

JUNE 2021



Iowa Department
of Transportation

Right of Way Disposal Process



INTRODUCTION

The Department of Transportation (Iowa DOT) frequently purchases property for highway purposes (“Required ROW”) as well as non-highway purposes such as maintenance buildings and sites. Occasionally through the vacating of maintenance sites or the realignment of highways, it is necessary for the Iowa DOT to sell excess property.

Property Management Section complies with land disposal procedures established by law and adheres with the policies provided in the Property Management Manual within the Right of Way Bureau as well as other Iowa DOT Policies and Procedures. In a summarized form, this document is intended to describe the processes by which the Iowa DOT goes about the sale of these properties.

The conversion and disposal of properties that were purchased for highway purposes or “Required ROW” is governed by Iowa Code (IC) section 306.23 while disposal of other properties like maintenance facilities is not. Because of this, the processes for the sale of these different kinds of property are similar, but not exact.

DISPOSAL PROCESS FOR EXCESS HIGHWAY RIGHT OF WAY (IC 306.23)

Normally the conversion of “Required ROW” to “excess ROW” is initiated by the respective District in which the property lies. This happens for a variety of reasons, but occasionally land that was purchased for highway purposes is no longer needed and the relevant District requests that it be considered for conversion to “excess ROW” and sold. This may be driven by a request from the public, but most often it is a proactive review by the Iowa DOT to manage its right of way. ***If the request is received from the public, the requestor is responsible for all costs associated with the survey, appraisal and review appraisal before the conversion from required to excess ROW and disposal process begins. The Property Management Section will determine which appraiser and review appraiser that will be used by the requestor.***

If the District recommends or agrees that a portion of “Required ROW” can be considered for conversion to “excess ROW”, the process below describes the conversion, sale and disposal of this “excess ROW”:

CONCURRENCE TO SELL

The Property Management Section confirms and documents that the excess land will not be needed for highway purposes in the future. Concurrences to sell are requested from the following:

- A. Applicable Iowa DOT District
- B. Iowa DOT Design Bureau
- C. Iowa DOT Support Services Bureau
- D. Iowa DOT Location and Environment Bureau
- E. Iowa DOT Traffic and Safety Bureau
- F. Iowa DOT Systems Planning Bureau
- G. FHWA concurrence of disposal of Interstate right of way

ENSURE STATE & FEDERAL COMPLIANCE REQUIREMENTS

The Property Management Section secures the necessary information and data to ensure compliance with state and federal requirements. This includes:

- A. Determining the owner(s) at the time of acquisition and the present owner(s) of adjacent tracts from which the parcel was originally taken;
- B. Securing a survey plat and legal description of the land to be disposed;
- C. Obtaining independent fee appraisal per Iowa Code section 306.23; and
- D. Obtaining a review appraisal.

OFFER TO BUY PREPARATION

The Property Management Section prepares an Offer to Buy that is subject to the conditions imposed by Iowa Code sections 306.22, 306.23, 306.24, and 306.25. This offer will specify any other sale conditions such as:

- A. Reservation or prohibition of applicable access rights; and
- B. Any other applicable reservations, covenants, or restrictions.

LAND DISPOSAL PROCESS

The owner(s) at the time of acquisition, as well as the owner(s) of adjacent tracts are notified and given 60 days to submit an offer and exercise a purchase preference.

An offer must equal or exceed fair market value of the property as determined by the appraisal. Preference is given to the highest timely offer received by the Iowa DOT.

If the property is sold at Step 1 of the Land Disposal Process, the sales process will continue, and a State Land Patent will be prepared.

If no acceptable offers are received, Property Management proceeds to Step 2 of Land Disposal Process.

STEP 1 of the Excess Land Disposal Process: Iowa Code section 306.23 requires specific processes be completed when disposing of land no longer required as highway right of way.

State agencies, counties, or cities are notified and given an opportunity to purchase the excess property.

Offers must be returned within 30 days of date of mailing.

An offer must equal or exceed fair market value of property as determined in the appraisal. Preference is given to the highest timely offer received by the Iowa DOT.

If the property is sold at Step 2 of the Land Disposal Process, the sales process will continue, and a State Land Patent will be prepared.

If no acceptable offers are received, Property Management proceeds to Step 3 of the Land Disposal Process.

STEP 2 of the Excess Land Disposal Process is governed by Iowa Dot policy. At this point in the process, the parcel will be offered to other governmental entities.

Abutting owners are notified and given the opportunity to purchase the excess property.

Offers must be returned within 30 days of date of mailing.

An offer must equal or exceed fair market value of property as determined in the appraisal. Preference is given to the highest timely offer received by the Iowa DOT.

If the property is sold at Step 3 of the Land Disposal Process, the sales process will continue, and a State Land Patent will be prepared.

If no acceptable offers are received, Property Management proceeds to Step 4 of the Land Disposal Process.

STEP 3 of the Excess Land Disposal Process is governed by Iowa Dot policy. At this point in the process, the parcel will be offered to abutting owners.

The Iowa DOT may hold a live or electronic Public Auction for sale of the excess property.

The Iowa DOT reserves the right to refuse any auction bid.

If the property is sold at Step 4 of the process, the sales process will continue, and a State Land Patent will be prepared.

STEP 4 of the Land Disposal Process is also governed by Iowa DOT policy: At this point in the process, the Iowa DOT may offer the property to the public by means of a public sale.

CONVEYANCE OF THE PROPERTY

Once the sale of the property occurs by one of the steps noted above, the property is conveyed to the buyer as follows:

- A. A State Land Patent is prepared;
- B. The documents are reviewed by DOT General Counsel;
- C. A request is sent to the State Land Office to secure the Governor's signature;
- D. The State Land Patent is recorded with the applicable county recorder; and
- E. The purchaser is provided with the recorded State Land Patent.

DISPOSAL PROCESS FOR EXCESS REAL ESTATE (NON-306.23 PROPERTIES)

Occasionally the respective Iowa DOT District or Iowa DOT Support Services Bureau requests that properties such as vacated maintenance garages & sites, that were NOT acquired for highway purposes, be sold.

The public may also occasionally request that a portion of an existing Iowa DOT owned site be sold.

These properties are not governed by Iowa Code section 306.23 and the disposal process, while similar, is slightly different. The Iowa DOT Right of Way Bureau - Property Management Section proceeds with these disposals based upon the procedure described below:

ENTIRE NON-306.23 PARCEL DISPOSAL PROCESS

For disposals where the entire non 306.23 parcel is being sold (vacated Maintenance sites and buildings), the Support Services Bureau will request disposal of the parcel by the ROW Bureau:

CONCURRENCE TO SELL

The Property Management Section confirms and documents concurrences to sell the property from the following:

- Iowa DOT Design Bureau
- Iowa DOT Location and Environment Bureau
- Iowa DOT Traffic and Safety Bureau
- Iowa DOT Systems Planning Bureau

DETERMINATION OF VALUE

- The fair market value of the parcel is determined by an independent appraiser.
- An appraisal review is performed by staff or an independent appraiser.

PUBLIC OFFER TO BUY PREPARATION

- State agencies, counties, or cities are notified and given the opportunity to purchase the property.
 - A. Offers must be returned within 30 days of mailing.
 - B. An offer must equal or exceed fair market value of property as determined in the appraisal.
Preference is given to the highest timely offer received by the Iowa DOT.
 - C. If no valid offer is received at the end of 30 days, the parcel is advanced to public auction.

PUBLIC AUCTION

- If no offers are received from other state agencies, counties, or cities, a public auction can be held to sell the property. Iowa DOT Right of Way Bureau – Property Management determines if the auction will be electronic or live.
 - A. Property Management reserves the right to refuse any auction bid received.
 - B. If the property is sold, the sales process will continue, and a State Land Patent will be prepared.

CONVEYANCE

- Conveyance of the property concludes the disposal process.

The conveyance process is briefly described as follows:

- A. A State Land Patent is prepared.
- B. The documents are reviewed by Iowa DOT General Counsel.
- C. A request is sent to the State Land Office to secure the Governor's signature.
- D. The State Land Patent is recorded with the applicable county recorder.
- E. The purchaser is provided the recorded State Land Patent.

PORTION OF NON-306.23 PARCEL DISPOSAL PROCESS

Occasionally a request is received to dispose of only a portion of a Maintenance or Building site owned by the Iowa DOT. The following process documents the process for disposals where **only a portion** of the non-306.23 parcel is being requested.

CONCURRENCE TO SELL

The Property Management Section confirms and documents concurrences to sell the property first from the appropriate District office and if approved, then from the Bureaus listed below:

- Iowa DOT Support Services Bureau
- Iowa DOT Design Bureau
- Iowa DOT Location and Environment Bureau
- Iowa DOT Traffic and Safety Bureau
- Iowa DOT Systems Planning Bureau

DETERMINATION OF VALUE

Fair Market Value is determined through an independent fee appraisal and review appraisal.

- The Requestor is responsible*** to provide an excess land survey and all costs associated with its production. This survey will be reviewed by the appropriate District survey staff.
- The Requestor is also responsible*** for all costs associated with production of an appraisal as well as an independent review appraisal. Iowa DOT Right of Way Bureau – Property Management shall determine which appraiser and review appraiser will be used. Fair market value is determined through the appraisal and review appraisal.

OFFER TO BUY PREPARATION

- State agencies, counties, or cities are first notified and given the opportunity to purchase the property.
 - A. Offers must be returned within 30 days of date of mailing.
 - B. An offer must equal or exceed fair market value of property as determined in the appraisal. Preference is given to the first timely offer received by the Iowa DOT.
 - C. If no valid offer is received at the end of 30 days, the parcel is advanced to public auction.

PUBLIC AUCTION

- If no offers are received from other state agencies, counties, or cities, a public auction is held to sell the property. Iowa DOT Right of Way Bureau – Property Management determines if the auction will be electronic or live.
 - A. Property Management reserves the right to refuse any auction bid.
 - B. If the property is sold, the sales process will continue towards conveyance.

CONVEYANCE

- Conveyance of the property concludes the disposal process.
The conveyance process is briefly described as follows:
 - A. A State Land Patent is prepared.
 - B. The documents are reviewed by Iowa DOT General Counsel.
 - C. A request is sent to the State Land Office to secure the Governor's signature.
 - D. The State Land Patent is recorded with the applicable county recorder.
 - E. The purchaser is provided the recorded State Land Patent.

FUNCTIONAL REPLACEMENT OF REAL ESTATE (NON-306.23 PROPERTIES)

On a rare occasion, it may be in Iowa DOT's interest to allow functional replacement of non-306.23 properties (that are currently owned by the Iowa DOT) by another public agency. This may be commonly referred to as a *swap*. While this is infrequently done, it may be of mutual benefit on rare occasions. Consideration of functional replacement will not be entertained with private entities.

GENERAL

When real property, including land and/or facilities, owned by Iowa DOT are to be acquired by another public agency, in lieu of paying the fair market value for the real property, the acquiring agency and Iowa DOT may agree that the acquiring agency functionally replace Iowa DOT's real property with another facility that will provide equivalent or better utility for Iowa DOT.

A functional replacement can only be completed under the following terms and conditions:

- A. Iowa DOT ROW Bureau must confirm that IC 306.22 and 306.23 are not applicable to this parcel;
- B. Iowa DOT must ensure that any relocation of buildings or structures or any other changes necessary in order to complete this transaction are done such that DOT is left in a position that is equal to or better than what DOT currently has on this parcel so that the needs of the public will continue to be met at the same level as before and with the same resources as before, despite any such relocation or changes.
- C. The acquiring public agency must be responsible for all costs associated with any of the activities required under (B) above, even if they are in excess of the fair market value of the parcel so that Iowa DOT is not financially harmed at all by this transaction. The acquiring public agency must guarantee and be responsible for all such costs, irrespective of any economic development agreement it may have with others.
- D. Iowa DOT will hire an independent certified general appraiser to appraise the parcel;
- E. Upon receipt of the appraisal, DOT will forward this appraisal to the acquiring public agency along with an offer supported by the appraisal report. The offer will be subject to the conditions set forth in (C) above, and may also be subject to other additional conditions relating to the site or facility or potential environmental concerns
- F. The acquiring public agency will have 30 days to accept DOT's offer. Counteroffer's will not be entertained.