

--oo00oo--

MANUAL 500-2

SECTION 02.1

TRANSACTION ANALYSIS PROCESS

--oo00oo-

BUREAU OF MANAGEMENT ANALYSIS AND PROJECTS

## **1. Purpose**

The purpose of this procedure is to outline the review and approval process for a proposed use or disposal of real property that is under the jurisdiction of the New York State Thruway Authority (Authority). The purpose of the review and approval process is to determine: (a) whether the property is needed for Authority purposes; (b) the most appropriate transaction for the use or disposal of the property (that is, permit, lease or sale); (c) the conditions that affect the proposed use or disposal; and (d) if a competitive process is required for the transaction.

## **2. Applicable Law and/or Guidance**

New York State Public Authorities Law, Article 2, Title 9, New York State Thruway Authority, Article 9, Title 5-A

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

New York State Public Authorities Accountability Act of 2005

21 NYCRR §106 Leasing of Facilities

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

Executive Instruction entitled Code of Ethics

Executive Instruction entitled Inappropriate Lobbying Influence In Authority/Corporation Procurements

## **3. Introduction**

The Authority is responsible for the financing, construction, reconstruction, improvement, development, maintenance and operation of the highway system known as the Thruway. In accordance with the provisions of Article 2, Title 9 of the Public Authorities Law, the Authority has the power to (a) acquire and hold real property necessary for its corporate purposes and (b) dispose of real property not necessary for its corporate purposes or whenever the Authority Board shall determine that it is in the interest of the Authority and thus, the interest of the State.

The THRUWAY TRANSACTION ANALYSIS/RECOMMENDATION (TTAR) (TA-N5116)<sup>1</sup> will be used to document this analysis and approval process and will be included in the Transaction Record. If surveys and/or appraisals are required, the process will also determine if they are to be conducted by authorized Authority real estate personnel or external surveyors and/or appraisers.

**Note:** Work permits may continue to be issued by Divisions and do not require completion of the TTAR. However, a detailed analysis should be conducted to insure that a work permit is the appropriate transaction for the requested activity. For processing of work permits, see SOP 500-2-02.6.

Work permits shall not be issued in advance of a contemplated occupancy permit or disposal, unless approved by the Executive Director, except in situations described in WORK PERMIT EXCEPTIONS<sup>2</sup>.

Work permits may be issued for requests from governmental entities to occupy Authority right-of-way on a short term basis, for transportation related projects. Such requests would include, but not be limited to, the use of Authority real property for storage, access and construction staging areas.

#### **4. Procedure**

##### **4.1. Authority-Initiated Disposals**

The Authority may dispose of (e.g., by lease, sale, easement) certain real property for its corporate purposes. These are either properties (i) not presently required for Authority purposes but held for future use in carrying out its corporate purposes, (ii) not necessary for its corporate purposes, or (iii) whenever the Authority Board shall determine that it is in the interest of the Authority. When the Authority initiates the disposal, a review of the proposed use and a determination of the transaction will be completed as described in this procedure starting in Section 4.3.

1 Exhibit 1

2 Exhibit 2

## 4.2. Thruway Real Property Inquiries

4.2.1. Division Authority employees who receive an inquiry regarding the issuance of permits or the disposal of real property under the jurisdiction of the Authority shall record the inquiry on the THRUWAY REAL PROPERTY INQUIRY form (TA-N5114)<sup>+</sup>. The employee completes Sections I and II of TA-N5114 and forwards it to the Division Permit Coordinator (DPC) for review. The DPC will review the information recorded and as necessary, discuss the inquiry with the employee and/or the inquirer. The DPC will then make a copy of TA-N5114 for the Division file.

4.2.2. Based upon the nature of the inquiry and the information collected on the THRUWAY REAL PROPERTY INQUIRY form, the DPC, in consultation with the Division Real Estate Specialist or other appropriate personnel, will send the appropriate application package to the person/entity who has made the inquiry. In general, the following application forms will be sent:

- A WORK PERMIT APPLICATION (TA-W41338) for inquiries regarding construction, maintenance, inspection, survey, or other type of work on real property under the jurisdiction of the Authority under a revocable work permit.
- An OCCUPANCY PERMIT APPLICATION (TA-W41337) for inquiries regarding the temporary use of land under the jurisdiction of the Authority under a revocable occupancy permit.
- A THRUWAY REAL PROPERTY APPLICATION (TA-W4415) for inquiries regarding sale, lease, easements, or other transfers of interest in real property.

**Note:** See the appropriate SOP for what is required in a complete application package including documentation, appraisal and survey deposits, SEQRA requirements, etc.

4.2.3. When the completed application, application fee, survey/appraisal deposit and supporting documentation is received, the DPC will assign a Transaction Reference Number as follows:

- For Occupancy Permits, the occupancy permit number assigned by PERMITS Plus will also be the Transaction Reference Number.

September 2006

500-2-02.1

4

- For Real Property Transactions, the Transaction Reference Number will consist of eight (8) characters, beginning with a letter for the Division (A-Albany, B-Buffalo, N-New York, S-Syracuse), followed by a T (for Thruway), then the 2 digit year (06-for 2006) and finally a 4 digit sequential number (Example: The first number assigned in 2006 by the Albany Division would be AT060001).

The Transaction Reference Number is recorded on the TTAR and should be included on all subsequent correspondence associated with the transaction.

- 4.2.4. The DPC completes a TTAR to determine if the property is needed for Authority purposes and if the proposed use is consistent with the Authority goals.

### 4.3. Review of Proposed Use

The DPC will determine, in consultation with the Division Real Estate Specialist, if the property is needed for Authority purposes and whether there are conditions that affect the proposed use by considering the factors in Section II (Use Determination) of the TTAR.

- 4.3.1. The first threshold question (number 1 outlined in **bold** on the TTAR) is whether the real property is needed for existing or future Authority purposes or whether the proposed use will interfere with maintenance and operations.

If the real property is not needed for Authority purposes and does not interfere with the maintenance and operation of the Thruway, the DPC checks the “No” box and continues with 4.3.2.

If the real property is needed for Authority purposes but a permit or an alternate transfer of interest is an option, then the DPC checks the “Yes” box on question 1, provides an explanation in the Comments/Rationale field and continues with 4.3.2.

If the real property is needed for Authority purposes and there are no alternative options for use, the DPC completes Section IV of the TTAR, checking the “Application Rejected” box, then sends to the Division Director (DD). The DD reviews, sign and dates the TTAR, then sends a REJECTION LETTER<sup>+</sup> notifying the applicant that the real property is needed for Authority purposes, and if appropriate, coordinates with Finance the return of the survey/appraisal deposit.

September 2006

500-2-02.1

5

- If the application was for a disposal, the DD will send a copy of the letter and the original TTAR to the Bureau of Real Property Management (BRPM) for the Transaction Record and will send copies of each to the DPC for the Division file. Procedure stops here.

OR

- For an Authority initiated disposal, the DD will send the original TTAR and a note to BRPM for the Transaction Record and will send copies of each to the DPC for the Division file. Procedure stops here.

OR

- If the application was for an occupancy permit, the DD sends a copy of the letter and the original TTAR to the Headquarters Permit Coordinator (HQPC) for the Transaction Record and will send copies of each to the DPC for the Division file. Procedure stops here.

- 4.3.2. The DPC will then consider the remaining factors listed in Section II of the TTAR to determine if there are conditions that affect the proposed use of the property. If it is determined that the proposed use is not permissible based on site conditions and these cannot be mitigated, the DPC completes Section IV of the TTAR, checking the “Application Rejected” box, then sends it to the DD. The DD reviews, signs and dates the TTAR, then sends a REJECTION LETTER<sup>1</sup> notifying the applicant that the proposed use is not permissible and if appropriate, coordinates the return of the survey/appraisal deposit. Copies of the letter and TTAR will be distributed as noted in 4.3.1. Procedure stops here.

#### **4.4. Determining the Best Real Property Transaction**

Once it has been determined that the property may be used or disposed of, the DPC considers all factors listed in Section III of the TTAR (and any other salient factors) in relation to the property. The DPC will provide information/descriptive explanations/concerns regarding each factor considered. For guidance in completing Section III of the TTAR, please see TTAR SECTION III - CONSIDERATION FACTORS<sup>2</sup>.

1 Exhibit 4

2 Exhibit 5

September 2006

500-2-02.1

6

- 4.4.1. Once all factors have been considered, the DPC will make a recommendation for the best transaction to allow use or dispose of the property. Transactions may include an occupancy permit or disposals (leases, sales or easements). To provide guidance in determining which transaction type should be recommended, please see CRITERIA FOR RECOMMENDING THE BEST TRANSACTION TYPE FOR THE PROPOSED USE OR DISPOSAL OF REAL PROPERTY<sup>1</sup>. The DPC will then recommend the transaction to be used by checking the appropriate boxes in Section IV of the TTAR.

The DPC, in consultation with the Division Real Estate Specialist, will also determine if a survey and/or appraisal of the real property is required, and if so, will recommend that either an internal or external survey and/or appraisal be conducted based upon criteria found in CRITERIA FOR DETERMINING IF AN INTERNAL OR EXTERNAL SURVEY/APPRaisal IS REQUIRED<sup>2</sup>. The DPC will send the TTAR to the DD for review and approval.

- 4.4.2. If the DD approves the recommended transaction, the DD then signs and dates Section IV of the TTAR and forwards it, along with the application and all supporting documentation (collectively the "TTAR Package") as follows:

- For Occupancy Permits - to the HQPC for review and approval .
- For Disposals - to BRPM where the Transaction Record will be created and the TTAR Package is then sent to the Chief Engineer (CE) for review and approval, with a copy to the Director of Maintenance and Operations (DMO) for informational purposes only.

If the DD disapproves the transaction, the DD checks the appropriate box, signs and dates Section IV of the TTAR, then sends a REJECTION LETTER<sup>3</sup> notifying the applicant. Copies of the letter and TTAR will be distributed as noted in 4.3.1.

1 Exhibit 6

2 Exhibit 7

3 Exhibit 4

September 2006

500-2-02.1

7

- 4.4.3. For recommended occupancy permits, the HQPC will either approve or disapprove the issuance of the permit and sign/date Section V of the TTAR. If approved, HQPC will place the original TTAR Package in the Transaction Record, return a copy of the TTAR to the DD and forward a copy of the TTAR to Finance and the Contracting Officer (for informational purposes only). Contracting Officer approval is not required for permits. Upon receipt of the approved TTAR, DD will send it to the DPC who will follow the appropriate SOP to progress the transaction.

If disapproved, the HQPC will send a letter notifying the applicant and place a copy of the letter and the original TTAR Package in the Transaction Record. HQPC will send a copy of the letter and TTAR to the DD for the Division file.

- 4.4.4. For recommended disposals, the CE will either approve/disapprove the recommended actions and sign, date Section V of the TTAR. The CE will then send the TTAR package to the Contracting Officer (CO) for review and approval.
- 4.4.5. The CO will review the TTAR Package and contact the CE with any questions. Upon completion of the review, the CO will approve/disapprove the recommended disposal and sign, date Section VI of the TTAR. If approved, CO will indicate if the disposal should be progressed via a competitive or negotiated process. See DETERMINING WHEN A COMPETITIVE PROCESS MUST BE USED<sup>1</sup>. For a competitive process, the CO will also indicate the type of competitive process to be used (e.g., RFP, auction, sealed bid, etc.). See DETERMINING COMPETITIVE OPTIONS<sup>2</sup>.

When it is determined that there will be no public advertising for bids and that the disposal will be through negotiation, an Explanatory Statement may be required. See CRITERIA FOR DETERMINING IF AN EXPLANATORY STATEMENT IS REQUIRED<sup>3</sup>.

1 Exhibit 8

2 Exhibit 9

3 Exhibit 10

**Note:** An Explanatory Statement, if required, is prepared by BRPM. The Explanatory Statement must explain the circumstances of the disposal by negotiation, and must be submitted to the State Comptroller, the Director of the Budget, the Commissioner of General Services and the Legislature at least ninety (90) days prior to the disposal. The CO will inform the Authority Board that an Explanatory Statement is to be submitted, prior to its submittal. No proposed disposal requiring the submittal of an Explanatory Statement, shall be brought to the Authority Board for final approval until the ninety (90) day submittal requirement has been met.

- 4.4.6. If approved, the CO will then send the TTAR Package to BRPM. BRPM will place the original TTAR Package in the Transaction Record and return a copy of the TTAR to the DD for placement in the Division file. BRPM will send a letter notifying the applicant that the disposal is being progressed. See the appropriate SOP for sample approval letters. For Authority initiated disposals, BRPM will place a note in the Transaction Record and send a copy to the DD for placement in the Division file.

If disapproved, the CO sends the TTAR Package to BRPM. BRPM will send a letter notifying the applicant and place a copy of the letter and the original TTAR Package in the Transaction Record. BRPM will send a copy of the letter and TTAR to the DD for the Division file.

- 4.4.7. See the appropriate procedures for progressing the approved disposal.

**Note:** The Transaction Record will contain a complete record of all documentation associated with a transaction. Transaction Records for permits will be created and kept by the HQPC, while Transaction Records for disposals will be created and kept in BRPM.

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

Any contact (inquiry, etc.) made regarding real property subsequent to the first notice of a competitive process for disposal of such real property (solicitation, RFP, etc.) is subject to the Lobbying Law and must be recorded. See the Executive Instruction entitled INAPPROPRIATE LOBBYING INFLUENCE IN AUTHORITY/CORPORATION PROCUREMENTS.

## **6. Conflicts of Interest**

Authority employees may not have any interest or engage in any activity that would create or appear to create a conflict with the proper discharge of their public duties. If an employee feels they have an actual or potential conflict of interest relating to a real property transaction, the employee is required to contact the Legal Department or Ethics Commission as soon as he/she is aware of the potential or actual conflict. See the Executive Instruction entitled CODE OF ETHICS.

## **7. Responsibilities**

BRPM will create the Transaction Record and send the TTAR Package to the CE for review and approval. BRPM is responsible for preparing all required Explanatory Statements and for maintaining the Transaction Record for disposals. BRPM will notify the applicant if transaction is being progressed or if it is rejected.

The CE is responsible for reviewing and approving/disapproving the DD's recommended actions regarding all disposals.

The CO is responsible for the final review and approval/disapproval of all disposals of real property. The CO also determines if a disposal should be progressed via a competitive or a negotiated process. If a competitive process is to be used, the Contracting Officer determines the type of process to be used (e.g., RFP, auction, etc.) and if a negotiated process is to be used, the CO indicates if an Explanatory Statement is required.

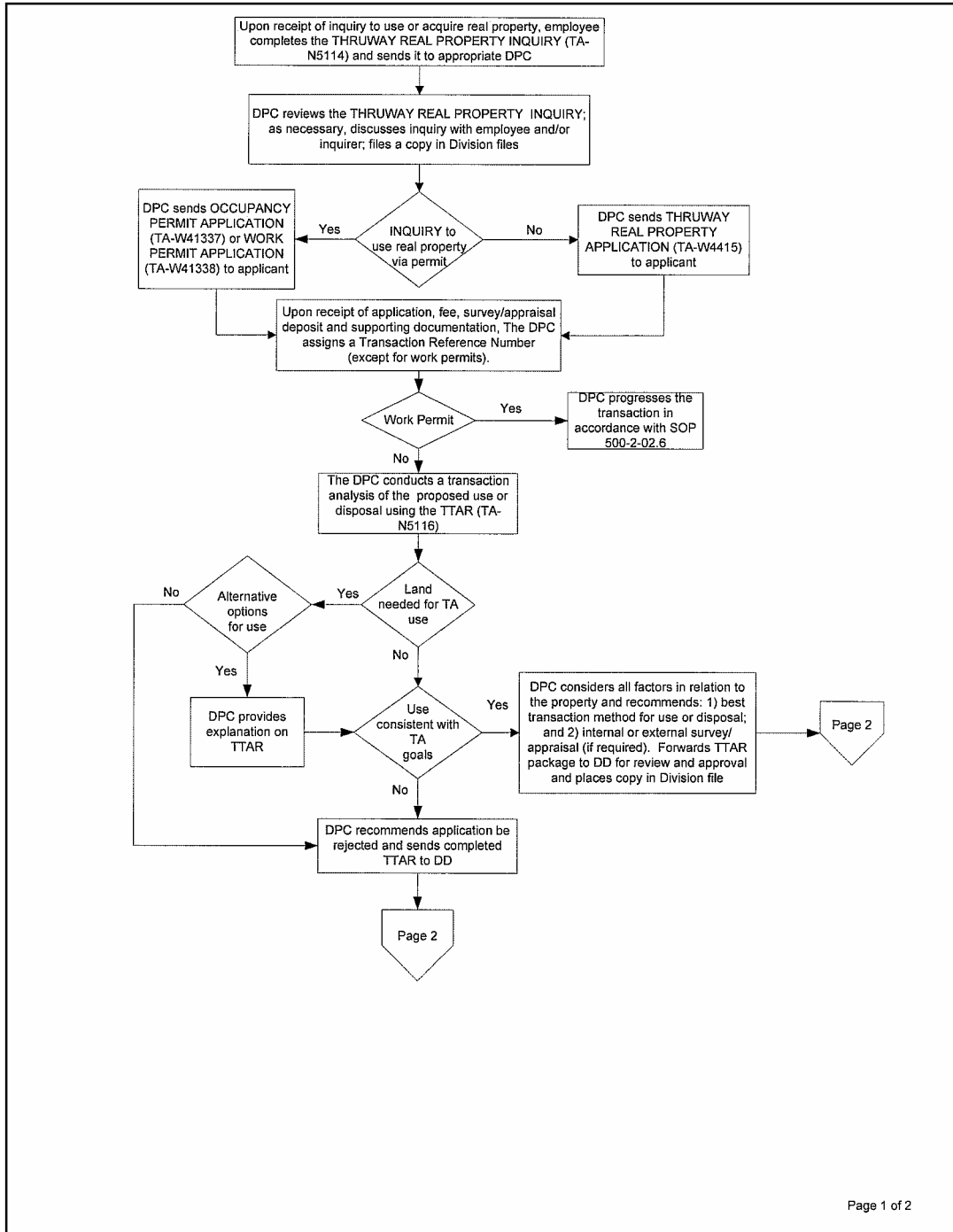
The DD is responsible for reviewing and approving/disapproving the TTAR form upon completion by the DPC and forwarding the completed TTAR to Headquarters personnel. The DD is also responsible for sending rejection letters to applicants if the application is rejected prior to the TTAR being sent to Administrative Headquarters for approval.

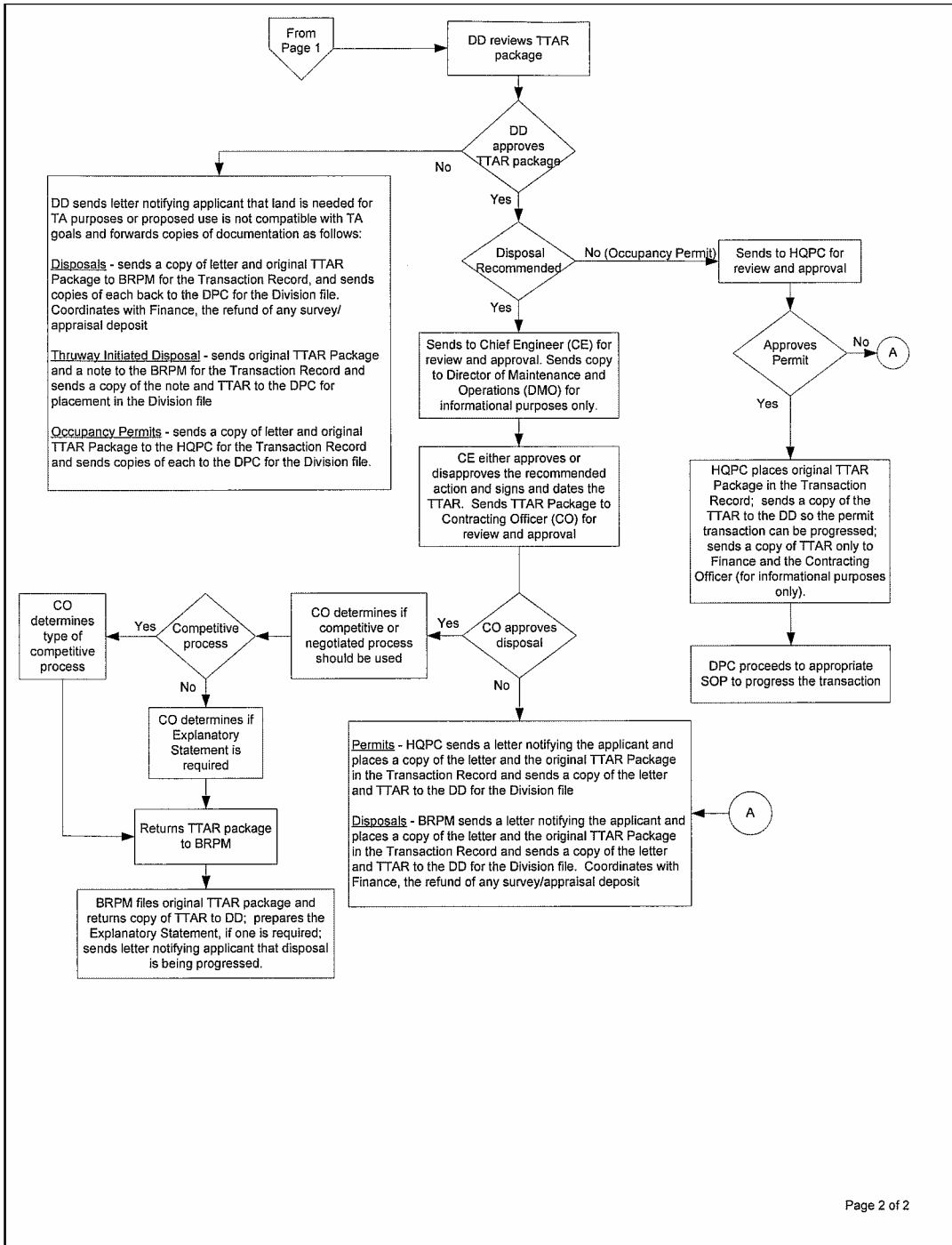
The DPC is responsible for responding to initial inquiries regarding the use or the disposal of real property under the jurisdiction of the Authority and for sending the application package to the applicant. The DPC is also responsible for completing the TTAR form upon receipt of a completed application.

Employees receiving inquiries regarding the issuance of permits or the disposal of real property under the jurisdiction of the Authority are responsible for forwarding the inquiries to the DPC.

The HQPC is responsible for reviewing and approving/disapproving the DD's recommended actions regarding occupancy permits and for maintaining the Transaction Record for occupancy permits.

8. Process Flowchart





September 2006

500-2-02.1

12

**EXHIBIT 1**  
**THRUWAY TRANSACTION ANALYSIS/RECOMMENDATION**  
 Page 1 of 3

|  |  |  |                                  |
|--|--|--|----------------------------------|
| TA-N5116 (08/2006)   |  | <b>THRUWAY TRANSACTION ANALYSIS/RECOMMENDATION</b> |                                  |
| Page 1 of 3  |  | New York State Thruway Authority                   |                                  |
| <b>INSTRUCTIONS</b>  |  |  | <b>Transaction Reference No.</b> |
| • Upon receipt of a completed application and all supporting documentation, a Transaction Reference No. is assigned and the Division Permit Coordinator (DPC) completes Sections I through III. Depending on the complexity of the proposed transaction, the Division Real Estate Specialist and/or the Engineering Real Property Unit may be contacted to assist in determinations. |  |  |                                  |
| <b>I. GENERAL INFORMATION</b>  |  |  |                                  |
| Division   | Reviewer's Name (Last, First, MI)                        |  | Title                            |
| Applicant's Name   |  | Phone Number<br>( ) -                              | Date of Review                   |
| Street   | City   | State  | Zip Code                         |
| Real Property Location   |  | Length of Proposed Use                             |                                  |
| Description of Proposed Use  |  |  |                                  |
| <b>II. USE DETERMINATION</b>   |  |  |                                  |
| For any "Yes" answers, provide explanation and any options for mitigating concerns.  |  |  |                                  |
| <b>Consideration Factors</b>   | <b>Determination</b>                                     | <b>Comments/Rationale</b>                          |                                  |
| 1. Is the land needed for Thruway Authority existing or future purposes or will the proposed use interfere with Thruway maintenance and/or operations?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |  |                                  |
| 2. Based on the GIS Database, have any of the following concerns been identified: federal wetlands, state wetlands, flood plain, Thruway structures or any other concerns?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |  |                                  |
| 3. Are there any known environmental concerns on or adjacent to the property?  | <input type="checkbox"/> Yes <input type="checkbox"/> No |  |                                  |
| 4. Are there any security or public safety issues?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |  |                                  |
| 5. Is this project incompatible with local zoning regulations on adjacent land?  | <input type="checkbox"/> Yes <input type="checkbox"/> No |  |                                  |
| 6. Are there any other governmental entities with a potential interest in the property (e.g., the Department of Transportation, or other State, county or local agencies, etc.)?   | <input type="checkbox"/> Yes <input type="checkbox"/> No |  |                                  |
| Based on use consideration factors above, the proposed use of the property <input type="checkbox"/> is <input type="checkbox"/> is not (check one) consistent with the goals of the Thruway Authority. If it is not, proceed to Section IV.  |  |  |                                  |

September 2006

500-2-02.1

13

THRUWAY TRANSACTION ANALYSIS/RECOMMENDATION  
Page 2 of 3

| TA-N5116 (08/2006)<br>Page 2 of 3  | THRUWAY TRANSACTION ANALYSIS/RECOMMENDATION | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Transaction Reference No.</td> </tr> </table> | Transaction Reference No.                     |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
|--|---|---|---|---|-----------------------------------|--|---|-------------------------------|-----------------------------------|-----------------------------------|--------------------------------|-----------------------------------|-----------------------------------|--------------------------------------|
| Transaction Reference No.  |   |   |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| <b>III. BEST TRANSACTION DETERMINATION</b>   |   |   |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| Review all consideration factors and provide a description in the space provided. Precede each description provided with the number of the consideration factor being described. For assistance in completing Sections III see SOP 500-2-02.1, Exhibit 5.  |   |   |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Consideration Factors</th> <th style="text-align: center;">Description</th> </tr> </thead> <tbody> <tr><td style="text-align: center;">1. Proposed length of use</td><td rowspan="9" style="vertical-align: top;"></td></tr> <tr><td style="text-align: center;">2. Size of property</td></tr> <tr><td style="text-align: center;">3. Value of property</td></tr> <tr><td style="text-align: center;">4. Access</td></tr> <tr><td style="text-align: center;">5. Proposed use</td></tr> <tr><td style="text-align: center;">6. Proposed improvements</td></tr> <tr><td style="text-align: center;">7. Current use of property</td></tr> <tr><td style="text-align: center;">8. Use of adjacent property</td></tr> <tr><td style="text-align: center;">9. Other factors</td></tr> </tbody> </table>                     | Consideration Factors                       | Description   | 1. Proposed length of use                     |   | 2. Size of property               | 3. Value of property                               | 4. Access                                   | 5. Proposed use               | 6. Proposed improvements          | 7. Current use of property        | 8. Use of adjacent property    | 9. Other factors                  |                                   |                                      |
| Consideration Factors  | Description                                 |   |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| 1. Proposed length of use  |   |   |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| 2. Size of property  |   |   |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| 3. Value of property   |   |   |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| 4. Access  |   |   |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| 5. Proposed use  |   |   |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| 6. Proposed improvements   |   |   |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| 7. Current use of property   |   |   |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| 8. Use of adjacent property  |   |   |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| 9. Other factors   |   |   |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| <b>IV. RECOMMENDED ACTIONS</b>   |   |   |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| <ul style="list-style-type: none"> <li>• DPC reviews Sections I through III. Based upon analysis of all factors, recommends actions by checking the appropriate boxes below. For assistance in determining transaction type to recommend, see SOP 500-2-02.1, Exhibit 6.</li> <li>• DPC submits entire TTAR package to Division Director (DD) for sign-off on recommended actions.</li> <li>• DD reviews, signs, dates and forwards TTAR, along with application package and all supporting documents used in determining recommended actions, as follows:                         <ul style="list-style-type: none"> <li>o For recommended Occupancy Permits - sends to Headquarters Permit Coordinator (HQPC).</li> <li>o For recommended Disposals - sends to Bureau of Real Property Management (BRPM).</li> </ul> </li> </ul> <p><b>Note:</b> A copy of all materials sent to Headquarters should be placed in Division file.</p> |   |   |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| <table style="width: 100%;"> <tr> <td><input type="checkbox"/> Application Rejected</td> <td><input type="checkbox"/> Occupancy Permit</td> <td><input type="checkbox"/> Disposal</td> </tr> <tr> <td><input type="checkbox"/> Survey/Plot Plan Required</td> <td><input type="checkbox"/> Appraisal Required</td> <td><input type="checkbox"/> Sale</td> </tr> <tr> <td>    <input type="checkbox"/> Internal</td> <td>    <input type="checkbox"/> Internal</td> <td><input type="checkbox"/> Lease</td> </tr> <tr> <td>    <input type="checkbox"/> External</td> <td>    <input type="checkbox"/> External</td> <td><input type="checkbox"/> Other _____</td> </tr> </table>   |   |   | <input type="checkbox"/> Application Rejected | <input type="checkbox"/> Occupancy Permit | <input type="checkbox"/> Disposal | <input type="checkbox"/> Survey/Plot Plan Required | <input type="checkbox"/> Appraisal Required | <input type="checkbox"/> Sale | <input type="checkbox"/> Internal | <input type="checkbox"/> Internal | <input type="checkbox"/> Lease | <input type="checkbox"/> External | <input type="checkbox"/> External | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Application Rejected  | <input type="checkbox"/> Occupancy Permit   | <input type="checkbox"/> Disposal   |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| <input type="checkbox"/> Survey/Plot Plan Required   | <input type="checkbox"/> Appraisal Required | <input type="checkbox"/> Sale   |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| <input type="checkbox"/> Internal  | <input type="checkbox"/> Internal           | <input type="checkbox"/> Lease  |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| <input type="checkbox"/> External  | <input type="checkbox"/> External           | <input type="checkbox"/> Other _____  |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| Comments:<br><br><br>  |   |   |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |
| _____<br>Division Director   |   | _____<br>Date   |   |   |                                   |  |   |                               |                                   |                                   |                                |                                   |                                   |                                      |




September 2006

500-2-02.1

15

**EXHIBIT 2  
WORK PERMIT EXCEPTIONS**

List of situations where a work permit may be issued in advance of a contemplated occupancy permit or disposal.

|   |  |
|---|--|
|  <p style="text-align: center;"><b>EXECUTIVE<br/>INSTRUCTION</b></p> <p>FROM: <u><i>MRF</i></u>      <u>9/1/06</u><br/>EXECUTIVE DIRECTOR      DATE</p>   | <p style="text-align: right; margin-bottom: 0;">NUMBER: 2006-19</p> <p>SUBJECT:<br/><b>ISSUING A WORK PERMIT FOR PRELIMINARY<br/>PLANNING PURPOSES IN ADVANCE OF A<br/>CONTEMPLATED OCCUPANCY PERMIT OR<br/>DISPOSAL OF REAL PROPERTY</b></p> <hr/> <p>DISTRIBUTION:<br/>See Below</p> |
| <p>The Thruway Authority and Canal Corporation (Authority/Corporation) Real Property Management Policies require the approval of the Executive Director if a work permit is to be issued in advance of a contemplated occupancy permit or disposal of real property. The intent of this requirement is to insure that a work permit not be issued "in lieu of" a contemplated occupancy permit or disposal and that actual improvements or construction work not be allowed to progress in advance of a contemplated occupancy permit or disposal.</p> <p>However, as a practical matter, there are some instances when preliminary planning work such as site inspections, surveys, environmental testing, soil borings, etc. is necessary for preparation of materials to be submitted as part of the application package for an occupancy permit or disposal. Such materials are needed to assist the Authority/Corporation in determining if the applied for occupancy permit should be granted or if the disposal should be progressed. These activities would require the issuance of a work permit and it would be appropriate in these instances to issue the work permit in advance of the contemplated occupancy permit or disposal.</p> <p>Therefore, I am authorizing Divisions to issue work permits in advance of contemplated occupancy permits or disposals in those situations when preliminary planning work such as that listed above is necessary, and will ultimately assist the Authority/Corporation in making a determination whether the proposed use should be granted, or the proposed disposal be progressed. Questions related to this authorization should be directed to the Headquarters Permit Coordinator at ext. 2797 for Thruway work permits, and the Director of the Office of Land Management at ext. 4431 for Canal work permits.</p> |  |

September 2006

500-2-02.1

16

EXHIBIT 3  
THRUWAY REAL PROPERTY INQUIRY

The THRUWAY REAL PROPERTY INQUIRY form was designed to record contacts related to Authority real property and to gather sufficient information so that the DPC can send the appropriate application to the inquirer.

|  |  |  |  |                            |
|--|--|--|--|----------------------------|
| TA-N5114 (07/2006)   |  | <b>THRUWAY REAL PROPERTY INQUIRY</b><br>New York State Thruway Authority               |  | DRAFT<br>07/25/06          |
| <i>Instructions:</i>   |  |  |  |                            |
| <ul style="list-style-type: none"> <li>• Complete Sections I and II to record all inquiries regarding the use or disposal of Thruway Authority real property.</li> <li>• Send form to Division Permit Coordinator (DPC) for review and further action.</li> </ul>  |  |  |  |                            |
| <b>I. REAL PROPERTY INFORMATION</b>  |  |  |  |                            |
| Location/description of property (include milepost)  |  |  | Is property owned by the Thruway Authority?  |                            |
|  |  |  | <input type="checkbox"/> Yes<br><input type="checkbox"/> No<br><input type="checkbox"/> Unknown at this time |                            |
| County property located  | Estimated size   | How long is proposed use?  | Is Contactor adjoining owner?  |                            |
|  |  | <input type="checkbox"/> Less than 3 years<br><input type="checkbox"/> 3 years or more | <input type="checkbox"/> Yes<br><input type="checkbox"/> No  |                            |
| Does Contactor currently hold any interests in property (i.e. current permitted use - include permit number)?<br>(Attach additional sheets if necessary)   |  |  |  |                            |
| Intended type of use of property (check one)   |  |  |  |                            |
| <input type="checkbox"/> Individual <input type="checkbox"/> Public Agency <input type="checkbox"/> Municipal <input type="checkbox"/> Commercial <input type="checkbox"/> Utility (Commercial Only) <input type="checkbox"/> Not for Profit <input type="checkbox"/> Industrial<br><input type="checkbox"/> Other _____   |  |  |  |                            |
| Specific use (check if applicable)   |  |  |  |                            |
| <input type="checkbox"/> Access <input type="checkbox"/> Parking <input type="checkbox"/> Vendor<br><input type="checkbox"/> Beautification <input type="checkbox"/> Public Park <input type="checkbox"/> Utility - Type: _____<br><input type="checkbox"/> Farming <input type="checkbox"/> Storage <input type="checkbox"/> Event - Type: _____<br><input type="checkbox"/> Fence <input type="checkbox"/> Well <input type="checkbox"/> Other - Type: _____ |  |  |  |                            |
| <b>II. INQUIRY INFORMATION</b>   |  |  |  |                            |
| Division   | Name of Employee Contacted (Last, First, MI)   |  | Title  | Date of Contact            |
| Contactor's Name (Last, First, MI)   |  |  | Work Phone Number<br>( ) -   | Home Phone Number<br>( ) - |
| Company/Municipality   | Title  | Federal ID No.   | Cell Phone Number<br>( ) -   |                            |
| Street Address   | Town/Village/City  | State  | Zip Code   | Fax Number<br>( ) -        |
| E-mail Address   | How was contact made? <input type="checkbox"/> In Person <input type="checkbox"/> Web<br><input type="checkbox"/> Phone <input type="checkbox"/> E-mail <input type="checkbox"/> Letter <input type="checkbox"/> Other _____ |  |  |                            |
| Purpose of Contact (Please provide description of inquiry) (Attach additional sheets if necessary)   |  |  |  |                            |
| Action required (e.g., call back, mailing) (Attach additional sheets if necessary)   |  |  |  |                            |
| Resolution (e.g., follow-up contact, information mailed) (Attach additional sheets if necessary)   |  |  |  |                            |

September 2006

500-2-02.1

17

EXHIBIT 4  
SAMPLE REJECTION LETTER

The DD sends letter when the application is rejected during the TTAR review process.

|  |
|--|
| Date   |
| Name<br>Address<br>City, State, Zip  |
| Re: <Location and description of property><br>Transaction Reference Number:  |
| Dear <insert name>:  |
| Thank you for your interest in the property at the above referenced location. I regret to inform you that your request has been denied at this time, because <insert appropriate text based on <u>one</u> of the choices below>. |
| Should you have any questions, I can be reached at <insert phone number>.  |
| Sincerely,   |
| Name<br>Title<br>Department  |
| Option 1: the property is needed for future Thruway Authority purposes.  |
| Option 2: the proposed use of the property is not consistent with the Thruway Authority goals.   |
| Option 3: the Thruway Authority is not the owner of the property or the property is not under the jurisdiction of the Thruway Authority.   |
| Option 4: If none of the above applies, insert specific details to explain the reason for the rejection.   |

September 2006

500-2-02.1

18

EXHIBIT 5  
TTAR SECTION III - CONSIDERATION FACTORS  
Page 1 of 2

When making a use or disposal recommendation, the DPC must consider a number of factors regarding the proposed transaction and provide information to assist in making the final transaction determination. The following items correspond to consideration factors 1 – 9 listed in Section III of the TTAR. They provide a brief narrative explanation of what information should be provided when describing each factor.

**Proposed length of use:** Indicate how long the applicant proposes to use the Authority property. Indicate specifically if proposed use is greater than 3 years.

**Size of property:** Describe the size of the Authority real property involved in the proposed transaction.

**Value of property:** Indicate if the estimated value of the Authority real property involved in the proposed transaction is more than \$10,000. The DPC should consult with the Division Real Estate Specialist to determine this value.

**Access:** Describe what access is available to the real property (e.g., public access to a road, property landlocked, through adjoining owner, legal access, etc.).

**Proposed use:** Describe the primary use proposed (e.g., residential, commercial, industrial, municipal) and other factors related to property's use (e.g., assemblage with adjacent property, including property under the jurisdiction of the Authority, generation of revenue, etc.).

**Proposed improvements:** Describe any proposed improvements to be made to or placed on the property (e.g., storage tanks, structures, pavements, ground disturbances, including but not limited to, footings, foundations, slabs, etc.).

**Current use of property:** Describe the current use of the property (e.g., vacant, active permit/lease, easement(s), existing improvements, encroachment, etc.). If property is currently permitted/leased, provide any available details pertaining to existing agreement (term, annual fee/rent, etc.).

TTAR SECTION III - CONSIDERATION FACTORS

Page 2 of 2

Use of adjacent property: Describe how adjacent property is used (e.g., residential, commercial, industrial, municipal) and other factors related to adjacent property's use that may impact recommendation (e.g., assemblage with proposed property and other property under the jurisdiction of the Authority, generation of revenue, etc.).

Other factors: Describe and provide details of other factors pertinent to the proposed use (e.g., known legal issues or disputes, title claims, etc.).

November 2006

500-2-02.1

20

EXHIBIT 6  
CRITERIA FOR RECOMMENDING THE BEST TRANSACTION TYPE FOR THE  
PROPOSED USE OR DISPOSAL OF REAL PROPERTY

Page 1 of 4

Once it has been determined that a proposed transaction can be progressed, and all factors that may affect the real property have been considered and described in Sections II and III of the TTAR, the DPC must make a recommendation for the proposed use or disposal of the real property in Section IV of the TTAR.

The first threshold question is whether the land is needed for current or future Authority purposes (e.g., is the land surplus?).

Surplus Authority real property is that real property, which in the opinion of the Authority, is or may become unnecessary for transportation, maintenance, reconstruction and/or development of the Thruway system.

In general, real property may not be deemed surplus if it includes the existing Highway, interchanges, maintenance facilities, tandem lots, or the highway clear zone or if they are needed for needed for any purpose related to fulfilling the Authority's obligations, either present or future, pursuant to Title 9 of the Public Authorities Law. This includes, but is not limited to, areas with any potential to be needed for use in future widening or realignment, reconstruction of interchanges, expansion of tandem lots, or the expansion or upgrade of the Thruway or Statewide communications infrastructure. In assessing these needs, consideration will be given to issues such as the need for constructing embankments, berms or barriers, flattening slopes, constructing stormwater detention basins, and installation of appropriate safety and security measures. When reviewing potential properties for surplus, consideration must be given to staging areas for future construction projects. Properties adjacent or in the vicinity of rock cuts should be evaluated for future use as disposal areas for future rock remediation work.

CRITERIA FOR RECOMMENDING THE BEST TRANSACTION TYPE FOR THE  
PROPOSED USE OR DISPOSAL OF REAL PROPERTY

Page 2 of 4

The following information provides guidance regarding the appropriate transaction type to be recommended for proposed use/disposal:

**PERMITS**

**Occupancy Permits**

Occupancy Permits should be the transaction type recommended for allowing use of any/all real property needed by the Authority (i.e., not surplus to the needs of the Authority).

Occupancy Permits, which are revocable upon demand, provide the Authority with the greatest flexibility for managing property under its jurisdiction. Therefore, in most cases, Occupancy Permits should be recommended whenever real property is needed for Authority purposes, or may be needed for Authority purposes in the future. Specifically, Occupancy Permits should be the recommended transaction for use of Authority real property when all or a portion of the real property applied for:

- has not been declared surplus to the Authority's needs, but can be used on a revocable basis;
- may need to be available for future Authority or public purposes;
- needs to be available upon demand for Authority purposes;

-or-

- has been declared surplus to the needs of the Authority, but proposed use is for less than 3 years and will not generate revenue.

The existence of an encroachment or the ownership of a structure on real property needed for Authority purposes, while salient information and a consideration factor to be described, does not warrant a disposal or the granting of a real property interest via an alternate transaction (e.g., sale or lease).

November 2006

500-2-02.1

22

CRITERIA FOR RECOMMENDING THE BEST TRANSACTION TYPE FOR THE  
PROPOSED USE OR DISPOSAL OF REAL PROPERTY

Page 3 of 4

Unless otherwise authorized by the Executive Director, where a disposal of real property surplus to the needs of the Authority is contemplated, an Occupancy Permit will not be issued in advance of completion of the Disposal.

**DISPOSALS**

The Authority may decide that certain categories of land are surplus to the Authority's needs (i.e., not needed for present or future Authority purposes) and may be disposed of. These are properties that are not necessary for Authority purposes and the disposition is in the best interest of the Authority. Disposals may be by sales, leases, easements, or other transfers of interest in the real property based on the nature of the proposed use.

When it is determined that real property under the jurisdiction of the Authority is not needed for Authority purposes, the preferred transaction to be used for disposal is a sale.

Disposals may be performed by the Commissioner of General Services on behalf of the Authority when the Authority has entered into an agreement with the Commissioner of General Services pursuant to the Public Authorities Accountability Act of 2005 and Public Authorities Law.

**Sales**

A sale is the preferred transaction type to be recommended when the real property is not needed for present or future Authority purposes.

**Leases**

A lease may be recommended under the following circumstances:

- the real property is needed for Authority purposes, but will be used for revenue generation;
- the real property is not needed for Authority purposes; and  
the proposed use is for a longer term (e.g., over 3 years), but the applicant does not want to acquire the real property;

-or-

the property will be used by the applicant for revenue generation, but applicant does not want to acquire the real property.

CRITERIA FOR RECOMMENDING THE BEST TRANSACTION TYPE FOR THE  
PROPOSED USE OR DISPOSAL OF REAL PROPERTY

Page 4 of 4

**Easements**

The Authority may acquire or dispose of permanent or temporary easements, exchange easements or release an easement. Acquisitions of easements would follow the same procedure as for acquisitions. Disposals of easements would follow the same procedure as for sales. Although the release of easements is not considered subject to the Public Authorities Accountability Act of 2005 (PAAA), these are always negotiated and follow the same process as a sale.

**Transfers of Jurisdiction**

Transfers of jurisdiction may be recommended when another State agency, authority or other State governmental interest requests real property under the jurisdiction of the Authority under the following circumstances:

- the real property is not needed for Authority purposes; and
- the request is for public health, safety or welfare reasons.

If the request for real property by another State agency, authority or State governmental interest is not for public health, safety or welfare reasons, the preferred transaction type is a sale.

September 2006

500-2-02.1

24

EXHIBIT 7  
CRITERIA FOR DETERMINING IF AN INTERNAL OR EXTERNAL SURVEY/APPRAISAL  
IS REQUIRED  
Page 1 of 2

**INTERNAL SURVEYS/PLOT PLANS, ETC.**

Authorized Authority personnel may complete surveys, plot plans, property sketches and/or similar, or such materials may be provided, for the following types of transactions:

- Leases of real property where the value of the real property is estimated to be \$10,000 or less; and
- Permits as needed.

**EXTERNAL SURVEYS**

The Authority will utilize private sector surveyors to conduct external surveys for the following types of transactions:

- All disposals of real property, except for leases of real property where the value of the real property to be leased is estimated to be \$10,000 or less; and
- All acquisitions of real property, except for real property associated with office space leases.

**INTERNAL APPRAISALS**

Authorized Authority real estate specialists may conduct internal appraisals for the following types of transactions:

- Acquisitions of real property where the value of the real property is estimated to be \$10,000 or less;
- Disposals of real property where the value of the real property is estimated to be \$10,000 or less;
- Permits for which a fee rate schedule has not been established.

CRITERIA FOR DETERMINING IF AN INTERNAL OR EXTERNAL SURVEY/APPRaisal  
IS REQUIRED

Page 2 of 2

**EXTERNAL APPRAISALS**

The Authority will utilize private sector appraisers to conduct external appraisals for the following types of transactions:

- Acquisitions of real property where the value of the real property is estimated to be more than \$10,000;
- Disposals of real property where the value of the real property is estimated to be more than \$10,000;
- Disposals of real property, regardless of value, which because of their unique nature as determined by BRPM, are not subject to fair market pricing or are more appropriately valued by a private section appraiser..

**Note:** When the value of the real property is estimated to be over \$300,000, or when deemed appropriate by BRPM due to unusual circumstances, two external appraisals are required;

**EXCHANGE OF PROPERTIES**

- When a transaction involves an exchange of properties, a survey and an appraisal must be completed for each property involved in the exchange.
- Where the transaction involves an exchange of property and the value of each property is estimated to be \$300,000 or less, one survey and one appraisal will be prepared for each property in accordance with this SOP.
- Where either of the property values is estimated to be greater than \$300,000, one survey and two external appraisals will be conducted for each property in accordance with this SOP.
- In order to proceed with an exchange of property, the appraisals must demonstrate that the property to be acquired is of at least equal value to the property to be exchanged.

September 2006

500-2-02.1

26

EXHIBIT 8  
DETERMINING WHEN A COMPETITIVE PROCESS MUST BE USED  
Page 1 of 2

Based on the TTAR information, the Contracting Officer will determine whether a competitive process or non-competitive process is appropriate for the particular real property transaction.

The competitive processes for real property transactions involve publicly advertising for bids through the request for proposal (RFP) or auction process. Non-competitive processes include negotiations or an auction where there is no public advertising for bids.

**Non-Competitive Process Determination**

The Authority shall use a competitive process open to the public for all real property transactions, except in limited circumstances. Disposals and contracts for disposal may be negotiated or made by public auction without publicly advertising for bids only when one of the following conditions is met:

- The fair market value of the real property does not exceed \$15,000;
- Bid prices after advertising are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;
- The disposal will be to a state or any political subdivision and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation;
- The disposal is for an amount less than the estimated fair market value of the property, the terms of such disposal are obtained by public auction or negotiation, the disposal of the property is intended to further the public health, safety or welfare or an economic development interest of the State or a political subdivision (to include but not be limited to, the prevention or remediation of a substantial threat to public health or safety, the creation or retention of a substantial number of job opportunities, or the creation or retention of a substantial source of revenues, or where the Authority's enabling legislation permits), the purpose and the terms of such disposal are documented in writing and approved by resolution of the Board; or
- Such action is otherwise authorized by law.

DETERMINING WHEN A COMPETITIVE PROCESS MUST BE USED  
Page 2 of 2

**Competitive Process Determination**

When deciding whether a competitive process is appropriate, the Contracting Officer will consider the following factors:

- What is the estimated fair market value of the property? Fair market value may be determined through internal or external appraisals, requests for proposals, the bid or auction process, or other means.
- What is the nature of the proposed project and what is the interest to be conveyed?
- Has the project already been bid? Were the bids reasonable?
- Who is the disposal to (e.g., State, political subdivision, private party, etc.)?
- Can fair market value be obtained through negotiations?
- Is the proposed use for public or private purposes?
- Does the disposal have a public health or safety factor?
- Would the project promote economic development (e.g., jobs, revenues, etc.)?
- Would the project provide public recreation or access opportunities?
- What are the site specific factors (e.g., character or condition of the property such as critical environmental area, presence of contamination restricting use, land locked, neighboring use, etc.)?
- Are other factors pertinent to the situation allowable by law?

## EXHIBIT 9 DETERMINING COMPETITIVE OPTIONS

Once the Contracting Officer has determined that a competitive process is required, the method to use must be decided and documented on the TTAR by the Contracting Officer.

Practical factors for consideration when determining the most appropriate solicitation method include:

- What are the applicable legal requirements?
- Is an appraisal required before a solicitation method can be determined?
- What is the proposed timetable? Is it realistic and, if not, can it be modified? How time sensitive is it?
- Is there likely to be competition (i.e., multiple parties that are likely to respond)?
- Which method is the most cost effective?
- What are the benefits and disadvantages of the options for that transaction?
- Does the solicitation method help the Authority to achieve its mission?

### **Request for Proposals (RFP)**

An RFP solicits competitive proposals from prospective contractors for particular work or services, such as development of a particular parcel of property under the jurisdiction of the Authority.

### **Request for Interest (RFI)**

An RFI is an issued document that solicits expression of interest or ideas for a parcel(s) of property under the jurisdiction of the Authority. RFIs are used when it is not clear whether there is interest in the parcel or when input or ideas are desirable. RFIs do not result in the selection of a proposal.

### **Auctions**

An auction is a public sale in which property is sold to the highest bidder.

September 2006

500-2-02.1

29

EXHIBIT 10

CRITERIA FOR DETERMINING IF AN EXPLANATORY STATEMENT IS REQUIRED

When it is determined that there will be no public advertising for bids and the disposal will be through negotiation, the following transactions require the submittal of an Explanatory Statement:

- Any real property that has an estimated fair market value in excess of \$100,000 except leases or exchanges described below;
- Any real property disposed of by lease for a term of five year or less, if the estimated fair annual rent is in excess of \$100,000 for any such years;
- Any real property disposed of by lease for a term of more than five years, if the total estimated rent over the term of the lease is in excess of \$100,000; or
- Any real property or real and related personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.