

U.S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250

| | | |
|---|---|---------------------|
| DEPARTMENTAL REGULATION | | Number: 5100-002 |
| SUBJECT: Real Property Leasing Officer Warrant System | DATE: June 7, 2007 | |
| | OPI: Office of Procurement and Property Management | |

1 PURPOSE

This regulation prescribes the USDA Real Property Leasing Officer Warrant System.

2 CANCELLATION/SPECIAL INSTRUCTIONS

- a. Departmental Regulation 5100-2, dated April 6, 1996 is replaced by this regulation.
- b. The principal changes to DR 5100-2 are as follows:
 - (1) Updated the Office of Primary Interest.
 - (2) Increased the threshold amount for Level I Warranted Leasing Officers.
 - (3) The Farm Service Agency can no longer use the authority of the Commodity Credit Corporation to lease general purpose space for its own use or to lease space on behalf of other USDA agencies. This exemption has been removed from this regulation.

3 POLICY

It is USDA policy to require that only individuals with a minimum or better level of training and experience, as set forth in Appendix A, are appointed as Real Property Leasing Officers as documented through the Real Property Leasing Officer Warrant System.

4 ABBREVIATIONS

AGPMR - Agriculture Property Management Regulations
FAR - Federal Acquisition Regulations
FMR - Federal Management Regulation
HRPLA - Head of the Real Property Leasing Activity
OIG - Office of Inspector General
OPPM - Office of Procurement and Property Management
RPLA - Real Property Leasing Activity
RPLO - Real Property Leasing Officer
USDA - United States Department of Agriculture

5 COVERAGE

Only individuals appointed under the provisions of this regulation, acting within the scope of delegated real property leasing authority, may enter into, and administer and/or terminate a lease, as defined in Section 7 a, on behalf of any RPLA of USDA, except as provided in Section 6.

6 EXEMPTIONS

- a Except when otherwise required by procedures established by the HRPLA, individuals executing the following lease transactions are not required to obtain a warrant:
- (1) Leases obtained at a nominal rental rate or rent free space;
 - (2) Leases in foreign countries;
 - (3) Leases for bare or unimproved land; and,
 - (4) Leases that are executed by a warranted contracting officer (GS-1102) at the grade of GS-11 and above provided that the annual rental does not exceed \$2,000 for a term not to exceed one year.
- b Each HRPLA shall determine and initiate procedures necessary to instruct individuals about their duties and responsibilities when making the kinds of transactions listed in section 6a and to delegate authority to individuals for such transactions.

7 DEFINITIONS

- a Lease or Leasehold Interest in Real Property. A conveyance by a landlord to the Government of the right of exclusive possession of real property for a definite period of time. It may include services such as heating, air-conditioning, utilities, custodial services and other services and alterations furnished by the landlord.
- b Real Property Leasing Activity. OPPM and other USDA agencies that have delegated leasing authority. A RPLA's authority and responsibility to manage its leasing function and those of other agencies to which it provides administrative support are established by written delegation from the Director, Office of Procurement and Property Management.
- c Head of the Real Property Leasing Activity. The official or designee who has overall responsibility for managing a RPLO. This official verifies the need for a warranted leasing officer, requests that a person be warranted, and certifies the qualifications of that person to the appointing official.
- d Real Property Leasing Officer. An individual appointed according to the regulation with the authority to enter into, administer, amend and/or terminate real property leasehold contracts in accordance with Federal acquisition and property laws and regulations.
- e Warrant. A delegation which defines the extent of authority vested in an individual to enter into, administer, amend and terminate leasehold interests in real property; specifically, the signatory authority of an individual to obligate funds and contractually commit the Department. All delegations of leasing authority shall be conveyed to the individual on an SF-1402, Certificate of Appointment.
- f Certification. An evaluation concluding that a candidate for a warrant has the experience, education, and training as well as the business acumen, judgment, character, reputation and ethics to perform properly the duties of an RPLO.
- g Appointing Official. The official within the RPLA who has been delegated by the OPPM the authority to issue a warrant. The appointing authority will be issued on a Certificate of Appointment by the Director, OPPM.
- h Nominal Rent. Generally denotes a consideration wholly unrelated to the actual or fair market value of the lease premises, such as \$1 per annum, or \$1 per annum together with the obligation to repair and maintain the premises or to pay taxes assessed against the property.

8 APPOINTING OFFICIAL

- a If, after review of the certification of the candidate, the Appointing Official concurs with the recommendation of the HRPLA, the Appointing Official will issue the warrant. The Appointing Official will determine the scope of authority and re-delegation of authority that will be included in the warrant, consistent with the applicable requirements of the FMR, AGPMR, FAR and the delegation authority from OPPM.
- b The Appointment Official shall maintain a list of RPLOs who have warrants and make it available upon request to OPPM, OIG, and other interested parties.

9 APPOINTMENT PROCEDURE

- a Each HRPLA shall establish procedures to ensure that RPLOs, who meet the minimum qualification requirements specified in Appendix A, are appointed at the appropriate levels, and only when a valid need exists for a new RPLO. Needs shall be determined on the basis of such factors as volume of actions, complexity of work, and organizational structure. In addition, each HRPLA shall establish procedures for nominating RPLO candidates, documenting their qualification through use of qualification statements similar to that set forth at Figure A-1 and requests for appointments similar to those set forth at Figure A-2, and keeping record of their appointment as a warranted leasing official by maintaining a copy of the warrant issued by the Appointing Official.
- b Each HRPLA that currently has a warrant program in effect must ensure that the program meets the minimum standards contained in Appendix A.
- c Each HRPLA that does not have a warrant program in effect shall establish a program, which will, at a minimum, comply with the standards contained in Appendix A. In the alternative, an HRPLA may request certification of RPLO candidates by OPPM. These requests should be addressed to Director, OPPM.

10 APPOINTMENTS

- a The Appointing Official shall appoint RPLOs in writing on an SF-1402, Certificate of Appointment, and specify any limitation on the scope of the authority, other than limitations contained in applicable laws or regulations (i.e., type of contract, or dollar threshold, etc.)

- b The Appointing Official shall make appointments to individuals only and not to positions. An individual's official position description should be amended to reflect any duties and responsibilities as a RPLO. If the individual's warrant is terminated or withdrawn, the position description must be amended to reflect any duties and responsibilities as a RPLO. If the individual's warrant is terminated or withdrawn, the position description must be amended to delete those duties and responsibilities, or the position must be filled by another duly appointed RPLO.
- c The Appointing Official shall not appoint individuals as RPLOs if they do not meet the requirements set forth in Appendix A.

11 DOCUMENTATION

The HRPLA must maintain a file that complies with the Privacy Act of 1974 for each RPLO with the RPLA including a copy of:

- a A qualification statement;
- b A request for appointment;
- c The warrant; and,
- d Training records.

12 RPLO

RPLOs should display their Certificates of Appointment openly in or near their workstations allowing the public and co-workers to be aware of the appointment and its limitations. Holders of RPLO Certificates of Appointments must comply with the Standards of Ethical Conduct and any agency implementing regulations, and file the appropriate forms as required.

13 MAINTAINING A WARRANT

In order to maintain a warrant, an RPLO must receive, at least every three years, a minimum of 40 hours of training related to real property leasing covering such areas as new requirements, techniques or procedures brought about by changes in law, regulations, policy, or delegations of authority. This type of training can be accomplished through participation in workshops, seminars, symposia and formal classroom training.

14 TERMINATION/REVOCAION OF APPOINTMENT

- a Each Appointing Official shall establish procedures for the termination or revocation of a RPLO warrant. Such procedures should provide for termination or revocation at anytime when, following notice and opportunity for reply, one or more of the conditions listed below or similar circumstances exists:
 - (1) Failure to comply with applicable laws and regulations.
 - (2) Violation of the code of conduct.
 - (3) Failure to maintain training standards after appointment.
 - (4) Failure to maintain a satisfactory performance rating.
 - (5) Reassignment of the individual to a position not requiring a warrant.
 - (6) Discontinuance of the organizational need for appointment.
 - (7) Separation of the individual from the leasing activity.
- b A termination or revocation of appointment notice given to a RPLO must be in writing. A separation from the real property leasing activity shall constitute an automatic termination of the RPLO appointment.
- c In the case of termination/revocation of an appointing official certificate of authority, a separation from the Department, a change of agency, or a change of duties of that appointing official shall terminate the authority of that appointing official to issue warrants. The OPPM shall, upon request and concurrence with the agency, issue a new delegation to an official of that agency for that purpose.

15 REAL PROPERTY MANAGEMENT REVIEW

- a Real property leasing activity appointment documents, procedures, practices and individual appointment may be subject to the Real Property Management Reviews conducted by Department or agency review teams. Each of the Department and the agency review teams may recommend revocation of appointments for failure to comply with applicable laws and regulations.
- b In addition, the OPPM review team may evaluate the performance of any individual RPLO in regard to compliance with applicable laws and regulations in the exercise of the individual's leasing authority. Findings issued by the OPPM review team may serve as the basis for revocation by the Department or agency review teams.

16 INQUIRIES

Direct inquiries to the Real Property Branch, Property Management Division, OPPM, 1400 Independence Avenue, SW, Washington, D.C. 20250-9304, through agency channels.

APPENDIX A

QUALIFICATION REQUIREMENTS

An individual must meet the following minimum requirements to qualify for a Warrant to act as a Real Property Leasing Officer (RPLO).

Level I - Obligation Authority up to \$100,000 net annual rental.*

1. Sufficient experience with real property leasing activities to demonstrate his or her ability to execute leasehold contracts in accordance with Federal leasing procedures.
2. Successful completion of training in a basic Federal leasing course. The course must have included in-lease appraisal techniques to establish the fair annual rental. A basic real estate appraisal course offered by local colleges or universities may be substituted for the in-lease appraisal requirements. In-lease appraisals are limited to leases under 10,000 square feet.

Level II - Obligation Authority Unlimited.

1. The individual must have consecutive years of progressively complex and responsible real property leasing experience involving negotiations, market surveys, appraisals, etc., or related staff/policy support activity that has demonstrated his or her ability to execute lease contracts in accordance with Federal leasing procedures.
2. Successful completion of three of the five training courses listed below, one of which is mandatory.

--Basic Federal Leasing (Mandatory) – the course must include in-lease appraisals techniques to establish the fair annual rental. A basic real estate appraisal course offered by local colleges or universities may be substituted for the in-lease appraisal requirements. In-lease appraisals are limited to leases under 10,000 square feet.

--Federal Real Property Lease Law

--Negotiation Techniques

--Cost and Price Analysis for Leasing

--Basic Real Estate Appraisal

Acceptable substitutes for Other than Mandatory Requirements

Training courses of equivalent content may be substituted if the Head of the Real Property Leasing Activity or designee determines that a particular course is equivalent in content. Substitute courses may be accomplished through but not limited to the following: 80-credit hours from an accredited institution of higher learning in pre-law, real property management and/or business administration.

* Net annual rental is defined as the gross annual rental paid to the lessor minus the lessor's operating cost. The following supplies and services are considered operating costs that can be subtracted from the gross annual rental to determine the net annual rental:

- utilities
- janitorial
- building systems repair (does not include major repairs, i.e. replacement of systems, replacement of roof, etc.)
- building systems maintenance
- property protection
- that portion of management cost developed to these items

FIGURE A-1

QUALIFICATIONS STATEMENT

A personal qualifications statement (SF-171), a GSA Form 3409, or a form substantially the same as the following may be used as an application for a RPLO Warrant.

1. NAME:
2. TITLE, SERIES, GRADE:
3. OFFICE:
4. RELEVANT EXPERIENCE: (Begin with current position and work back four relevant positions.) Information on each position should be included.
 - A. NAME OF EMPLOYER
 - B. DATES EMPLOYED
 - C. TITLE OF POSITION
 - D. KIND OF BUSINESS/ORGANIZATION
 - E. DESCRIPTION OF WORK.
5. OTHER RELEVANT SPECIAL QUALIFICATIONS, CERTIFICATIONS OR SKILLS;
6. RELEVANT HONORS, AWARDS OR FELLOWSHIPS RECEIVED;
7. EDUCATION
 - A. HIGHEST LEVAL COMPLETED
 - B. NAME OF HIGH SCHOOL
 - (1) Dates Attended
 - (2) Diploma Received
 - C. NAME OF COLLEGE/UNIVERSITY
 - (1) Dates Attended
 - (2) Years Completed

- (3) Number of Credits Earned – Indicate Whether Credits are Semester Hours or Quarter Hours
- (4) Type and Year of Degree
- (5) Chief Undergraduate College Subjects
- (6) Major Field of Study at Highest Level of College Work

8. REAL PROPERTY RELATED TRAINING

- A. NAME OF COURSE
- B. NAME OF SCHOOL
- C. DATES ATTENDED

FIGURE A-2

REQUEST FOR APPOINTMENT

1. There is a need to appoint a RPLO at level for the following reasons:
2. The RPLO candidate is.....
(Name, Title, Series, Grade)
3. The RPLO candidate will occupy the organizational level described below:
.....
(Office/Branch/Division and Location)
4. The candidate's Qualification Statement is enclosed. The candidate's experience and training meet the qualification standards of the Real Property Leasing Officer Warrant System.
5. The candidate's current conflict of interest disclosure statement is on file in the appropriate personnel office.
6. In addition to any limitations established by the applicable laws and regulations, the following warrant limitations are imposed:
 - a. Dollar Threshold.....
 - b. Other Limitations.....

.....
(Signature) (Head of the Real Property Leasing Activity) (Date)

APPROVED.....DISAPPROVED.....

.....
(Signature) (Appointing Official)

.....
(Date) (Typed Name)

.....
(Office) (Title)