

Update Notice

Handbook RE-1

U.S. Postal Service Facilities Guide to Real Property Acquisitions and Related Services

Handbook RE-1, *U.S. Postal Service Facilities Guide to Real Property Acquisitions and Related Services*, originally published October 2006, has been updated through October 2008 as follows:

This chapter, subchapter, part, or section...	Titled...	Was updated to...
Section 11	Purpose	State that: <ul style="list-style-type: none">■ The U.S. Postal Service <i>cannot</i> be held liable for the language in the handbook■ The handbook does <i>not</i> constitute a binding set of regulations.■ Demand for judicial review based on handbook guidelines is prohibited.

U.S. Postal Service Facilities Guide to Real Property Acquisitions and Related Services

Handbook RE-1

October 2008
Transmittal Letter 14

- A. Explanation.** This is a revision of Transmittal Letter 13 (issued August 1996), which transmitted Handbook RE-1, *Realty Acquisition and Management*. This transmittal notes the replacement of Handbook RE-1 with a new handbook, RE-1, *U.S. Postal Service Facilities Guide to Real Property Acquisitions and Related Services*. This handbook reflects changes in and clarifies existing Postal Service policies and procedures on managing real property assets. It also reflects organizational changes resulting from recent restructurings. In fulfillment of the *Transformation Plan*, this handbook will guide Facilities employees as they work to reduce costs and improve results.
- B. Availability.** This handbook is accessible on the Postal Service™ Intranet and Internet as follows:
- **Intranet:** Accessible at <http://blue.usps.gov/cpim>. Click *HBKs*, and then *RE-1*.
 - **Internet:** Accessible at www.usps.com/publications. Click *Handbooks*, and then scroll to Handbook RE-1.
- C. Questions and Comments.** Send questions and comments about this new handbook to:
- FACILITIES DEPARTMENT
NATIONAL MANAGER, REAL ESTATE
UNITED STATES POSTAL SERVICE
4301 WILSON BOULEVARD STE 300
ARLINGTON VA 22203-1861
- D. Cancellations.** All previous issues of Handbook RE-1 are obsolete.
- E. Effective Date.** This handbook is effective October 2008.

Tom A. Samra
Vice President, Facilities

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1 Overview

11 Purpose and Scope

This publication provides information to United States Postal Service® personnel, suppliers, and the general public about the authority and responsibility of the Postal Service™ with respect to supporting Postal Service needs to acquire, manage, and dispose of real property and related rights and interests. This publication is not intended to, nor does it create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by any party against the Postal Service. This publication is not a Postal Service regulation. This publication sets forth information regarding internal guidelines that do not affect individual rights and obligations. This publication does not create any right to judicial review involving compliance or noncompliance with the guidelines found in this publication.

12 Applicability

The policies in this publication apply to all activities of the Postal Service with respect to real property, and its related rights, interests, and services related thereto. Agreements for developing or redeveloping real estate for joint or non-Postal Service use are not generally covered by this publication and must be coordinated with Realty Asset Management, Headquarters. In addition, intergovernmental agreements with General Services Administration (GSA) and other federal entities are not generally governed by this publication.

13 References

Postal Service directives and other publications relating to Postal Service real estate activities include but are not limited to:

- a. *Administrative Support Manual (ASM) Issue 13, Chapter 5, Facilities and Equipment.*
- b. *Community Relations Regulations (39 Code of Federal Regulations (CFR) 241.4).*

- c. *1985 Agreement Between General Services Administration and the United States Postal Service* and subsequent Letter of Understanding, effective February 2005.
- d. Handbook AS-504, *Space Requirements*.
- e. Handbook F-66 Series, *Investment Policies and Procedures*.
- f. Handbook RE-4, *Standards for Facility Accessibility*.
- g. Handbook RE-5, *Building and Site Security Requirements*.
- h. Handbook RE-6, *Facilities Environmental Guide*.
- i. Publication 38, *Postal Agreement With the Department of Defense*.
- j. Publication 223, *Directives and Forms Catalog*.

14 Deviations

Deviations from the procedures in this publication require prior written approval of the Facilities vice president or designee.

15 Updates

The Headquarters Facilities office periodically issues revisions to this publication. Interim changes are published in the *Postal Bulletin* and posted online.

2 Authority

21 Procurement Authority

The Postal Reorganization Act, at 39 United States Code (U.S.C.) 401(5), empowers the Postal Service to acquire, in any lawful manner, any interest in real property it deems necessary or convenient in the transaction of its business. This section also authorizes the Postal Service to “hold, maintain, sell, lease, or otherwise dispose of” such property interests.

22 Delegation of Authority

The Supply Management vice president is responsible for all purchasing policies and procedures and has delegated to the Facilities vice president responsibility for the policies and procedures unique to the acquisition, management, development, redevelopment, and disposal of real estate.

23 Contracting Authority

The Supply Management vice president has delegated unlimited contracting authority to the Facilities vice president for real estate and related services, including authority to:

- a. Develop policies and procedures unique to contracting for real estate and related services.
- b. Approve deviations to those policies and procedures and appoint, recertify, and terminate contracting officers (COs) authorized to contract for real estate and related services when deemed appropriate.
- c. Approve noncompetitive purchases of real estate and related services, regardless of the dollar value, when deemed appropriate.
- d. Ratify unauthorized contractual commitments, regardless of the dollar value, if such actions have occurred during the contracting process for real estate or related services.
- e. Redelegate the authorities of a, b, c, and d of this section.

Note: This contracting authority is not to be confused with budget approval or project approval.

24 Funding

241 **Budget Approval**

Each fiscal year Facilities Planning and Approval reviews all real estate projects that require funding. Projects are prioritized and ranked nationally, and an estimated budget is submitted to Finance for approval.

Approval of the budget does not mean that funds for projects are committed; rather, it authorizes the appropriate officials to initiate the projects. When the required documentation and alternatives are obtained for each project, the project is reviewed, and if appropriate, funding is authorized.

242 **Approval Authority**

The Board of Governors delegates to Postal Service managers (from the field level through the postmaster general) the authority to approve capital and major expense plans, programs, and projects, and to commit funds to carry out these initiatives. Delegating to various management levels allows greater control of local projects while ensuring that senior management can concentrate on strategic issues and retain approval authority over the most significant investment projects. Finance periodically updates the Delegations of Approval Authority chart which shows, by type and size of project, the approval thresholds for capital and expense items.

For purposes of approval authority, projects undertaken as part of a unitary plan (either for contemporaneous or sequential development, in one or several locations) are considered to be a single project.

243 **Legislation**

The Postal Reorganization Act exempts the Postal Service from mandatory compliance with federal laws dealing with public or federal contracts, property, works, and funds, except those specifically made applicable to the Postal Service by statute. In some cases, a waiver may be obtained under the specific procedures and guidelines of the statute or policy. In addition, certain federal regulations have been adopted by the Postal Service as a matter of policy.

The regulations implementing the acts and executive orders are subject to certain threshold requirements. Following are some of the acts, executive orders, and regulations that apply to Postal Service real estate projects:

- a. Acts
 - (1) Architectural Barriers Act of 1968 (42 U.S.C. 4151), as amended.
 - (2) Contract Disputes Act of 1978 (41 U.S.C. 601).
 - (3) Contract Work Hours and Safety Standards Act (40 U.S.C. 327 and 40 U.S.C. 3701).
 - (4) Davis-Bacon Act (40 U.S.C. 276a, restated at 40 U.S.C. 3141).
 - (5) Freedom of Information Act (FOIA) (5 U.S.C. 552) and Privacy Act (5 U.S.C. 552a).
 - (6) Intergovernmental Cooperation Act of 1968 (31 U.S.C. 6501).

- (7) Miller Act (40 U.S.C. 270a, restated at 40 U.S.C. 3131).
 - (8) National Historic Preservation Act of 1966 (16 U.S.C. 470).
 - (9) Occupational Safety and Health Act (29 U.S.C. 651).
 - (10) Prompt Payment Act (31 U.S.C. 3901).
 - (11) Public Buildings Act of 1959, as amended (40 U.S.C. 601 *et seq.*).
 - (12) Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*).
 - (13) Vietnam Era Veterans Readjustment Assistance Act of 1972 (38 U.S.C. 4212).
- b. Executive Orders
- (1) Convict Labor (E.O. 11755).
 - (2) Equal Employment Opportunity (Executive Order (E.O.) 11246, 41 CFR Part 60).
- c. Regulations
- (1) Community Relations Regulations (39 CFR 241.4).
 - (2) Postal Service Relocation Regulations (39 CFR 777, Relocation Assistance and Real Property Acquisition).

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3 Acquisition of Real Property and Real Estate Services

31 General

311 **Sovereign Immunity**

As a federal entity, the Postal Service enjoys immunity from state and local regulation except where Congress has waived such immunity. However, despite this immunity, the Postal Service complies with local zoning, planning, and building codes to the extent practical and consistent with Postal Service operational needs in acquiring interests in real property.

312 **Obligations**

Postal Service leases and other contracts are obligations of the United States Postal Service and are not backed by the full faith and credit of the U.S. government.

313 **Insurance**

The Postal Service does not obtain casualty or liability insurance coverage for its properties, whether owned or leased, nor does it maintain and operate a formal program of self-insurance.

314 **Indemnification**

The Postal Service does not indemnify contractors for real estate and related services except where an exception and the specific contractual wording have been approved in accordance with internal Postal Service procedures.

32 Rules

321 **Standards of Conduct**

Postal Service employees are held to the highest standard of conduct in the performance of their duties and must conduct themselves to avoid even the appearance of any impropriety. All employees must adhere to the Standards of Ethical Conduct for Employees of the Executive Branch, 5 Code of Federal Regulations (CFR) 2635.

322 **Competition**

Generally, purchases valued at more than \$25,000 are made on the basis of adequate competition. Adequate competition means soliciting a sufficient number of qualified suppliers to ensure that the required quality and quantity of goods and services is obtained when needed, and that the price is fair and reasonable.

The Postal Service develops competition in procuring real estate and real estate-related services through a variety of methods, including the following:

- a. Competitive solicitation.
- b. Prequalification of indefinite quantity contractors.
- c. Using a buyer broker, when deemed appropriate.
- d. Procuring noncompetitive or sole source services.

Note: The requirement for competition may be waived by the proper approving official when certain conditions exist. Additionally, certain projects are specifically exempted from competition requirements (e.g., projects involving expansion or remodeling of currently occupied facilities and projects for temporary lease of property when the lease term does not exceed 180 days).

323 **Anticompetitive Practices**

Any suspected anticompetitive practice involving real estate matters must be reported promptly through normal management channels to the Facilities vice president. An anticompetitive practice is any practice designed to eliminate competition or restrain trade. Such practices may violate federal antitrust laws and be subject to prosecution by the U.S. Attorney General.

324 **Conflicts of Interest**

An organizational conflict of interest exists when:

- a. The nature of the work to be performed under a contract may give a supplier an unfair competitive advantage.
- b. A supplier has other interests that may impair its objectivity or ability to perform satisfactorily.

Conflicts of interest are more likely to occur in contracts involving real estate professional or consultant services. COs should identify potential conflicts of interest and consult with assigned counsel to mitigate or avoid them.

325 **Contingent Fees**

Suppliers of real estate or real estate-related services may not pay a fee to an agent contingent upon the agent's soliciting or obtaining the award of a contract. The prohibition does not apply to contingent fee arrangements between suppliers and bona fide employees or bona fide agencies employed by suppliers to secure business.

326 **Supplier Clearances**

All individuals performing services pursuant to Postal Service real estate contracts who will have access to occupied Postal Service facilities, or

Postal Service information and resources, including Postal Service computer systems, must obtain clearance before being provided that access or, at a minimum, obtain prior approval from the CO. Clearance procedures are in the *Administrative Support Manual*. Access to Postal Service facilities must be obtained from the postmaster or Postal Service CO, where necessary.

327 **Debarment, Suspension, and Ineligibility**

Except as provided otherwise in 39 CFR 601.113, COs may not solicit proposals from, award contracts to, or consent to subcontracts with debarred, suspended, or ineligible suppliers.

328 **Bonds**

In accordance with the Miller Act (40 U.S.C. 270a, restated at 40 U.S.C. 3131), the CO may require performance and payment bonds or alternate payment protection for any leased construction, alteration, or repair work.

329 **Debriefings and Appeals**

Within a reasonable time (generally, not to exceed 15 days) of learning of a Postal Service Facilities action, an interested party may make a written request for a debriefing. Debriefings may be done in person, in writing, by electronic means, or any other method mutually acceptable to the CO and the interested party. If the debriefing does not resolve the matter, the interested party may submit a written appeal to the appropriate Facilities manager, or designee, within 10 days. The Facilities manager, or designee, will issue a written appeal determination within 30 days.

33 **Methods of Acquisition**

331 **General**

Postal Service policy is to negotiate for the acquisition of real property and real estate services with terms and conditions in the best interest of the Postal Service. Negotiations must be conducted in a professional and ethical manner.

332 **Acquiring Property From Postal Service Employees or Personal Services Contractors**

332.1 **Prohibited Actions**

Except as noted in 332.2, and to avoid actual or apparent conflicts of interest, the Postal Service is prohibited from entering into new agreements to option, purchase, or lease real property or contract for real estate services from:

- a. Any employee of the Postal Service or member of the employee's immediate family.

- b. Any individual bound by a personal services contract to the Postal Service, or members of the individual's immediate family.
- c. Any business organization substantially owned or controlled by Postal Service employees, personal services contractors, or members of their immediate families.
- d. Any former Postal Service officer, executive, or employee.

332.2 **Exceptions**

332.21 **Leasing – Net Interior Space**

332.211 **Less Than 3,000 Square Feet**

The prohibitions outlined in 332.1 do not apply to new lease agreements, renewals, or extensions of leases under 3,000 square feet of net interior space that is currently occupied by the Postal Service.

Net interior space under 3,000 square feet not currently occupied by the Postal Service may be leased when determined by the CO to be in the best interest of the Postal Service and with the written concurrence of the FSO manager.

332.212 **More Than 3,000 Square Feet**

New lease agreements, renewals, or extensions of leases exceeding 3,000 square feet of net interior space that is currently occupied by the Postal Service may be executed by the CO when in the best interest of the Postal Service and following the initial, first-time written approval of the Postal Service Law Department ethics official and the national manager Real Estate.

Leases for new space not previously occupied by the Postal Service with a net interior exceeding 3,000 square feet may be executed by the CO with written concurrence of the Postal Service Law Department ethics official and the national manager Real Estate.

Note: Once an approval is obtained, future contract renewals of any type may be executed by the CO as long as there is no change affecting the ownership.

332.22 **Land Leases**

332.221 **Less Than \$25,000 Per Annum**

Ground leases (or leases) for unimproved property (land only) with an annual rent less than \$25,000 may be renewed and executed by the CO with written concurrence from the FSO manager. Ground leases (or leases) for unimproved property (land only) not previously occupied by the Postal Service, with an annual rent less than \$25,000, may be executed by the CO with written concurrence from the FSO manager.

332.222 **More Than \$25,000 Per Annum**

Ground leases (or leases) for unimproved property (land only) with an annual rent exceeding \$25,000 may be renewed and executed by the CO following the initial, first-time written approval of the Postal Service Law Department ethics official and the Real Estate national manager.

Ground leases (or leases) for unimproved property (land only) not previously occupied by the Postal Service with an annual rent exceeding \$25,000 may

be executed by the CO with written agreement from the Postal Service Law Department ethics official and the Real Estate national manager.

Note: Once an approval is obtained, future contract renewals of any type may be executed by the CO as long as there is no change affecting the ownership.

332.23 **Purchasing**

Regardless of the size of the building or the dollar amount of the contract, an option to purchase or a purchase option rider may only be executed by the Postal Service if:

- a. The CO determines in writing that doing so is in the best interest of the Postal Service.
- b. The Postal Service Law Department ethics official reviews a full statement by the CO of all known possible conflicts of interest, and after review, concurs in writing with the proposed purchase.
- c. The Area Operations vice president, or designee, concurs in writing that the purchase of the property is in the best interest of the Postal Service.
- d. The Facilities vice president concurs in writing that the purchase of the property is in the best interest of the Postal Service.

Note: Postal Service employees are discouraged from purchasing a building currently leased and occupied by the Postal Service. The employee should contact the Postal Service Law Department ethics official before taking any action to purchase the building.

332.3 **Eminent Domain**

Although the Postal Service retains authority under the Postal Reorganization Act to exercise its right of eminent domain, Postal Service policy is to use condemnation or threat of condemnation to acquire real property or rights to real property only when there are no reasonable alternatives. Written approval of the Facilities vice president and postmaster general must be obtained before using or threatening use of condemnation. However, non-adversarial (e.g., friendly) condemnation may be used with the written approval of the Facilities vice president and the General Counsel.

333 **Due Diligence**

It is Postal Service policy to perform due diligence, as necessary, when acquiring property that will be used by the Postal Service.

333.1 **Estimate of Value**

Postal Service policy is to establish a value estimate of the rights to be acquired in real property where Postal Service requirements exist. An analysis of value is performed before every purchase, sale, or lease of real property, with the exception of leases with annual rent less than \$10,000.

A contract fee appraisal is obtained when the anticipated lease rent exceeds \$150,000; the anticipated market value of the property exceeds \$250,000; or when the project requires Headquarters approval. The Postal Service must

develop an analysis of value in-house for all other projects requiring an estimate of value.

The Postal Service reviews all contract fee appraisals to ensure the appraisal meets the specifications set forth in the *Contract for Real Estate Services*.

333.2 **Preservation of New Deal Arts Collection**

It is the policy of the Postal Service to preserve, protect, and maintain the collection of murals and sculptures created under the New Deal arts programs. No artwork may be removed, sold, lent, or otherwise disposed of without the express approval of the Federal Preservation Officer (FPO).

The New Deal Arts Collection is defined as those murals and sculptures commissioned from 1934 to 1944 under the Treasury Department Section of Painting and Sculpture, Section of Fine Arts, and the Treasury Relief Art Project (TRAP), specifically for Postal Service facilities. This collection does not include artworks commissioned for Postal Service facilities outside of this period and programs. A complete inventory of the New Deal Arts Collection is available from the FPO.

333.3 **Protection of the Environment**

The Postal Service complies with the policies and procedures in Handbook RE-6, *Facilities Environmental Guide*, before acquiring title or occupying leased space. Environmental services may be performed by Postal Service employees or contracted for in accordance with the procedures in this publication.

4 Releasing Information to the Public

Facilities may release to the public information concerning the location of real property selected for new Postal Service facilities consistent with the Freedom of Information Act (FOIA) and with the *Community Relations Regulations*.

The release of other real-estate information is governed by Postal Service FOIA regulations and processes.

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5 Asset Management

51 Disposal of Excess Real Property

Postal Service policy is to dispose of excess real property under the terms and conditions that provide the greatest value to the Postal Service. Disposition may be by sale, exchange, outlease, sublease, or by other means determined to be in the best interest of the Postal Service.

52 Relationship With the General Services Administration

The Postal Service's relationship with GSA regarding real property disposal is outlined in the 1985 GSA/USPS Agreement and the Letter of Understanding dated February 2005. The Postal Service conducts its business with GSA under the joint relationship provided in this agreement. Any deviation from this agreement must be approved by the Realty Asset Management manager, Headquarters.

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