

Re-adopt Tra 1000, as amended, previously effective 10-23-2012 (Document #10209), expiring 10-23-2022, to read as follows:

CHAPTER Tra 1000 PROCESS FOR MARKETING AND SALE OF STATE OWNED PROPERTY UTILIZING REAL ESTATE PROFESSIONALS

Statutory Authority: RSA 228:31-b

PART Tra 1001 PURPOSE

Tra 1001.01 Purpose. The purpose of this chapter is to establish requirements and set forth the process for pre-qualification of real estate professionals intending to sell state-owned property, the selection of the pre-qualified real estate professionals, as provided in RSA 228:31-b, III, and the sale of the state-owned property.

PART Tra 1002 GENERAL ADMINISTRATION

Tra 1002.01 Scope.

- (a) The requirements contained herein shall apply to all those who intend to enter the pre-qualification and selection process seeking award of a contract to sell state-owned property advertised by the department.
- (b) Only a real estate professional pre-qualified under this part shall be eligible to sell state-owned property advertised by the department for the term specified under Tra 1003.01(f).
- (c) State employees shall be prohibited from receiving compensation from the sale of department owned properties through this process.

Tra 1002.02 Definitions.

- (a) "Commissioner" means the commissioner of the New Hampshire department of transportation, or the Commissioner's agent.
- (b) "Contract" means a written agreement between the state and a real estate professional, who is pre-qualified under Tra 1003.01, setting forth the obligation of the parties thereunder, including, but not limited to, the performance of the work and

the basis of payment, and any supplemental documents identified to the contract or incorporated into the agreement.

- (c) "Contractor" means a real estate professional pre-qualified under Tra 1003.01.
- (d) "Department" means the New Hampshire department of transportation.
- (e) "Pre-qualification committee" means a committee from within the department consisting of the department's right-of-way administrator, chief appraiser, and the department's chief of property management.
- (f) "Real estate professional" means an individual or company that is licensed by the New Hampshire real estate commission.
- (g) "State" means the state of New Hampshire.

**PART Tra 1003 PROCESS FOR PRE-QUALIFICATION AND SELECTION OF REAL ESTATE PROFESSIONALS AND SALE OF STATE-OWNED PROPERTY**

**Tra 1003.01 Pre-Qualification Process**

- (a) Every 3 years the department shall solicit interest by advertisement in newspapers and written contact to professional real estate organizations.
- (b) When the department receives notice that a real estate professional is interested in pre-qualification, the department shall send the interested real estate professional a list of the pre-qualification criteria appearing below at Tra 1003.01(d).
- (c) The department shall also send interested real estate professionals a map or list identifying real estate regions.
- (d) The real estate professional shall submit a proposal to the department containing the following:
  - (1) Qualifications and experience of key personnel;
  - (2) Staffing capacity and personnel coverage within the region;

- (3) Sample market analyses;
- (4) The real estate professional's field of expertise, whether it is residential property, commercial or industrial property, or vacant land;
- (5) Past experience and success selling properties in the real estate professional's field of expertise;
- (6) Which region(s) of the state they are willing to accept work in;
- (7) Name of the real estate professional submitting the proposal;
- (8) Complete address;
- (9) Date of submission; and
- (10) Telephone number.

(e) Every 3 years the pre-qualification committee shall review the proposals submitted to the department and determine whether the real estate professional has submitted information required in Tra 1003.01(d) and demonstrated competence and qualifications based on experience in the appropriate real estate specialty to market and sell state-owned property advertised by the department. Once pre-qualified, the real estate professional shall be placed on the pre-qualified list and assigned to one or more regions, as requested by the real estate professional pursuant to Tra 1003.01(d)(6).

(f) Once the pre-qualification committee determines which real estate professionals shall be pre-qualified, all real estate professionals who submitted a proposal shall be notified of the pre-qualification committee's determination and that the department shall contact them once property has been deemed surplus and is to be sold by a real estate professional. Pre-qualified real estate professionals shall be placed on the pre-qualified list. They shall remain on the list for a period of 3 years, unless the real estate professional fails to continue to meet the pre-qualification requirements. Real estate professionals who are not pre-qualified shall be notified of their right to appeal pursuant to Tra 1003.05.

#### Tra 1003.02 Denial of Pre-Qualification

- (a) The department shall deny pre-qualification status to a real estate professional who fails to provide the required information pursuant to Tra 1003.01(d). Prior to issuing

a denial, the department shall first notify the real estate professional that the information provided is incomplete and allow the real estate professional a minimum of 5 business days to provide the missing information.

- (b) The department shall deny pre-qualification status to any real estate professional who fails to show demonstrated competence and qualifications based on experience in the appropriate real estate specialty.
- (c) The department shall further deny or revoke pre-qualification status to a real estate professional by written notification when he or she knowingly made materially false, deceptive or fraudulent statements in his or her proposal. Loss of a real estate professional's New Hampshire license to sell real estate shall result in denial or revocation of pre-qualification.
- (d) The department shall provide written notice when a real estate professional's pre-qualification status is denied or revoked.

Tra 1003.03 Selection Process

- (a) Once a property has been deemed surplus and qualifies for sale by a real estate professional, the pre-qualification committee shall ask each pre-qualified real estate professional in the region to develop a market analysis based on a specific scope of services.
- (b) The market analysis shall include the following information:
  - (1) A description of the subject property;
  - (2) A comparison of the subject property to at least 3 other comparable properties that sold in the past year, if possible;
  - (3) A listing of similar properties currently for sale on the market;
  - (4) The real estate professional's "Opinion of Value" for the subject property;
  - (5) The real estate professional's proposed fees for real estate services;
  - (6) A list of qualifications and experience for the listing real estate professional;
  - (7) Certification that the real estate professional holds all required licenses to sell real estate in the state of New Hampshire;

- (8) The real estate professional's marketing strategies for the subject property, including a listing of all media outlets the real estate professional intends to use; and
- (9) The real estate professional's anticipated marketing time required to sell the property.
- (c) The market analyses for each property shall be submitted to the pre-qualification committee for review.
- (d) The pre-qualification committee shall evaluate the market analyses submitted by the real estate professionals and rank the top 3 based on the proposal that provides the state with the best value considering scope, complexity, and professional nature of the services to be provided. In the case of a tie, the pre-qualification committee shall draw names by random selection and make the first offer to the individual whose name is drawn first.
- (e) The department shall request approval from the long range capital planning and utilization committee to market the property with the top ranked real estate professional and to sell for the price proposed by the department. Pursuant to RSA 4:39-c, after receiving the long range capital planning and utilization committee's approval, the department shall first offer the property to the government of the town, city, or county in which the property is located. The town, city, or county shall have 30 days to respond to the department's offer.
- (f) If the town, city, or county declines the department's offer or does not respond within 30 days, the department shall offer the listing to the top ranked real estate professional first, and if an agreement cannot be reached, the listing shall be offered to the second ranked real estate professional and so on, subject to approval from long range capital planning and utilization committee.
- (g) The department shall enter into a contract with the selected real estate professional to market the property. All terms within this contract shall be subject to governor and council approval.

PART Tra 1003.04 Sale Process

- (a) The real estate professional shall attempt to negotiate the highest sale price possible for the property. The real estate professional shall bring all offers forward to the department for consideration.

- (b) When the department receives an offer that it plans to accept, as determined under Tra 1003.03(d) thru (f), the department's right-of-way administrator or designee shall have the authority to enter into purchase and sales agreements to sell the property. All purchase and sales agreements shall be subject to the approval of the governor and council.
- (c) The department shall request approval from the governor and council to sell the property in accordance with the purchase and sales agreement. This request shall also ask for authorization to pay the real estate professional according to the terms outlined in the contract between the department and the real estate professional.
- (d) After the department receives approval from the governor and council, the department shall schedule a closing, the property shall be transferred to the buyer, and the real estate professional shall be paid.

PART Tra 1003.05 Requests for Hearing

- (a) Decisions of the pre-qualification committee with respect to denial or revocation of pre-qualification may be appealed to the commissioner by filing a request for hearing pursuant to RSA 541-A: 31-36 and Tra 200.
- (b) In the event of revocation of pre-qualification status by the pre-qualification committee, the revocation shall be held in abeyance pending a hearing and final decision in accordance with Tra 1003.05(d) and (e).
- (c) A request for hearing shall be made in accordance with Tra 200 to the department at the following address:

State of New Hampshire  
Department of Transportation, P.O. Box 483  
Concord, NH 03302-0483  
Attention: Hearing Examiner
- (d) A request for hearing shall be in writing and made within 30 days from the date of receipt by the real estate professional of the decision. It is the real estate professional's burden to show that the department erred in denying or revoking the pre-qualification status by a preponderance of the evidence.
- (e) The filing of a request for hearing shall not stay the selection and sale process on any proposed contract.

**Tra 1000 - APPENDIX**

Rule	Statute
Tra 1001.01	RSA 228:31-b
Tra 1002.01	RSA 228:31-b, I, II, III
Tra 1002.02	RSA 228:31-b
Tra 1003.01	RSA 228:31-b, II, III, IV
Tra 1003.02	RSA 228:31-b, II, III
Tra 1003.03	RSA 228:31-b, II, III, IV, V, VI, VII, VIII, RSA 4:40, I
Tra 1003.04	RSA 228:31-b, II, V, VIII,
Tra 1003.05	RSA 228:31-b, RSA 541-A, 31-36