

15 FAM 500 REAL PROPERTY DISPOSAL ABROAD

15 FAM 510 SCOPE AND GENERAL POLICY

*(CT:OBO-22; 12-23-2011)
(Office of Origin: OBO)*

15 FAM 511 AUTHORITY AND SCOPE

15 FAM 511.1 Authority

(CT:OBO-6; 04-11-2006)

The Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 300), and Section 585 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1991 (22 U.S.C. 2396a).

15 FAM 511.2 Scope

(CT:OBO-22; 12-23-2011)

This subchapter applies to the disposal of U.S. Government-owned (GO), long-term leased (LTL), and trust fund properties abroad; the funding of expenses; and the processing of proceeds. The U.S. Government may dispose of properties by sale, exchange, competitive bid, lease, or license. For USAID properties, disposal may also be by transfer for cash, credit, or other property, with or without warranty, or for foreign currencies, credits, or substantial benefits or the discharge of claims resulting from the compromise or settlement of such claims. Subchapter 15 FAM 530 contains detailed procedures for implementing these provisions. Questions or comments on these provisions should be directed to the Office of Building Acquisitions and Sales of the Directorate of Planning and Real Estate of the Bureau of Overseas Buildings Operations (OBO/PRE/BAS) for State Department properties, or, in the case of USAID properties, the Overseas Management Division, Office of Management Services, Bureau for Management, USAID/Washington (USAID/W-M/MS/OMD).

15 FAM 512 POLICY

15 FAM 512.1 General

(CT:OBO-22; 12-23-2011)

- a. Post must review U.S. Government-owned (GO) and long-term leased (LTL) properties annually to identify those excess to requirements, not fully utilized, or uneconomical to retain (see 15 FAM Exhibit 512.1). Post must report such State Department properties to OBO/PRE/BAS for State, or, in the case of USAID properties, USAID/W-M/MS/OMD along with the latter's regional bureau, and submit recommendations for disposal. Post must obtain approval from OBO/PRE/BAS for State Department properties, or, in the case of USAID properties, USAID/W-M/MS/OMD before taking any action relating to disposal of a property. Once granted approval, post must coordinate for State properties with OBO/PRE/BAS, or, in the case of USAID properties, USAID/W-M/MS/OMD to retain legal counsel and/or other experts, select a disposal method, and complete the transaction. The Department must make every reasonable effort to dispose of properties at or above fair-market value.
- b. After an action for disposal of a property has been approved or initiated, if it is determined that retention of that property is in the Department's best interest, written approval to terminate the disposal action must be obtained. The Director of OBO or the Managing Director for Planning and Real Estate for State Department properties, or, in the case of USAID properties, USAID/W-M/MS/OMD will terminate disposal actions through an action memo or cable.
- c. Throughout 15 FAM 500, references to OBO are deemed to apply to State properties and references to USAID/W-M/MS/OMD are deemed to apply to USAID properties.

15 FAM 512.2 Professional and Technical Services

(CT:OBO-22; 12-23-2011)

- a. All real property disposal actions abroad require the use of local legal counsel. The services of other professionals such as real estate brokers may also be necessary. Post must obtain the prior approval of OBO/PRE/BAS for State Department properties, or, in the case of USAID properties, USAID/W-M/MS/OMD, before making commitments or incurring financial obligations for such services (see 15 FAM 420).
- b. **General and broker:** In general, a real estate broker is engaged for

sales by OBO of State Department properties, or, in the case of USAID properties, USAID/W-M/MS/OMD. Post may conduct a sale without a broker if that is the most efficient method of disposal and is likely to yield the highest proceeds. This is done with prior approval of OBO/PRE/BAS for State Department properties, or, USAID/W-M/MS/OMD, for USAID properties. The role of the real estate broker is to market the property and find potential buyers. OBO/PRE/BAS for State Department properties, or, USAID/W-M/MS/OMD for USAID properties, selects the broker through its own competitive process, or the broker is selected through a competitive process at post with the approval of OBO/PRE/BAS or USAID/W-M/MS/OMD, respectively. Post then requests an allotment of funds from OBO/PRE/BAS for State Department properties, or, in the case of USAID properties, USAID/W-M/MS/OMD, for the broker commission and fees. This applies to sales, competitive bids, property exchanges, and lease/license agreements. The selection and fees of brokers are governed by 15 FAM 420.

15 FAM 512.3 Policy to Value Real Property for Disposal

(CT:OBO-22; 12-23-2011)

Real estate (functional and residential): In order to protect the financial interests of the Department when disposing of real property, the Department will obtain two independent professional appraisals. The appraisers will be selected and the appraisal reports reviewed by the Office of Master Planning and Evaluations of the Directorate of Planning and Real Estate of the Bureau of Overseas Buildings Operations (OBO/PRE/MPE). When it is not possible or cost effective to hire credible appraisers, OBO/PRE/MPE may elect to prepare an in-house appraisal report:

- (1) Appraisals should be ordered with enough time for the Department to make credible business decisions regarding pricing and marketing strategy prior to placing the property on the market. A minimum of 90 days is recommended. Appraisals will be funded by OBO for State Department properties or in the case of USAID properties, USAID/W-M/MS/OMD;
- (2) Questions regarding this requirement or scopes of work to procure appraisals may be directed to OBO/PRE/MPE; and
- (3) The appraisal requirement may be waived by OBO/PRE/MPE if the cost of the appraisal appears high relative to the amount at stake; if only a single credible appraisal can be obtained; if local conditions and experience indicate no credible appraisals can be obtained; or if

it is in the best interests of the government based on the facts and circumstances. For USAID, this same process applies except with the oversight and approval of USAID/W-M/MS/OMD.

15 FAM 512.4 Funding of Expenses

(CT:OBO-22; 12-23-2011)

- a. **Department of State:** Post must obtain approval and funding from OBO/PRE/BAS for expenses of disposals such as agent or broker fees, costs of surveys, advertising, legal services, appraisals, and settlement.
- b. **USAID:** Missions must request approval from USAID/W-M/MS/OMD of expenses arising from a sale, exchange, or lease.

15 FAM 512.5 Documentation and Records

(CT:OBO-22; 12-23-2011)

The Department of State must maintain documentation and records relating to property disposal. Post is responsible for maintaining documents and records on real properties as provided in 15 FAM 450. Post is also responsible for providing documents, records, and information relating to their disposal to OBO/PRE/BAS for State Department properties and other bureaus (e.g., RM and L) that support financial or other processes related to disposal, or USAID/W-M/MS/OMD for USAID properties.

15 FAM 513 THROUGH 519 UNASSIGNED

15 FAM EXHIBIT 512.1 GUIDELINES FOR REVIEWING REAL PROPERTIES FOR DISPOSAL

(CT:OBO-22; 12-23-2011)

When reviewing real properties for retention or disposal, the following guidelines are to be considered:

- (1) Is the property wholly or partly excess to needs? If so, could it be sold, licensed, leased, or exchanged for more useful property?
- (2) Is the property uneconomical to retain? If so, could it be sold or exchanged for a more suitable property with lower maintenance and operating costs, at a price roughly equivalent to the value of the present property? Could it be leased or licensed and other property acquired to meet post needs?
- (3) Is the property being put to optimum use?
- (4) Is the property used only irregularly for program purposes? Would a portion of the property satisfy program needs?
- (5) Have local conditions changed significantly since the property was acquired, thereby affecting the surrounding neighborhood, transportation facilities, convenience to users, zoning, and other environmental factors, including local development plans?
- (6) Can continued U.S. Government ownership of the property be justified in light of its current use?
- (7) Are operating and maintenance costs excessive?
- (8) Is the property functionally obsolete or has it physically deteriorated beyond economical repair?
- (9) Will program changes alter post property requirements?
- (10) If a portion of the property is disposed of, will the remaining portion still comply with zoning requirements?
- (11) Considering property prices or rentals, moving costs, preparation of the new space, occupancy costs, and increased operational efficiency: Can the U.S. Government realize net savings by

- relocating?
- (12) Is a portion of any property being retained primarily because the present boundaries are marked by the existence of fences, hedges, roads, or utilities?
 - (13) Is land being retained only because it is landlocked?
 - (14) Is there land that can be made available for use by others, within or outside the U.S. Government, on a temporary lease or license basis?
 - (15) Are there security, political, or public relations considerations that outweigh the foregoing?
 - (16) What effect does the availability of alternative facilities, if required, have on the foregoing?
 - (17) Are there any restrictions on the use or expatriation of proceeds of sale under local law?
 - (18) Does the building meet fire and life safety codes and standards?