

Frequently Asked Questions

GOVERNMENT OWNED REAL ESTATE AUCTION “STATE OF UTAH DEPARTMENT OF TRANSPORTATION” SURPLUS LAND ELECTRONIC ONLINE AUCTION PROGRAM

Q: HOW DO I ACCESS THE VIRTUAL DATA ROOM | DOCUMENT VAULT TO REVIEW THE DOCUMENTS?

A: In order to provide access to the secure virtual data room | document vault you only need to visit www.UDOTAuctions.Utah.gov for reviewing and downloading the documents as many times as you prefer.

Q: WHAT IS REQUIRED BY THE STATE TO BE A “QUALIFIED BIDDER”?

A: To become a Qualified Bidder, a Prospective Purchaser must (i) read and accept the terms and conditions of sale and bidding procedures (ii) register to bid using a credit card, with at least \$1,000 credit, at www.UDOTAuctions.Utah.gov and (iii) be 18 years of age or older.

Q: HOW MUCH TIME WILL I HAVE TO PAY THE BALANCE AND CLOSE?

A: Within thirty (30) to sixty (60) days after the close of an auction.

Q: ARE THERE ANY BACK TAXES OR LIENS AGAINST THE PROPERTY?

A: There should not be, but the property(s) will be conveyed by quitclaim deed. Title insurance will be available for purchase at the buyer’s expense from the State’s designated escrow | closing agent. Prospective buyers should conduct their own due diligence on the status of the property’s title.

Q: IS THERE A PUBLISHED MINIMUM BID?

A: There are no published minimum bid(s) for each property only starting bids which can be viewed on the dedicated website www.UDOTAuctions.Utah.gov. The Property(s) will be sold to the Highest and Best Bidder(s) subject to the provisions of the Utah Administrative Code R907-80 and the terms and conditions authorizing the sale. The State reserves the right to accept and / or reject any and all bids.

Q: HOW WILL THE AUCTION(S) BE CONDUCTED?

A: The Auction(s) will all be conducted online at www.UDOTAuctions.Utah.gov.

Q: WHAT ARE “ADDITIONAL ASSOCIATED COSTS AND FEES”?

A: Purchasers are responsible to pay for all additional and associated costs | fees at closing which typically are costs associated to prepare a surplus property for auction and which may include (but are not limited to) preparation of an engineering report, environmental site assessment, appraisal costs, administrative fee and sale processing costs. Each parcel executive summary will enumerate and identify in advance the additional associated costs and fees for that property.

Q: WILL THE PROPERTY(S) BE AVAILABLE FOR INSPECTION PRIOR TO THE AUCTION?

A: Yes. As the property(s) mostly are surplus vacant land parcels, prospective bidders and brokers may drive by at their own convenience. Improved parcels with buildings may be inspected by scheduling a property tour with SVN | Alta Commercial at 801.508.2881. Prospective buyers should conduct their own due diligence on the condition of the property and applicable ordinances.

Q: WILL BROKERS BE COMPENSATED FOR REPRESENTING SUCCESSFUL PURCHASER(S)?

A: Yes. A qualified Utah licensed broker representing winning bidder(s) will be compensated at closing two percent (2%) of the highest bid, provided the broker has properly registered their clients according to the terms and conditions of sale and returned in time the required Broker | Client Form. Broker | Client forms are available on the website.

Q: IS THERE ANY FINANCING AVAILABLE?

A: There is NO acquisition financing available for the purchase of any property. The Sale(s) will be all cash at closing.

Q: WHAT DOES IT MEAN TO BUY THE PROPERTY(S) “AS IS”?

A: The property(s) are being sold in their “AS IS” “WHERE IS” condition with no warranties expressed or implied. Buyers shall rely entirely on their own information, judgment and inspection of the property(s) and records. UDOT will not allow any post auction due diligence period.

Q: WHAT IS THE STATE’S PROCESS FOR BACK UP BIDDERS, IF ANY?

A: In the event a Successful Bidder does not close on the sale within 30 to 60 days after acceptance of the Sale, at the State’s sole and absolute discretion the property may be sold to a Backup Bidder, in the order of priority of the Backup Bidders, as determined by the State.

Q: WHAT IS A PROPERTY WITH A FIRST RIGHT OF REFUSAL, IF ANY?

A: The original owner who holds the first right of refusal will be notified by registered mail of the dollar amount and terms of the highest bid as soon as practicable after the close of an auction (see detailed explanation described in the “first right of refusal” tab on the website).

All prospective bidders are urged to review all the documents necessary for the transaction prior to any Auction which are all available and posted on the website www.UDOTAuctions.Utah.gov

Rule R907-80. Disposition of Surplus Land.

As in effect on July 1, 2018

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[R907-80-1. Authorities.](#)

The Department of Transportation makes this rule pursuant to Utah Code sections 72-5-111, 72-5-117, 72-5-404, 78B-6-520.3, and 78B-6-521, which authorize the Executive Director to prescribe the terms and conditions for the sale or exchange of surplus right of way, and to make rules to ensure that the value of the real property is consistent with the proposed price and other terms of the purchase, sale, or exchange. Property or property interests that involve federal requirements must be sold or exchanged in accordance with the requirements of 23 C.F.R. 710.409.

R907-80-2. Definitions.

1. "Appraisal" means the same as it is defined in Utah Code section 61-2G-102(1)(a).
2. "Bidder" means a person who offers to pay a certain amount of money in exchange for title to an interest in real or personal property the Department offers for sale.
3. "Confirmable Delivery Method" means any method of delivering documents that provides a way to confirm they were delivered to the intended party or location.
4. The "Department" means the Utah Department of Transportation.
5. The "Director" means the Executive Director of the Utah Department of Transportation or the Executive Director's designee.
6. "First right of refusal" means the same as "right of first refusal" and "right of first consideration."
7. "Minimum acceptable selling price" means a price established by the Department based upon the market value of the property as established by an appraisal or other means; plus, costs associated with preparing the property for and executing the sale, such as the costs of advertising, appraising, performing environmental assessments, and processing the transaction.
8. As used in this rule, "surplus land," "surplus property," or "land" mean an estate in real property to which the Department is the owner and the Director has declared to be surplus.
9. The "Transportation Commission" or "Commission" means the Utah Transportation Commission.
10. A "Utah Public Entity" means a political subdivision of the State, an agency of the state, a county, a municipality, or a special services district of the state, a county, or municipality.

R907-80-3. Sales or Exchange Initiation Process.

In determining the appropriateness of a parcel of surplus land for sale or exchange, the Department may consider nominations by interested parties.

R907-80-4. Sales Deposits.

Should the Department evaluate a parcel of surplus land for sale or exchange due to a nomination by an interested party, the interested party making such nomination may be required to deposit funds in an amount determined by the Department to be used to offset costs incurred in preparing the parcel for sale. In the event the interested party making the deposit is the successful buyer of such Land, the Department will subtract the deposit amount from the total of the purchase price and fees charged to the buyer for preparing the Land for sale. In the event the person making the deposit is not the successful buyer of such property or the property is not offered for sale, the Department will refund the deposit.

R907-80-5. Methods of Sale.

1. The Department may sell Land or assets using one of the methods described below:
 - (a) A public sale mail and live auction pursuant to R907-80-7,
 - (b) A negotiated sale pursuant to R907-80-10, or
 - (c) A negotiated exchange pursuant to R907-80-11.
 - (d) A public sale online or web-based auction pursuant to R907-80-8.
2. The Department will execute sales and exchanges pursuant to rule R933-1-4.

R907-80-6. Public Sale Notice and Advertising - Mail and Live Auctions.

1. The Department may notify the public about the sale of surplus property by commercially feasible methods, including publication of a notice in one or more newspapers of general circulation in the county in which the sale is proposed at least 15 days before the deadline to submit bids pursuant to the requirements of R907-80-7.

2. The notice and any associated advertising will include a general description of the parcel including township, range, and section, and any other information that may create interest in the sale. The Department must also identify the desired form of payment.

3. The Department may advertise public sales using any other methods the Director has determined may increase the potential for additional competition at the sale.

R907-80-7. Public Sale - Mail and Live Auctions.

Public sale, mail and live auctions will be conducted as follows:

1. The Comptroller's Office of the Department will accept sealed bids by any means of delivery until 5:00 P.M. the day prior to the auction.

2. The officer conducting the auction will accept sealed bids by personal delivery on the day of the auction up until the beginning of the auction.

3. A sealed bid must contain deposit funds in an amount determined and advertised by the Department, as required by R907-80-4 to purchase the subject property. The Department may require this deposit to consist of certified funds. Bids and bid deposits must be a specified dollar amount. The Department has the right to reject any bid however submitted.

4. The Department may require buyers who have defaulted on certificates of sale in the past to make larger deposits or submit sealed bids in the form of certified funds even if such a requirement is not contained in the notice of sale.

5. The officer conducting the auction will open all sealed bids after declaring that the auction has started. After determining which sealed bid is highest, the officer will allow all bidders willing to bid more than the highest sealed bid received to participate in live bidding. Live bids must be for more than the amount of the highest sealed bid, subject to those terms and conditions set forth in R907-80-7(6). Persons who submit sealed bids eligible to participate in the live bidding will also be allowed to participate by telephone, subject to the terms and conditions of R907-80-7(6).

6. Bids less than the minimum acceptable selling price will be disqualified, and the bidder will not be eligible for live bidding even if such bids would otherwise meet those requirements in R907-80-7(4) or (6).

7. All bids, whether sealed or live, constitute a valid offer to purchase. An attempt to withdraw a sealed bid after the first sealed bid has been opened, or an attempt to withdraw or amend a live bid may result in the forfeiture of the bid deposit and any other remedy afforded the Department at law or equity.

8. At the conclusion of the auction and subject to the terms of R907-80-8, the successful bidder must sign a written offer agreement prepared by the Department that states the terms included in the public sale notice.

9. If the successful bidder defaults on the offer agreement, or otherwise fails to meet the requirements of R907-80-12, and upon approval by the Director, the property may be offered for sale to the person whose bid was second highest at the auction provided that the terms of the sale meet or exceed the minimum acceptable selling price established for the subject property. The second highest bidder will have 30 days from the date of the Department's offer to submit the purchase price balance plus costs required by R907-80-10(5).

10. Third parties owning authorized improvements on the parcel at the time of the sale will be allowed 90 days from the date of the sale to remove the improvements. This provision is not applicable when such improvements are permitted under a valid existing right of record when such right survives the sale of the parcel, or the improvements are subject to a separate lease agreement.

R907-80-8. Online or Web-based Public Sale Auctions.

The Department may establish an online or web-based application to use in conducting public sale auctions. The Department may subscribe to or use a commercially available online or web-based service to use in conducting public sale auctions, or it may subscribe to or use an online or web-based service provided by a public entity for conducting public sale auctions. The executive director or designee must provide written approval to use the online or web-based application or service the Department uses for public sale auctions.

R907-80-9. First Right of Refusal.

(1) If the Department does not use any portion of a parcel of property it acquires from a private party for transportation purposes, the Department must allow the original grantor an opportunity to repurchase the property at the original purchase price to the grantor before the Department may sell the parcel of property to another buyer as required by Utah Code Section 72-5-111.

(a) The Department must send a written offer by certified mail to the original grantor at the original grantor's last known address, to sell the acquired property to the original grantor at the Department's acquisition price.

(b) The original grantor of the parcel of property may assign this first right of refusal to another person before the Department may sell the parcel of property to another buyer. The original grantor or the assignee must notify the department of an assignment of the first right of refusal by certified mail to the current office address of the executive director.

(c) The original grantor or the assignee must accept the Department's offer by certified mail within 90 days of the date the original grantor receives the Department's offer. If the Department does not receive an acceptance of its offer within the 90 days, it is free to sell or exchange the parcel to someone other than the original buyer or assignee.

(d) The original grantor or the assignee may waive the first right of refusal at any time.

(2) The Department must offer to sell property or an interest in property that it acquired by condemnation or threat of condemnation to the original grantor before it may sell to another buyer as required by Utah Code Section 78B-6-521.

(a) The Department will offer the holder of this first right of refusal the opportunity to purchase the property or property interest for a price equal to the highest offer received at auction plus all costs associated with preparing and bringing to auction the property or property interest.

(b) The Department may contact the holder of this first right of refusal of its decision to sell at auction the property or property interest to provide the holder an opportunity to purchase the property or property interest for an amount equal to the appraised value plus all costs associated with preparing the property or property right for sale or waive the right by providing the Department a written waiver.

(c) Should the holder refuse to accept the Department's offer to sell or waive the right, the Department will contact the holder as soon as reasonably possible after the auction ends and offer the property or property interest to the holder for a price equal to the highest offer received at auction plus all associated costs.

(d) The holder of the right will have 90 days to accept or assign the offer to another buyer. Assigning the right will not extend the 90 days allowed to accept the offer.

(e) If the holder of the right does not accept or assign the Department's offer within the 90 days, the Department is free to sell the property or property interest to the highest bidder.

(f) If the holder accepts the Department's offer, the holder must close the purchase in accordance with R907-80-14.

R907-80-10. Negotiated Sales, Justifications, Procedures, and Public Notice.

1. The Department may dispose of surplus land by negotiated sale when the Executive Director or designee determines such a sale serves the best interests of the State. The Department may sell surplus land or other property by negotiated sale if:

(a) The buyer is a Utah public entity, and the property is being transferred for a public use,

(b) the buyer of the surplus land also owns adjoining land, or

(c) the executive director or designee determines a negotiated sale is in the best interest of the state and the Department.

2. The Department may list, or contract with an agent or broker to list for sale a property or property interest on a commercial listing service if the executive director or designee determines doing so is in the best interest of the state. The Department will utilize a standard procurement process to select an agent or broker.

3. In the event a party submits a competing offer or offers to purchase the property from the Department, the Department must evaluate the offer or offers and accept the offer that best serves interests of the State. If the Department receives multiple offers, the executive director or designee may determine that the best interests of the state requires the Department to request best and final offers from all offerors. A written justification statement that articulates the reasoning used to determine the offer that best serves the interests of the State must be a part of all negotiated sales files.

3. The Department may require a buyer of surplus land purchased through a negotiated sale to reimburse the Department for costs incurred in preparing the parcel for sale. These costs may include, but are not limited to costs for advertising, appraisal, environmental assessments, and a sale processing charge.

R907-80-11. Negotiated Exchanges.

1. The Department may exchange real property for other real property with a Utah Public Entity, an individual, business, private enterprise, or not-for-profit organization.

2. The Transportation Commission must approve exchanges made to acquire land the Department needs for highway use as required by Utah Code Section 72-5-111(1)(c).

3. Real property exchange transactions are not subject to competitive solicitation procedures.

4. Exchanges of surplus real property must comply with state law. Exchanges of real property involving the Department and a Utah public entity must follow the requirements of the Interlocal Cooperation Act, Utah Code sections 11-13-101 through 608.

5. The financial consideration received for any real property exchange to an individual, business, private enterprise, or not-for-profit organization must be equal to or higher than the current market value of the Department's real property, as determined by any reasonable means.

6. Real property received in an exchange must be free from all liens, encumbrances, and clouds on title unless the Director determines after review that accepting the property is in the best interests of the State. The Director's justification for accepting property with a lien, encumbrance, or cloud on title must be in writing.

R907-80-12. Contracts of Sale or Exchange.

1. The Department will prepare and deliver a contract of sale to the buyer following a public auction sale or upon concurrence of the parties in a negotiated sale or an exchange. This contract must contain the legal description of all subject property or properties, and include:

- (a) Information regarding the amount paid or the values of the properties exchanged;
- (b) The identities of buyer of the land or the entity or entities participating in the exchange with the Department;
- (c) Provisions for remedies the Department may elect in the event of a default; and
- (d) Any other terms, covenants, deed restrictions, or conditions that the Department considers appropriate.

2. Buyers or persons participating in a property exchange must execute contracts of sale or exchange and return them to the Department within 20 days from the date the Department delivers the contract. If the Department does not receive the contract within the 20-day period, the Department will send notice by a confirmable delivery method to the buyer or exchanging party giving notice that after 10 days the transaction may be canceled with all monies received by the Department, including any deposit made, will be forfeited to the Department. Notification of this forfeiture provision must accompany the transmittal of the contract.

3. The Department reserves the right to cancel a sale or exchange of surplus land for any reason prior to execution of the contract by the Director.

4. The Department will issue a quit claim deed to the appropriate person upon payment in full or all amounts owed to the Department and surrender of the original contract of sale or exchange for any tract of land sold or exchanged.

R907-80-13. Competition Protection.

1. Collusion between bidders or between a bidder and an employee or agent of the Department to affect a public sale auction is prohibited. Anyone having reason to believe that a public sale auction conducted under this rule may have been affected by collusion between bidders or between one or more bidders and an employee or agent of the Department must report that information to the attorney general as soon as reasonably possible.

2. Should an adjudicative body determine that collusion intended to affect a public sale auction conducted under this rule has occurred, the resulting sale will be voidable by the Department.

R907-80-14. Closings.

1. All auction sales, negotiated sales, or negotiated exchanges must go through this closing process.

2. Transactions must be closed within 60 days after the date of the contract unless good cause exists to delay the closing. Information intended to show that good cause that warrants delaying a closing exists must be provided in writing to the Director within 30 days after the date of the contract. The Director must determine if good cause to delay exists.

3. A minimum of 3% security deposit on a negotiated sale will be required to be held in escrow.

4. If closing does not complete within 60 days after the date of the contract, the deposit money becomes non-refundable if the Director decides good cause to delay does not exist.
5. If closing is not complete within the 60 days after the date of the contract and the Director determines that good cause to delay does not exist, the buyer still wishes to buy the property, and the Department agrees to allow the buyer more time to complete the purchase, the buyer must provide an additional 7% security deposit to the Department to be held in escrow and the parties will have an additional 30 days after the date of the contract to close.
6. If the buyer does not provide the additional 7% security deposit required by R907-80-13(5) within 5 business days after the date the Department agrees to allow the buyer more time to complete the purchase, the purchase contract is voidable, and the Department may contact the next highest bidder who will then have an opportunity to purchase the property.
7. If closing is not complete within the additional 60 days allowed by R907-80-13(5), all deposit money becomes non-refundable, the contract becomes voidable and the Department may provide the next highest bidder an opportunity to purchase the property.
8. The executive director or designee has authority to extend time frames allowed to close a transaction if he or she determines that doing so serves the best interest of the state.
9. The closing of a real property transaction may be conducted at a title company provided the buyer pays for all related costs. If a title company is used for closing, the Department will instruct the company to record the deed, and after recording, send it to the Department of Transportation, Director of Right of Way.
10. Only the Executive Director or designee is authorized to sign closing papers, real property contracts, or deeds.

KEY

surplus land, negotiated exchanges, public sales auctions, negotiated sales

Date of Enactment or Last Substantive Amendment

May 9, 2018

Authorizing, Implemented, or Interpreted Law

72-5-117; 72-5-111; 72-5-404