

**STATE OF COLORADO
OFFICE OF THE STATE ARCHITECT
REAL ESTATE PROGRAM - POLICIES AND PROCEDURES MANUAL
CHAPTER 9 - ACQUISITIONS AND DISPOSITIONS**

Real Estate Acquisitions and Dispositions

Background and Authority

Capital construction includes, by statutory definition § 24-30-1301(2), C.R.S., “*Acquisition of a capital asset or disposition, construction, demolition, remodeling or renovation, site improvement or development of real property...*”

This manual contains a summary of excerpts from Colorado statutes that govern the purchase and sale of real estate interests by state agencies and institutions of higher education. The substance of these governing statutes requires that the Real Estate Program be actively involved in, and sign off on, the **acquisition** of real estate. This requirement arises from the Department of Personnel & Administration’s statutory responsibilities including the expenditures of capital construction funds.

As to the **disposition** of real estate, there are statutory requirements that the Real Estate Program also be actively involved. Transactions involving acquisitions and dispositions are to be reported to the Real Estate Program so that the Real Estate Program may maintain an updated inventory of the State’s real estate holdings and report to the CDC annually. Additionally, the Real Estate Program assists in carrying out the agency/institution decision to dispose of certain real estate owned by the agency/institution as listed in the procedures below.

Authority regarding the Real Estate Programs’ involvement in real estate matters may be found in the State’s Fiscal Rules (Rule 3-1) that are promulgated by the State Controller:

“Real Property Contracts, including Leases, Easements, and Rights of Way Contracts require the approval of the Manager of the Real Estate Program, or a delegate, unless otherwise exempted by statute. Excluded from this requirement are those real properties administered by the State Board of Land Commissioners and the Department of Transportation.”

While the above quote may seem, at first, to be all-encompassing, and therefore include

**STATE OF COLORADO
OFFICE OF THE STATE ARCHITECT
REAL ESTATE PROGRAM - POLICIES AND PROCEDURES MANUAL**

CHAPTER 9 - ACQUISITIONS AND DISPOSITIONS

dispositions and acquisitions of real estate, we must keep in mind that the Fiscal Rules apply only to transactions where the State is expending funds, such as acquisitions, and not to those transactions where the State is receiving funds, such as dispositions.

Certain state agencies and divisions have the statutory authority to conduct acquisitions and dispositions of real property for their agency. For more detail, reference Chapter 10 of this manual to review specific statutory authorities.

The real estate disposition process can be lengthy and includes multiple phases influenced by the size, complexity and scope of the project. In the event that a State Agency holds title to a property that is to be sold, the agency may choose to transfer title to the property to DPA, or grant DPA Power of Attorney, allowing the Real Estate Program to oversee and directly manage the transaction process as needed.

Dispositions

General procedures to be followed when an agency/institution requests real estate programs' assistance in the **disposition** of real estate:

1. Agency/institution should request assistance with its decision-making as early as possible in the process.
2. Agency to notify OSPB or institution should notify CCHE of intent to dispose of real estate.
3. Indicate what problems disposal solves and what the consequences are if not pursued.
4. Evaluate alternative disposition strategies such as lease, sublease, ground lease, trade/swap, etc., as appropriate.
5. Identify the anticipated outcomes from the proposal and the impact to the agency/institution /state.
6. If there are no alternative disposition strategies available then verify the agency/institution's authority to sell the relevant property. Such authority will arise either from the general powers granted to the agency/institution to deal with its real estate, or from a specific statute authorizing the sale of this particular real estate. Confirm the

**STATE OF COLORADO
OFFICE OF THE STATE ARCHITECT
REAL ESTATE PROGRAM - POLICIES AND PROCEDURES MANUAL**

CHAPTER 9 - ACQUISITIONS AND DISPOSITIONS

agency/institution's Executive Director/President has been advised and has approved the disposition. If no such authority exists, assist the agency/institution in obtaining the necessary approvals and if required, the drafting of the bill.

7. In the event that title to the property is held by the agency, the agency shall review and transfer title to the Department of Personnel & Administration prior to the disposition process.
8. Work with the agency/institution in obtaining all appropriate documentation relative to the pending disposition. These documents will generally include:
 - a. ALTA land survey;
 - b. Title insurance commitment;
 - c. Phase I environmental study and a Phase II environmental study (if the Phase I recommended the need for a Phase II), and a Remediation Plan as applicable;
 - d. Appraisal;
 - e. A Property Condition Report and a Facility Condition Assessment of the building or improvement, as applicable;
 - f. ADA assessment, as applicable;
 - g. Comply with the requirements of the State Historical Preservation Office, as applicable.
9. Establish a target price based on appraisal and agency/institution considerations.
10. Establish an appropriate earnest money amount based on anticipated disposition price.
11. Establish a target date for the disposition.
12. Work with the title company to obtain a clear marketable title.
13. Upon OSPB/CDHE approval, decide on the method of disposition, e.g., sealed bid, (with or without contingencies); listing with a broker, or other process, and assist in implementation of the selected method.
14. Ensure each step in the process complies with any specific statutory requirements including intended disbursement of proceeds.
15. Solicit and select buyer of real estate.
16. Prepare the Contract with assistance from AG.
17. Assist in the execution of Contract.
18. Assemble all documents necessary for satisfaction of all required contract approvers.
19. Attend and/or assist the agency/institution at the closing.

**STATE OF COLORADO
OFFICE OF THE STATE ARCHITECT
REAL ESTATE PROGRAM - POLICIES AND PROCEDURES MANUAL
CHAPTER 9 - ACQUISITIONS AND DISPOSITIONS**

Unless otherwise directed, proceeds from the sale of unused state-owned property will be credited to the unused state-owned property fund per CRS 21-82-102.5(5)(a).

Acquisitions

General procedures to be followed in performing real estate program's responsibilities for a state agency or institution of higher education regarding **acquisitions** of real estate:

1. Agency/institution should request assistance with its decision-making as early as possible in the process.
2. Agency/institution to notify OSPB of intent to acquire real estate.
3. Indicate what problems acquisition solves and what the consequences are if not pursued.
4. Evaluate alternative strategies such as co-location, renovation of existing space and or construction of new space, etc., as applicable.
5. Identify the anticipated outcomes from the proposal and the impact to the agency/institution/state.
6. If the planned purchase is within a geographical area covered by a State broker contract, the agency/institution will be required to use such broker, and the broker must then become involved as early as possible.
7. Determine agency/institution funding source and payment method.
8. In those instances where all or part of an agency/institution's expenses are federally funded, determine if the contemplated purchase or lease purchase may jeopardize the availability of those funds.
9. Verify the status of the necessary approvals, which may be required from entities such as OSPB, CDHE, CDC, and/or the legislature, and assist, where appropriate, in obtaining those that are not yet finalized.
10. Confer with the responsible parties at the AG's office to coordinate any necessary financing requirements.
11. Assist the agency/institution, through financial analysis and other appropriate means, in selecting the appropriate or particular property to be purchased.

**STATE OF COLORADO
OFFICE OF THE STATE ARCHITECT
REAL ESTATE PROGRAM - POLICIES AND PROCEDURES MANUAL**

CHAPTER 9 - ACQUISITIONS AND DISPOSITIONS

12. Assist in negotiations, with the agency/institution's advice and consent, of the real estate Purchase and Sale Contract.
13. Include within the contract a due diligence period during which the State may obtain and review the following documents, and specify that the State's approval thereof is a contingency to proceeding with the sale:
 - a. Title insurance commitment and property tax certificate;
 - b. Phase I environmental assessment;
 - c. A Property Condition Report and a Facility Condition Assessment of the building or improvement, as applicable;
 - d. ADA assessment;
 - e. Appraisal, if necessary;
 - f. Past maintenance and operational expenses;
 - g. Situs, zoning and planning information;
 - h. ALTA land survey;
 - g. Disclosure of historical designation, if applicable.
14. Assist in preparation and review of closing documents.
15. Attend and/or assist the agency/institution at the closing.
16. Follow up on the closing by monitoring distribution of closing documents.

All of the above is, of course, a statement of the procedures that are generally applicable. It must be recognized that every real estate transaction is always somewhat different from every other, so that different considerations, not mentioned above, will nearly always have to be handled in each transaction.

It should also be noted that Controlled Maintenance funds are not available for new property acquisitions until 15 years after the property is purchased. For further information on this topic contact State Buildings Program.

P3 Unit

The [Public-Private Partnership \(P3\) Collaboration Unit](#) was created in 2022 through Colorado legislation via Senate Bill 22-130 to plan, design, manage, develop, operate, implement and

**STATE OF COLORADO
OFFICE OF THE STATE ARCHITECT
REAL ESTATE PROGRAM - POLICIES AND PROCEDURES MANUAL
CHAPTER 9 - ACQUISITIONS AND DISPOSITIONS**

govern the use of P3 projects for the State of Colorado within the Department of Personnel & Administration.

Real Estate Programs is involved to provide technical assistance and advice to the P3 unit regarding the specific nuances of real estate transactions.

§ 24-82-102(1)(a), C.R.S. grants DPA, through the Executive Director the following authority:

“Acquire interests in real property for present or future use by the State. Such acquisition must be approved by recommendation of the CDC.”

The P3 office focuses on redeveloping eligible state-owned facilities that are currently being unused or underutilized. The proceeds from the sale of these properties, per statute, go to the unused State property fund.

Phase I Environmental Assessment Policy

No contract for the acquisition of a fee simple estate in real property shall be approved by the Real Estate Program unless it contains an explicit requirement that the purchasing entity shall first obtain a Phase I environmental assessment of the property to be purchased and that such contract must explicitly indicate that acceptance of such environmental condition is a contingency to fulfilling the contract.