employees, personal services contractors, or members of their immediate families.
- d. Any former Postal Service officer, executive, or employee.

6.6.4 Due Diligence

It is Postal Service policy to perform due diligence, as necessary, when acquiring real property that will be used by the Postal Service. The Postal Service complies with the policies and procedures in RE-6, *Facilities Environmental Guide*, before acquiring title to real property or occupying leased space. Environmental services may be performed by Postal Service employees, or contracted for, in accordance with the procedures in RE-6.

6.6.5 Displays, Artwork, and Physical Improvements

6.6.5.1 Offers of Displays and Artwork

It is Postal Service policy to decline all offers, with the possible exception of those from the federal government, for any type of donated displays and/or artwork. Examples include:

- Monuments
- Statues

- Murals
- Paintings
- Mosaics
- Installations
- Live art
- Plaques and other markers
- Shadow boxes and mementos
- Any other decorative, commemorative, or honorific works

This policy applies regardless of whether the offer is for the donation, loan, sale, or other provision of displays or artwork. Postal Service employees and contractors must direct all offers of displays and artwork by the United States government or its departments, agencies, or other instrumentalities to the Postal Service FPO. All other such offers should be declined. This section does not apply to (1) any postings or displays provided by the Postal Service, or (2) the scheduled use of postings and displays or the unscheduled use of bulletin boards, each of which is subject to the approval of Retail and Post Office Operations under the *Postal Operations Manual* and PO-209, *Retail Operations Handbook*, available at <http://blue.usps.gov>.

6.6.5.2 Offers of Physical Improvements

The Postal Service policy is to decline offers to donate any physical improvements, including, without limitation, exterior improvements, landscaping, additions, renovations, or maintenance services (individually and collectively, “Physical Improvements”) to Postal Service-owned and leased properties, if the maintenance and improvements being offered would have monetary value, as determined by the Postal Service.

6.6.5.3 Preservation of New Deal Art Collection

It is the policy of the Postal Service to preserve, protect, and maintain the New Deal Art Collection, defined as the Postal Service-owned murals and sculptures commissioned specifically for Postal Service facilities from 1934 to 1944 under the Treasury Department Section of Painting and Sculpture, Section of Fine Arts, and the Treasury Relief Art Project. The New Deal Art Collection excludes, for example, artworks commissioned for Postal Service facilities outside of the 1934 to 1944 time period, or outside of these programs, regardless of time period, architectural elements, decorative elements such as unique fixtures and furnishings, and stamp art.

No New Deal Art Collection artwork may be removed, sold, lent, or otherwise disposed of without the FPO’s written approval. It is the intention of the Postal Service that New Deal Art Collection artwork will remain the property of the Postal Service. When the Postal Service anticipates transferring ownership of a Postal Service building containing New Deal Art Collection artwork, the FPO will take steps deemed appropriate to safeguard such artwork, including:

- a. Relocate such artwork to another Postal Service facility
- b. Artwork stays in place under a loan arrangement with the new building owner
- c. Relocate such artwork to a non-postal location under a loan agreement with a governmental or private museum, library, arts center, historical society, or similar non-profit organization
- d. Steps the FPO deems appropriate

The FPO, in consultation with the Law Department, will determine the terms of each loan agreement for New Deal Art Collection artwork. When the Postal Service loans or relocates

New Deal Art Collection artwork, the FPO may notify the senior curator at the National Museum of American Art when the FPO determines such notice is appropriate. The FPO will undertake such steps as the FPO deems appropriate to maintain, repair, and restore New Deal Art Collection artwork, subject to standard Postal Service processes for project funding and contracting for services. The FPO may seek advice from the Smithsonian Institution regarding repairs, restorations, or other matters. The FPO may designate another Postal Service employee to execute the approved actions.

7 Disposal of Real Property

Postal Service policy is to dispose of excess real property under the terms and conditions that provide the greatest value to the Postal Service. Disposition may be by sale, exchange, outlease, sublease, or by other means determined to be in the best interest of the Postal Service.

8 Related Documents

Postal Service directives and other publications relating to Postal Service real estate activities include but are not limited to:

- AS-501, *Facilities Design Policy*
- AS-502, *Facilities Design Process*
- AS-503, *Standard Design Criteria*
- Relocating Retail Services; Adding New Retail Service Facilities (39 CFR § 241.4)
- AS-504, *Space Requirements*
- F-66, *Finance and Strategy Policy*
- RE-4, *Standards for Facility Accessibility*
- RE-5, *Building and Site Security Requirements*
- RE-6, *Facilities Environmental Guide*
- Publication 38, *Postal Agreement with the Department of Defense*
- Publication 223, *Directives and Forms Catalog*