

Effective 5/12/2020

Part 9
Disposal of Division-owned Property

63A-5b-901 Definitions.

As used in this part:

- (1) "Applicant" means a person who submits a timely, qualified proposal to the division.
- (2) "Condemnee" means the same as that term is defined in Section 78B-6-520.3.
- (3) "Division-owned property" means real property, including an interest in real property, to which the division holds title, regardless of who occupies or uses the real property.
- (4) "Local government entity" means a county, city, town, special district, special service district, community development and renewal agency, conservation district, school district, or other political subdivision of the state.
- (5) "Primary state agency" means a state agency for which the division holds title to real property that the state agency occupies or uses, as provided in Subsection 63A-5b-303(1)(a)(iv).
- (6) "Private party" means a person who is not a state agency, local government entity, or public purpose nonprofit entity.
- (7) "Public purpose nonprofit entity" means a corporation, association, organization, or entity that:
 - (a) is located within the state;
 - (b) is not a state agency or local government entity;
 - (c) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; and
 - (d) operates to fulfill a public purpose.
- (8) "Qualified proposal" means a written proposal that:
 - (a) meets the criteria established by the division by rule under Section 63A-5b-903;
 - (b) if submitted by a local government entity or public purpose nonprofit entity, explains the public purpose for which the local government entity or public purpose nonprofit entity seeks a transfer of ownership or lease of the vacant division-owned property; and
 - (c) the director determines will, if accepted and implemented, provide a material benefit to the state.
- (9) "Secondary state agency" means a state agency:
 - (a) that is authorized to hold title to real property that the state agency occupies or uses, as provided in Section 63A-5b-304; and
 - (b) for which the division does not hold title to real property that the state agency occupies or uses.
- (10) "State agency" means a department, division, office, entity, agency, or other unit of state government.
- (11) "Transfer of ownership" includes a transfer of the ownership of vacant division-owned property that occurs as part of an exchange of the vacant division-owned property for another property.
- (12) "Vacant division-owned property" means division-owned property that:
 - (a) a primary state agency is not occupying or using; and
 - (b) the director has determined should be made available for:
 - (i) use or occupancy by a primary state agency; or
 - (ii) a transfer of ownership or lease to a secondary state agency, local government entity, public purpose nonprofit entity, or private party.
- (13) "Written proposal" means a brief statement in writing that explains:
 - (a) the proposed use or occupancy, transfer of ownership, or lease of vacant division-owned property; and

- (b) how the state will benefit from the proposed use or occupancy, transfer of ownership, or lease.

Amended by Chapter 438, 2024 General Session

63A-5b-902 Application of part.

- (1) Except as stated in Subsection (1)(d), the provisions of this part, other than this section, do not apply to:
 - (a) the division's disposal or lease of division-owned property that would otherwise be subject to this part, if the division-owned property has a value under \$500,000, as estimated by the division;
 - (b) a conveyance, lease, or disposal of division-owned property in connection with:
 - (i) the establishment of a state store, as defined in Section 32B-1-102; or
 - (ii) the construction of student housing;
 - (c) a conveyance, lease, or disposal of any part of the point of the mountain state land, as defined in Section 11-59-102, by the Point of the Mountain State Land Authority created in Section 11-59-201;
 - (d) a conveyance, lease, or disposal of division-owned property for fair market value, as determined by the division, under Subsection 63A-5b-303(1)(a)(viii), except that the following sections apply:
 - (i) Section 63A-5b-907.5;
 - (ii) Section 63A-5b-908;
 - (iii) Section 63A-5b-910;
 - (iv) Section 63A-5b-911; and
 - (v) Section 63A-5b-912; or
 - (e) a conveyance, lease, or disposal of any state-owned land, as defined in Section 11-70-101, by the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.
- (2) Nothing in Subsection (1)(a), (b), or (d) may be construed to diminish or eliminate the division's responsibility to manage division-owned property in the best interests of the state.

Amended by Chapter 419, 2024 General Session

Amended by Chapter 480, 2024 General Session

63A-5b-903 Rules made by the division.

The division may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that:

- (1) establish criteria that a written proposal is required to satisfy in order to be a qualified proposal, including, if applicable, a minimum acceptable purchase price; and
- (2) define criteria that the director will consider in making a determination whether a proposed use or occupancy, transfer of ownership, or lease of vacant division-owned property provides a material benefit to the state.

Amended by Chapter 169, 2022 General Session

63A-5b-904 Division authority with respect to vacant division-owned property -- Limitations.

- (1) Subject to Section 63A-5b-909, the division may:

- (a) provide for a primary state agency's occupancy or use of vacant division-owned property, if the director determines that the primary state agency's occupancy or use is in the best interests of the state;
 - (b) effect a transfer of ownership or lease of vacant division-owned property, as provided in this section; or
 - (c) refer vacant division-owned property to the Department of Transportation for sale by auction, as provided in Section 63A-5b-908.
- (2) The division may effect a transfer of ownership or lease of vacant division-owned property without receiving fair market value in return if:
- (a) the director determines that the transfer of ownership or lease is in the best interests of the state;
 - (b) for a proposed transfer of ownership or lease to a local government entity, public purpose nonprofit entity, or private party, the director determines that the local government entity, public purpose nonprofit entity, or private party intends to use the property to fulfill a public purpose;
 - (c) the director requests and receives a recommendation on the proposed transfer of ownership or lease from the Legislative Executive Appropriations Committee;
 - (d) the director communicates the Executive Appropriations Committee's recommendation to the executive director; and
 - (e) the executive director approves the transfer of ownership or lease.
- (3)
- (a) If the division effects a transfer of ownership of vacant division-owned property without receiving fair market value in return, the division shall require the documents memorializing the transfer of ownership to preserve to the division:
 - (i) in the case of a transfer of ownership of vacant division-owned property to a secondary state agency, local government entity, or public purpose nonprofit entity for no or nominal consideration, a right of reversion, providing for the ownership of the property to revert to the division if the property ceases to be used for the public benefit; or
 - (ii) in the case of any other transfer of ownership of vacant division-owned property, a right of first refusal allowing the division to purchase the property from the transferee for the same price that the transferee paid to the division if the transferee wishes to transfer ownership of the former vacant division-owned property.
 - (b) Subsection (3)(a) does not apply to the sale of vacant division-owned property at an auction under Section 63A-5b-908.

Amended by Chapter 480, 2024 General Session

63A-5b-905 Notice required before division may effect a transfer of ownership or lease of division-owned property for less than fair market value.

- (1) Before the division may effect a transfer of ownership or lease of vacant division-owned property for less than fair market value, the division shall give notice as provided in Subsection (2).
- (2) A notice required under Subsection (1) shall:
 - (a) identify and describe the vacant division-owned property;
 - (b) indicate the availability of the vacant division-owned property;
 - (c) invite persons interested in the vacant division-owned property to submit a written proposal to the division;
 - (d) indicate the deadline for submitting a written proposal;

- (e) be posted on the division's website for at least 60 consecutive days before the deadline for submitting a written proposal, in a location specifically designated for notices dealing with vacant division-owned property;
- (f) be posted on the Utah Public Notice Website created in Section 63A-16-601 for at least 60 consecutive days before the deadline for submitting a written proposal; and
- (g) be sent by email to each person who has previously submitted to the division a written request to receive notices under this section.

Amended by Chapter 480, 2024 General Session

63A-5b-906 Submitting a written proposal for vacant division-owned property.

- (1) A person may submit to the division a written proposal:
 - (a) in response to the division's notice under Section 63A-5b-905; or
 - (b) with respect to vacant division-owned property as to which the division has not given notice under Section 63A-5b-905.
- (2) The division is not required to consider a written proposal or provide notice under Section 63A-5b-905 if the director determines that the written proposal is not a qualified proposal.
- (3) If a person submits a qualified proposal to the division under Subsection (1)(b):
 - (a) the division shall:
 - (i) give notice as provided in Section 63A-5b-905; and
 - (ii) treat the qualified proposal as though it were submitted in response to the notice; and
 - (b) the person may, within the time provided for the submission of written proposals, modify the qualified proposal to the extent necessary to address matters raised in the notice that were not addressed in the initial qualified proposal.
- (4) A person who fails to submit a qualified proposal to the division within 60 days after the date of the notice under Section 63A-5b-905 may not be considered for the vacant division-owned property.

Renumbered and Amended by Chapter 152, 2020 General Session

63A-5b-907 Priorities for vacant division-owned property -- Division to convey vacant division-owned property.

- (1) This section applies to a proposed transfer of ownership or lease of vacant division-owned property at less than fair market value.
- (2)
 - (a) An applicant that is a state agency has priority for vacant division-owned property over an applicant that is a local government entity, a public purpose nonprofit entity, and a private party.
 - (b) An applicant that is a local government entity and an applicant that is a public purpose nonprofit entity have:
 - (i) priority for vacant division-owned property over an applicant that is a private party; and
 - (ii) between them the same priority for vacant division-owned property.
- (3) If the division receives multiple timely qualified proposals from applicants with the highest and same priority, the division shall:
 - (a) notify the executive director of:
 - (i) the availability of the vacant division-owned property; and
 - (ii) the applicants with the highest and same priority that have submitted qualified proposals; and

- (b) provide the executive director with a copy of the timely qualified proposals submitted by the applicants with the highest and same priority.
- (4) Within 30 days after being notified under Subsection (3), the executive director shall:
 - (a) determine which applicant's qualified proposal is most likely to result in the highest and best public benefit; and
 - (b) notify the division of the executive director's decision under Subsection (4)(a).
- (5) The division shall effect a transfer of ownership or lease of the vacant division-owned property to:
 - (a) the applicant with the highest priority under Subsection (2), if the division receives a timely qualified proposal from a single applicant with the highest priority; or
 - (b) the applicant whose qualified proposal was determined by the executive director under Subsection (4) to be most likely to result in the highest and best public benefit, if the division receives multiple timely qualified proposals from applicants with the highest and same priority.

Amended by Chapter 421, 2022 General Session

63A-5b-907.5 Lease of division-owned property to a private party.

- (1) If the division leases division-owned property to a private party, the division shall, within 30 days after a lease agreement is executed, provide written notice of the lease to:
 - (a) the municipality in which the division-owned property is located, if the division-owned property is within a municipality; or
 - (b) the county in whose unincorporated area the division-owned property is located, if the division-owned property is not located within a municipality.
- (2) Nothing in this part may be used by a private party leasing division-owned property as a basis for not complying with applicable local land use ordinances and regulations.

Enacted by Chapter 421, 2022 General Session

63A-5b-908 Referring vacant division-owned property to the Department of Transportation for auction.

- (1) The division may refer vacant division-owned property to the Department of Transportation for a public auction if:
 - (a) for a conveyance, lease, or disposal of vacant division-owned property for less than fair market value:
 - (i) the division has provided notice under Section 63A-5b-905 with respect to the vacant division-owned property; and
 - (ii) the division receives no qualified proposals in response to the notice under Section 63A-5b-905;
 - (b) the director determines that:
 - (i) there is no reasonable likelihood that within the foreseeable future:
 - (A) a primary state agency will use or occupy the vacant division-owned property; or
 - (B) a secondary state agency, local government entity, or public purpose nonprofit entity will seek a transfer of ownership or lease of the vacant division-owned property; and
 - (ii) disposing of the vacant division-owned property through a public auction is in the best interests of the state;
 - (c) the director requests and receives a recommendation on the proposed public auction from the Legislative Executive Appropriations Committee;

- (d) the director communicates the Executive Appropriations Committee's recommendation to the executive director; and
- (e) the executive director approves the public auction.
- (2) If the division refers a vacant division-owned property to the Department of Transportation for public auction, the Department of Transportation shall publicly auction the vacant division-owned property under the same law and in the same manner that apply to a public auction of Department of Transportation property.
- (3) At a public auction conducted under Subsection (2), the Department of Transportation may, on behalf of the division, accept an offer to purchase the vacant division-owned property.
- (4) The division and the Department of Transportation shall coordinate together to:
 - (a) manage the details of finalizing any sale of the vacant division-owned property at public auction; and
 - (b) ensure that the buyer acquires proper title and that the division receives the net proceeds of the sale.
- (5) If a public auction under this section does not result in a sale of the vacant division-owned property, the Department of Transportation shall notify the division and refer the vacant division-owned property back to the division.

Amended by Chapter 480, 2024 General Session

63A-5b-909 State real property subject to right of first refusal.

- (1)
 - (a) If Section 78B-6-520.3 applies to vacant division-owned property, the division shall comply with Subsection 78B-6-520.3(3).
 - (b) If a condemnee accepts the division's offer to sell the vacant division-owned property as provided in Section 78B-6-520.3, the division shall:
 - (i) comply with the requirements of Section 78B-6-520.3; and
 - (ii) terminate any process to convey the vacant division-owned property.
 - (c) A condemnee may waive rights and benefits afforded under Section 78B-6-520.3 and instead seek a transfer of ownership or lease of vacant division-owned property under the provisions of this chapter in the same manner as any other person not entitled to the rights and benefits of Section 78B-6-520.3.
- (2)
 - (a) If Section 78B-6-521 applies to the anticipated disposal of the vacant division-owned property, the division shall comply with the limitations and requirements of Subsections 78B-6-521(2) and (3).
 - (b) If the original grantor or a subsequent bona fide purchaser, or the original grantor's or subsequent bona fide purchaser's assignee, accepts an offer for sale as provided in Subsection 78B-6-521(2)(a), the division shall:
 - (i) sell the vacant division-owned property to the original grantor or subsequent bona fide purchaser, or the original grantor's or subsequent bona fide purchaser's assignee, in accordance with Section 78B-6-521; and
 - (ii) terminate any process under this chapter to convey the vacant division-owned property.
 - (c) An original grantor or subsequent bona fide purchaser, or the original grantor's or subsequent bona fide purchaser's assignee, may waive rights afforded under Section 78B-6-521 and instead seek a transfer of ownership or lease of vacant division-owned property in the same manner as any other person seeking a transfer of ownership or lease of vacant division-owned property to which Section 78B-6-521 does not apply.

Amended by Chapter 480, 2024 General Session

63A-5b-910 Disposition of proceeds received by division from sale of vacant division-owned property.

- (1)
 - (a) Except as provided in Section 26B-1-331, the division shall pay into the state treasury the money received from the transfer of ownership or lease of vacant division-owned property.
 - (b) Money paid into the state treasury under Subsection (1)(a):
 - (i) becomes a part of the funds provided by law for carrying out the building program of the state; and
 - (ii) is appropriated for the purpose described in Subsection (1)(b)(i).
- (2) Except as described in Subsection 63A-5b-407(7), the proceeds from the transfer of ownership or lease of vacant division-owned property belonging to or used by a particular state agency shall, to the extent practicable, be expended for the construction of buildings or in the performance of other work for the benefit of that state agency.

Amended by Chapter 329, 2023 General Session

Amended by Chapter 369, 2023 General Session

63A-5b-911 Authority to transfer land for commuter rail station and related development.

The division may transfer title to a parcel of land it owns in a county of the first class to a public transit district for the purpose of facilitating the development of a commuter rail transit station and associated transit oriented development if:

- (1) the parcel is within one mile of the proposed commuter rail transit station and associated transit oriented development; and
- (2) the division receives in return fair and adequate consideration.

Renumbered and Amended by Chapter 152, 2020 General Session

63A-5b-912 Report to Infrastructure and General Government Appropriations Subcommittee.

The division shall, on or before the third Wednesday in November of every even-numbered year, present a written report to the Infrastructure and General Government Appropriations Subcommittee that identifies state land and buildings that are no longer needed and can be sold by the state.

Renumbered and Amended by Chapter 152, 2020 General Session