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MANUAL 900-1

SECTION 02.1

TRANSACTION ANALYSIS PROCESS

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BUREAU OF MANAGEMENT ANALYSIS AND PROJECTS

## **1. Purpose**

The purpose of this procedure is to outline the review and approval process for a proposed use or disposal of real property that is under the jurisdiction of the New York State Canal Corporation (Corporation). The purpose of the review and approval process is to determine that the proposed use of the parcel(s) is consistent with the New York State Canal Recreationway Plan (CRP) and Corporation goals, to determine the most appropriate transaction for the use or disposal of the property (that is, permit, lease or sale), and if a competitive process is required for the transaction.

## **2. Applicable Law and/or Guidance**

New York State Canal Law

New York State Finance Law §139-j, §139-k

New York State Public Authorities Law §382

New York State Public Authorities Law, Article 2, Title 9, and Article 9, Title 5-A

21 NYCRR Subchapter D Canal System

New York State Canal Recreationway Plan

Canal Real Property Management Policy (25-6-01C)

Executive Instruction entitled Code Of Ethics

Executive Instruction entitled Inappropriate Lobbying Influence In Authority/Corporation Procurements

Executive Instruction entitled Issuing A Work Permit For Preliminary Planning Purposes In Advance Of A Contemplated Occupancy Permit Or Disposal Of Real Property

## **3. Introduction**

The Corporation is responsible for the maintenance, operation, construction, reconstruction, improvement, development, financing and promotion of the Canal System and for implementation of the CRP. In accordance with the provisions of the Canal Law, the Corporation has the authority to acquire, hold and dispose of real property to advance the purposes of the Corporation and thus, the interest of the State.

Prior to carrying out a transaction, an analysis shall be conducted to determine whether the property is needed for Corporation purposes and if the proposed use of the parcel(s) is consistent with the CRP and Corporation goals, the best type of transaction to allow use or dispose of the property, and if a competitive process is required. The TRANSACTION ANALYSIS/RECOMMENDATION (TAR) (TA-N99116)<sup>+</sup> will be used to document this analysis and approval process and will be included in the Transaction Record. The process will also determine if a survey map or plot plan and/or an appraisal is required.

**Note:** Work permits are issued by Divisions and do not require completion of the TAR. However, a detailed analysis should be conducted to ensure that a work permit is the appropriate transaction for the requested activity. For processing an inquiry for a work permit see the SOP – WORK PERMITS (900-1-02.8).

Work permits shall not be issued in advance of a contemplated occupancy permit or disposal, unless approved by the Executive Director, except in those situations when preliminary planning work such as site inspections, surveys, environmental testings, soil borings, etc. is necessary for preparation of materials to be submitted as part of the application package for an occupancy permit or disposal. In all other instances, when a work permit is requested in advance of a contemplated occupancy permit or disposal, the Division Canal Engineer (DCE) should consult with the Office of Real Property Management (ORPM) prior to taking any action.

## **4. Procedure**

### **4.1. Corporation Initiated Disposals**

The Corporation may dispose of any real property for its corporate purpose. These are properties that are no longer necessary or useful as part of the Canal System and the disposal of the property is in the best interest of the Corporation. When the Corporation initiates the disposal, the DCE/designee completes a TAR to determine if the property is needed for Corporation purposes and if the proposed use is consistent with the CRP and Corporation goals and proceeds to Section 4.3.

<sup>+</sup> Exhibit 1

## 4.2. Inquiries Into Land Under the Jurisdiction of the Canal Corporation

- 4.2.1. Any Division employee who receives an inquiry regarding the issuance of permits or the disposal of real property under the jurisdiction of the Corporation shall provide the information to the DCE/designee for review. The DCE/designee reviews the information and, as necessary, discusses the inquiry with the employee and/or the inquirer.
- 4.2.2. During the inquiry stage or anytime during the transaction analysis process, if an inquirer/applicant expresses an interest in a disposal for less than fair market value, the DCE/designee refers to DISPOSALS FOR LESS THAN FAIR MARKET VALUE<sup>+</sup> and communicates to the inquirer/applicant the information that will eventually be required to be provided to the Corporation Board for a less than fair market value transaction to be considered, including information that the inquirer/applicant will be required to provide.
- 4.2.3. Based upon the nature of the inquiry and the information provided, the DCE/designee sends the appropriate application package to the person/entity who has made the inquiry. In general, the following application forms will be sent:
- A CANAL PERMIT APPLICATION (TA-W99072) for inquiries regarding a revocable instrument that authorizes: (a) the temporary, restricted use of a specific site of real property under the jurisdiction of the Corporation, including, temporary use of canal lands or structures, and the diversion of canal waters for sanitary, farm purposes, or industrial use; or (b) construction, maintenance, inspection, survey or other type of work or short term activity on a specific site of real property under the jurisdiction of the Corporation or the use of Corporation personal property.
  - A CANAL REAL PROPERTY APPLICATION (TA-W94415) for inquiries regarding sale, lease, easement or other transfer of interest in real property.

DCE/designee refers to the appropriate SOP for what is required in a complete application package, including supporting documentation, State Environmental Quality Review Act (SEQRA) requirements, etc., and processes the application in accordance with that SOP.

- 4.2.4. The Director of Canals and/or designee(s) are copied on any letters, information or material sent in response to an inquiry into land under the jurisdiction of the Corporation. Copies of all such materials should also be made and placed in the Division file.

<sup>+</sup> Exhibit 10

- 4.2.5. When the completed application, application fee, and supporting documentation are received, a Real Property Reference Number/Occupancy Permit Number is assigned as follows:
- For Occupancy Permits, the Occupancy Permit Number is generated by PERMITS Plus when the application is entered into that database.
  - For Real Property Disposals, the Division Secretary assigns the Real Property Reference Number which is eight (8) characters, beginning with a letter for the Division (A-Albany, B-Buffalo, S-Syracuse), followed by a C (for Canals), then the 2 digit year (12 - for 2012) and finally a 4 digit sequential number (the first number assigned in 2012 by the Albany Canal Division would be AC120001).
- 4.2.5.1. The Real Property Reference Number/Occupancy Permit Number is recorded on the TAR and should be included on all subsequent correspondence associated with the transaction.
- 4.2.6. If a check is enclosed with the application, the DCE/designee records the check and other pertinent information on the REAL PROPERTY CHECK LOG (LOG) (TA-N5120-9) on the day of receipt. On that same day of receipt, the DCE/designee also:
- Completes the FIELD PAYMENT RECEIPT (RECEIPT) (TA-41341) and, if permit related, links the RECEIPT to PERMITS Plus; and
  - Makes two copies of the RECEIPT and sends one copy with the check attached to the Accounts Receivable Unit (ARU), and sends the other copy to the applicant.
- 4.2.7 ARU processes the fee and, if permit related, notes receipt of the fee in PERMITS Plus.
- 4.2.8. A Transaction Record must be created for each transaction and must contain a complete record of all documentation associated with a transaction. Transaction Records for permits are created and kept in the Division, while Transaction Records for disposals are created and kept in ORPM.
- 4.2.9. The DCE/designee completes a TAR to determine if the property is needed for Corporation purposes and if the proposed use is consistent with the CRP and Corporation goals.

### 4.3. Providing Real Property Information

The DCE/designee considers all factors listed in Section II (Real Property Information) of the TAR (and any other salient factors) in relation to the property. The DCE/designee provides information/descriptive explanations/concerns regarding each factor considered. For guidance and information necessary to complete Section II of the TAR, refer to TAR SECTION II - CONSIDERATION FACTORS<sup>+</sup>.

### 4.4. Review of Proposed Use

The DCE/designee then determines if the property is needed for Corporation purposes and whether the proposed use is consistent with the CRP and Corporation goals by considering the factors in Section III (Analysis) of the TAR.

4.4.1. The first threshold question (number 1 in **bold** on the TAR) is whether the land is needed for Corporation purposes such as navigation, maintenance, repair, dredging, operation, etc. The Office of Canal Maintenance and Operations may be contacted to assist in this determination, depending on the complexity of the proposed transaction.

4.4.1.1. If the land is not needed for Corporation purposes or if it is needed for Corporation purposes but a permit or transfer of a partial interest in the property (e.g., lease) is an option, the DCE checks the “No” box and continues with 4.5. The Office of Canal Maintenance and Operations may also assist in determining any alternative options for use, such as a lease that would not interfere with Corporation operations, and whether any permits from other regulatory agencies (Army Corp of Engineers, etc.) are required.

4.4.1.2. If the land is needed for Corporation purposes and a permit or an alternate transfer of interest is not an option, then the DCE checks the “Yes” box on question 1, provides an explanation in the Comments/Rationale field, completes Section IV of the TAR, checking the “Application Rejected” box, then signs and dates the TAR and sends the TAR, along with the application and all supporting documentation (collectively the “TAR Package”), to ORPM with a

<sup>+</sup> Exhibit 2

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900-1-02.1

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copy to the Director of Canals and places a copy of the TAR Package in the Division file. ORPM then sends a REJECTION LETTER<sup>1</sup> notifying the applicant that the land is needed for Corporation purposes.

- If the application was for a disposal, ORPM places the original TAR Package and a copy of the letter in the Transaction Record and sends copies of the TAR and letter to the DCE for the Division file. Procedure stops here.

OR

- For a Corporation initiated disposal, ORPM places the original TAR Package and a note in the Transaction Record and sends copies of the TAR and note to the DCE for the Division file. Procedure stops here.

OR

- If the application was for an occupancy permit, ORPM places a copy of the TAR Package and letter in the Headquarters file and sends the original TAR Package and a copy of the letter to the DCE for the Transaction Record. Division Secretary updates the PERMITS Plus file status. Procedure stops here.

#### **4.5. Review of Proposed Use for Consistency with the CRP and Corporation Goals**

The next threshold question is if the proposed use is consistent with the CRP and Corporation goals. To determine this, the DCE/designee considers the remaining factors listed in Section III (Analysis) of the TAR. To assist with this determination, the DCE/designee considers the criteria provided in DETERMINING CONSISTENCY WITH CRP AND CORPORATION GOALS<sup>2</sup> and then completes the remaining questions of Section III on the TAR.

<sup>1</sup> Exhibit 3

<sup>2</sup> Exhibit 4

#### **4.6. Completing Review of the Proposed Use**

Once all consideration factors in Section III of the TAR have been reviewed and a determination (“Yes” or “No”) for each has been provided, along with explanations as necessary, the DCE/designee completes the review by indicating if the proposed use is consistent with CRP and Corporation goals.

4.6.1. If the proposed use is consistent with CRP and Corporation goals, the process continues with 4.7.

4.6.2. If it is determined that the proposed use is not consistent with CRP and Corporation goals, the DCE completes Section IV of the TAR, checking the “Application Rejected” box, then signs and dates the form and sends the TAR Package to ORPM with a copy to the Director of Canals and places a copy of the TAR Package in the Division file. ORPM then sends a REJECTION LETTER<sup>1</sup> notifying the applicant that the proposed use is not consistent with CRP and Corporation goals. Return to 4.4.1.2 and refer to bulleted items.

#### **4.7. Determining the Best Real Property Transaction**

4.7.1. Once all factors have been considered, the DCE makes a recommendation for the best transaction to allow use or dispose of the property. Transactions may include an occupancy permit or disposals (e.g., leases, sales). To provide guidance in determining which transaction type should be recommended, refer to CRITERIA FOR RECOMMENDING THE BEST TRANSACTION TYPE FOR THE PROPOSED USE OR DISPOSAL OF REAL PROPERTY<sup>2</sup>.

4.7.2. The DCE then recommends the transaction to be used by checking the appropriate box(es) in Section IV of the TAR. The DCE then signs and dates Section IV of the TAR and distributes the TAR Package based on the recommended action as follows:

4.7.2.1. For recommended occupancy permits - sends to ORPM with a copy to the Director of Canals and places a copy of the TAR Package in the Transaction Record. The process continues with 4.8.

4.7.2.2. For recommended disposals - sends to ORPM and places a copy of the TAR Package in the Division file. The process continues with 4.9.

<sup>1</sup> Exhibit 3

<sup>2</sup> Exhibit 5

**Note:** TAR Packages should include, but not be limited to, the following supporting documentation:

- The TAR and the CANAL PERMIT or CANAL REAL PROPERTY APPLICATION
- A location map that includes: (a) an aerial photograph overlaid with the applicable tax map and identifies the requested parcel; (b) identification of any landmarks such as locks or bridges and labeled nearby roads; (c) identification of the adjacent owner(s)

If necessary, include:

- An overlay of the Canal residency sheet
- USGS Quad map
- Copy of deed of applicant if adjacent owner
- Photographs of the property, if available

#### **4.8. Occupancy Permit Review/Approval**

4.8.1. ORPM reviews the TAR Package and contacts the DCE with any questions/concerns regarding the recommended action. ORPM either approves or disapproves the issuance of the permit and signs/dates Section V.B. of the TAR.

4.8.1.1. If disapproved, ORPM sends a REJECTION LETTER<sup>1</sup> notifying the applicant and sends the original TAR Package and a copy of the letter to the DCE for placement in the Transaction Record and places a copy of the TAR Package and letter in the Headquarters file. Division Secretary updates PERMITS Plus file status. Procedure stops here.

4.8.1.2. If approved, ORPM refers to CRITERIA FOR DETERMINING SURVEY AND APPRAISAL PROCUREMENT<sup>2</sup> and indicates whether a survey map or plot plan and/or an appraisal is required.

<sup>1</sup> Exhibit 3

<sup>2</sup> Exhibit 6

- 4.8.2. ORPM returns the original TAR Package to the DCE and sends a copy of the TAR to the Director of Canals and also to the Contracting Officer (CO) for informational purposes only. CO approval is not required for permits. Division staff should see the SOP – OCCUPANCY PERMITS (900-1-02.7) for progressing the transaction.

#### **4.9. Disposal Review/Approval**

- 4.9.1. ORPM reviews the TAR Package and contacts the DCE with any questions/concerns regarding the recommended action. ORPM either concurs with or does not concur with the recommended disposal or recommends an alternate disposal by checking the appropriate box, and provides any comments regarding the recommended actions.
- 4.9.1.1. If not concurring, ORPM signs and dates Section V.C. of the TAR, obtains Director of Canals review/concurrence and sends TAR Package to the CO. Process continues with 4.9.6.
- 4.9.1.2. If concurring, ORPM refers to CRITERIA FOR DETERMINING SURVEY AND APPRAISAL PROCUREMENT<sup>1</sup> and indicates whether a survey map or plot plan and/or an appraisal is required.
- 4.9.2. ORPM indicates if disposal should be progressed via a competitive or non-competitive process. See DETERMINING WHEN A COMPETITIVE PROCESS MUST BE USED<sup>2</sup>.
- 4.9.2.1. For a competitive process, also indicates the competitive process to be used (e.g., Invitation For Bid, Request For Proposal, auction, sealed bid, etc.). See DETERMINING COMPETITIVE OPTIONS<sup>3</sup>.
- 4.9.2.2. When it is determined that the disposal will be through negotiation, indicates that an Explanatory Statement may likely be required. See CRITERIA FOR DETERMINING IF AN EXPLANATORY STATEMENT IS REQUIRED<sup>4</sup>.

<sup>1</sup> Exhibit 6

<sup>2</sup> Exhibit 7

<sup>3</sup> Exhibit 8

<sup>4</sup> Exhibit 9

- 4.9.3. Real property shall not be disposed of for less than fair market value except in limited circumstances as defined in DISPOSALS FOR LESS THAN FAIR MARKET VALUE<sup>+</sup>. If it is anticipated that the disposal may be for less than fair market value, ORPM checks the appropriate box on the TAR and ensures the applicant provides the necessary information so the Board can be provided with the information described in paragraph B of Exhibit 10. Before approving the disposal, the Board must consider the information provided and make a written determination that there is no reasonable alternative to the proposed below market transfer that would achieve the same purpose.
- 4.9.4. ORPM then signs, dates Section V.C. of the TAR and sends the TAR Package to the Deputy Director for Canal Maintenance and Operations.
- 4.9.4.1. The Deputy Director for Canal Maintenance and Operations reviews the TAR Package and ensures that the real property is not needed for Corporation purposes. The Deputy Director then concurs with or does not concur with the recommended disposal by checking the appropriate box, signs and dates Section VI.A. of the TAR and sends the TAR Package to Director of Canals.
- 4.9.4.2. The Director of Canals reviews the TAR Package and contacts ORPM, the DCE and/or the Deputy Director for Canal Maintenance and Operations with any questions/concerns regarding the recommended disposal. The Director then concurs with or does not concur with the recommended disposal by checking the appropriate box, signs and dates Section VI.B. of the TAR and returns the TAR Package to ORPM.
- 4.9.5. ORPM then sends the TAR Package to the CO for review and approval.
- 4.9.6. The CO reviews the TAR Package and contacts ORPM and/or the DCE with any questions/concerns.
- 4.9.6.1. Upon completion of the review, the CO either approves or disapproves the recommended disposal or may approve an alternate disposal.

<sup>+</sup> Exhibit 10

4.9.6.2. The CO then signs, dates Section VII of the TAR and returns the TAR Package to ORPM.

4.9.7. ORPM places the original TAR Package in the Transaction Record and sends a copy of the TAR to the DCE for the Division file and to the Director of Canals.

4.9.7.1. If the disposal is disapproved, ORPM sends a REJECTION LETTER<sup>+</sup> notifying the applicant, places a copy of the letter in the Transaction Record and sends a copy to the DCE for the Division file. For Corporation initiated disposals, ORPM places a note in the Transaction Record and sends a copy to the DCE for the Division file. Procedure stops here.

4.9.7.2. If approved, ORPM notifies applicant that the transaction is being progressed and follows the appropriate SOP.

## **5. Complying with §139-j and §139-k of the State Finance Law (Lobbying Law)**

Any contact (inquiry, etc.) made regarding real property subsequent to the first notice of a competitive process for disposal of such real property (solicitation, RFP, etc.) is subject to the Lobbying Law and must be recorded. See the Executive Instruction entitled INAPPROPRIATE LOBBYING INFLUENCE IN AUTHORITY/CORPORATION PROCUREMENTS. ORPM may be contacted with specific questions regarding the Executive Instruction and whether contacts need to be reported.

## **6. Conflicts of Interest**

Corporation employees may not have any interest or engage in any activity that would create or appear to create a conflict with the proper discharge of their public duties. If an employee feels they have an actual or potential conflict of interest relating to a real property transaction, the employee is required to contact the Legal Department or Joint Commission on Public Ethics as soon as he/she is aware of the potential or actual conflict. See the Executive Instruction entitled CODE OF ETHICS.

<sup>+</sup> Exhibit 3

## 7. Responsibilities

Accounts Receivable Unit processes application fees.

Contracting Officer is responsible for reviewing and approving/disapproving the transaction determination for disposals.

Deputy Director for Canal Maintenance and Operations receives a copy of the TAR Package for all disposals and for a disposal to progress, must concur that the real property is not needed for Canal purposes and recommend its disposal.

Director of Canals receives copy of the TAR Package for all rejected applications and all occupancy permits. Also receives a copy of the TAR Package for review and concurrence for all disposals.

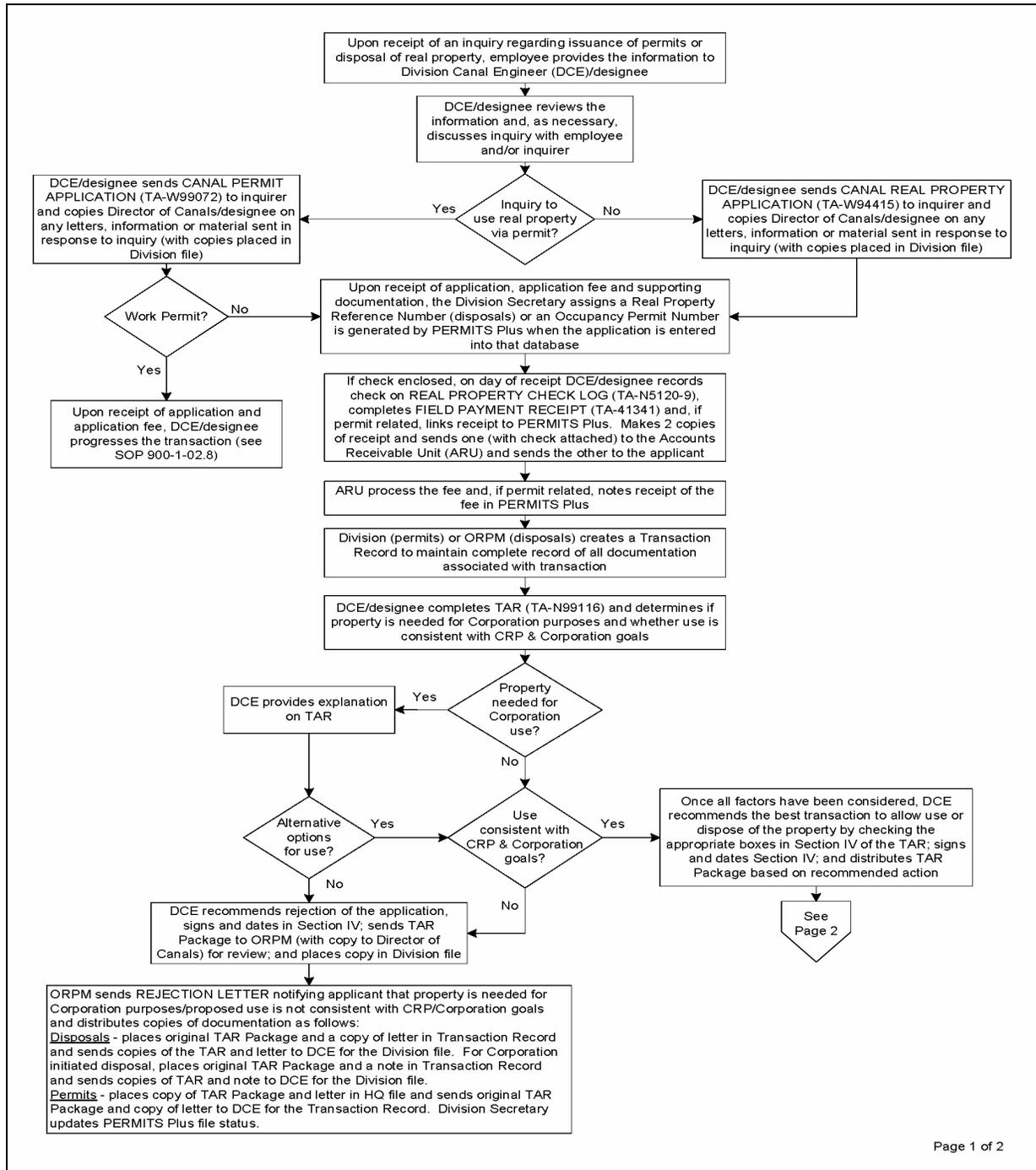
Division Canal Engineer is responsible for: (a) responding to initial inquiries regarding the issuance of permits or the disposal of real property under the jurisdiction of the Corporation and sending the appropriate application package; (b) providing the Director of Canals with copies of any letters, information or material sent in response to an inquiry into real property under the jurisdiction of the Corporation; (c) reviewing, approving/disapproving and progressing work permit transactions; and (d) reviewing and recommending the use and transaction for other proposed real property transactions.

Employees receiving inquiries regarding the issuance of permits or the disposal of real property under the jurisdiction of the Corporation are responsible for sending the inquiry information to the DCE.

Office of Canal Maintenance and Operations may assist the DCE in determining the use and transaction options for real property under the jurisdiction of the Corporation.

Office of Real Property Management is responsible for reviewing and approving the DCE's recommendation and for disposals, obtaining the review/approval of the Contracting Officer, the Deputy Director for Canal Maintenance and Operations and the Director of Canals. ORPM also determines: (a) whether a survey or plot plan and/or an appraisal is required; (b) if a disposal should be progressed via a competitive or non-competitive process; (c) if competitive, the process to be used (e.g., RFP, IFB, auction, etc.); and (d) if negotiated, indicates if an Explanatory Statement is likely required. ORPM is also responsible for responding to applicants regarding the approval or rejection of proposed transactions. ORPM is responsible for preparing all required Explanatory Statements. ORPM is responsible for providing the Corporation Board and the public with information, required by statute, regarding less than fair market value disposals.

8. Flowchart



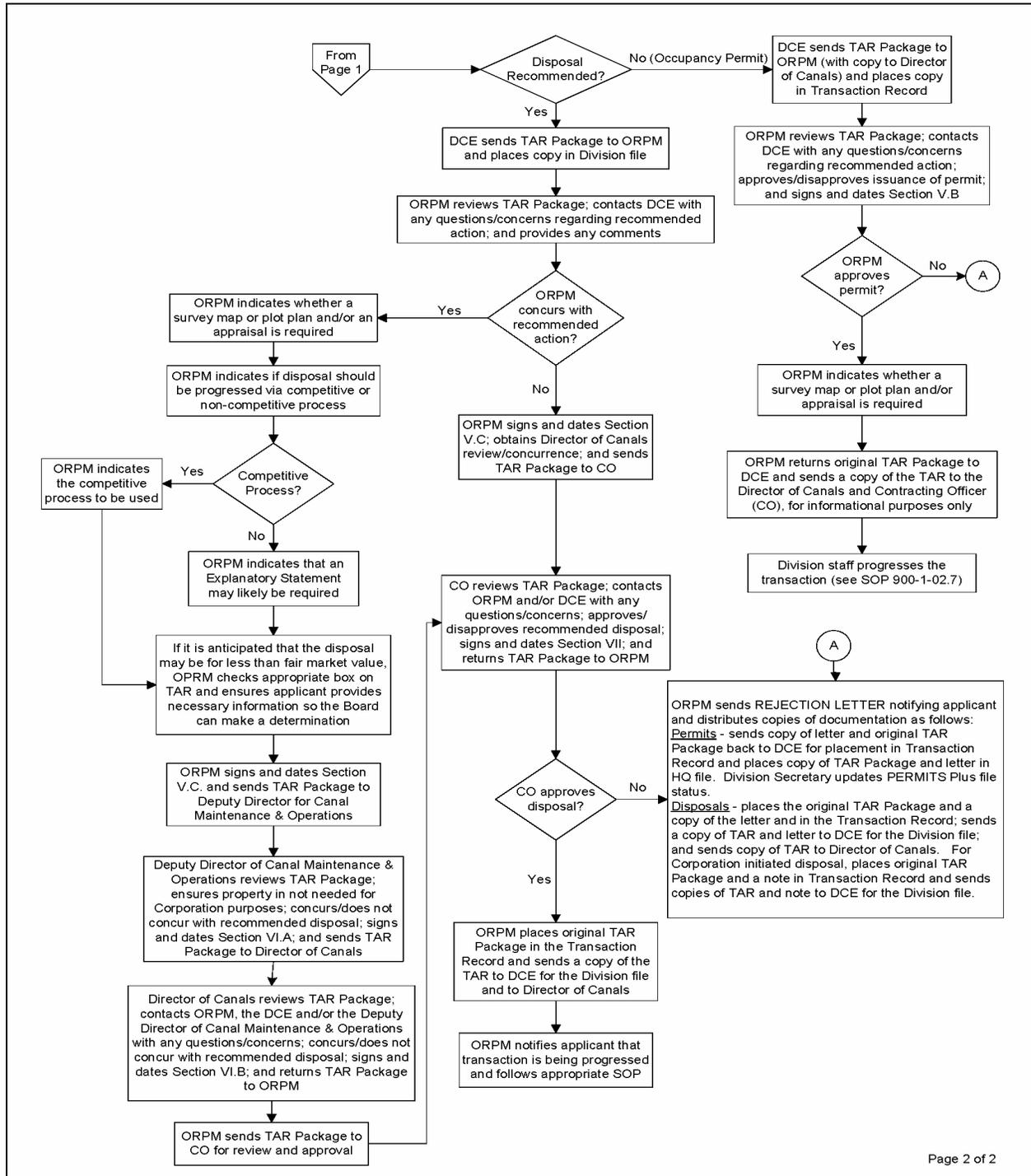


EXHIBIT 1  
TRANSACTION ANALYSIS/RECOMMENDATION  
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TA-N99116 (01/2012) Page 1 of 4	<b>TRANSACTION ANALYSIS/RECOMMENDATION (TAR)</b> New York State Canal Corporation	<input style="background-color: #000080; color: white; padding: 2px 5px;" type="button" value="Clear Form"/>
<p><b>Purpose:</b> This form is used to document the analysis and approval process of a proposed Canal Corporation real property transaction.</p> <p><b>INSTRUCTIONS:</b></p> <ul style="list-style-type: none"> <li>• <i>Division Canal Engineer (DCE)/Designee:</i> Complete Sections I through III. Depending on the complexity of the proposed transaction, the Office of Canal Maintenance and Operations or the Office of Real Property Management (ORPM) may be contacted to assist in the analysis.</li> <li>• <i>Reviewers:</i> Complete Sections IV through VII.</li> </ul>		
		<b>Real Property Reference No. or Permit No.</b>
<b>Section I General Information</b>		
Division	Reviewer Name (Last, First, MI)	Title
Applicant Name		Phone No. (       ) -
		Date of Review
Street	City	State      Zip Code
<b>Section II Real Property Information</b>		
Review all consideration factors and provide a description in the space provided (for details about each factor, see SOP 900-1-02.1, Exhibit 2).		
<b>Consideration Factors</b>	<b>Description</b>	
1. Proposed length of use		
2. Area		
3. Location		
4. Access		
5. Proposed use		
6. Proposed improvements		
7. Current use		
8. Use of adjacent property		
9. Other factors		

**EXHIBIT 1**  
**TRANSACTION ANALYSIS/RECOMMENDATION**  
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TA-N99116 (01/2012) Page 2 of 4	<b>TRANSACTION ANALYSIS/RECOMMENDATION (TAR)</b>	<b>Real Property Reference No. or Permit No.</b>
<b>Section III Analysis</b> For any "Yes" answers, provide explanation and any options for mitigating concerns.		
<b>Consideration Factors</b>	<b>Determination</b>	<b>Comments/Rationale</b>
1. Is the land needed for Canal Corporation purposes or will the proposed use interfere with canal navigation?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2. Based on the GIS Database, have any of the following concerns been identified: federal wetlands, state wetlands, flood plain, trail alignment, flowage, UDS, embankments, canal structures?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3. Does the proposed use conflict with the Canal Recreationway Plan goals and objectives? (See SOP 900-1-02.1, Exhibit 4)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4. Does the proposed use affect water quality or water levels?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5. Are there any known environmental concerns on or adjacent to the property?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
6. Are there any security or public safety issues?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
7. Does the use interfere or limit access to the Canalway Trail?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
8. Is this project incompatible with local zoning regulations on adjacent land?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
9. Will the proposed use promote economic development or provide public recreation or access?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
10. Are there other local interests such as municipality, county or regional planning that need to be considered?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
11. Based on your review, are there any State Historical Preservation Office concerns (i.e., archeological, historical or design)?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
12. Is the proposed use a continuation of an existing occupancy permit within a subdivision in conformance with SOP 900-1-02.1, Exhibit 5?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Based on the consideration factors above, is the proposed use of the property consistent with the goals of the Canal Recreationway Plan and the Canal Corporation?		
<input type="checkbox"/> Yes - proceed to Section IV and recommend a transaction for the use of the property. <input type="checkbox"/> No - proceed to Section IV and reject the application.		
<b>Section IV Division Canal Engineer Recommendation</b>		
A. DCE reviews Sections I through III, and based upon analysis of all factors listed recommends action by checking appropriate boxes below (for assistance with recommending the transaction type see SOP 900-1-02.1, Exhibit 5). B. DCE signs, dates and distributes TAR, along with the application and all supporting documents (collectively the TAR Package) based on the recommended action as follows:		
<ul style="list-style-type: none"> <li>• For recommended rejection of application - sends TAR Package to ORPM with a copy to the Director of Canals.</li> <li>• For recommended occupancy permit - sends TAR Package to ORPM with a copy to the Director of Canals.</li> <li>• For recommended disposal - sends TAR Package to ORPM.</li> </ul>		
<b>NOTE:</b> A copy of the TAR Package is kept for the Division file.		
<input type="checkbox"/> Application Rejected (provide explanation in Comments below) <input type="checkbox"/> Occupancy Permit <input type="checkbox"/> Disposal		
<div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <input type="checkbox"/> Sale  <input type="checkbox"/> Lease  <input type="checkbox"/> Other _____                 </div> </div>		
Comments: _____ _____ _____		
_____ Division Canal Engineer		_____ Date

EXHIBIT 1  
TRANSACTION ANALYSIS/RECOMMENDATION  
Page 3 of 4

TA-N99116 (01/2012) Page 3 of 4	TRANSACTION ANALYSIS/RECOMMENDATION (TAR)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;"> <b>Real Property Reference No. or Permit No.</b> </td> </tr> </table>	<b>Real Property Reference No. or Permit No.</b>
<b>Real Property Reference No. or Permit No.</b>			
<b>Section V Office of Real Property Management Permit Approval/Disposal Concurrence</b>			
<p><b>A. Recommended Rejection of Application:</b> ORPM sends rejection letter to applicant. For permits, sends copy of letter and original TAR to the DCE for the Transaction Record. For disposals, sends copy of letter and TAR to DCE for the Division file; keeps original TAR and copy of letter for the Transaction Record.</p>			
<p><b>B. Recommended Occupancy Permit:</b> ORPM reviews, approves/disapproves by checking the appropriate box(es) below, and then signs and dates the TAR. If disapproved, sends rejection letter to applicant and sends copy of TAR and letter to the DCE for the Transaction Record. If approved, sends copy of the TAR to the DCE for the Transaction Record and a copy to the Director of Canals and also to the Contracting Officer (CO) for informational purposes only (CO approval is not required for Permits).</p>			
<input type="checkbox"/> Approve Occupancy Permit  <input type="checkbox"/> Disapprove Occupancy Permit (provide explanation in Comments below)	The following are required (See SOP 900-1-02.1, Exhibit 6): <input type="checkbox"/> Survey <input type="checkbox"/> Appraisal or <input type="checkbox"/> Plot Plan	Comments:  <hr/> <hr/> <hr/>	
_____ Director of Real Property Management	_____ Date		
<p><b>C. Recommended Disposal:</b> ORPM reviews, checks the appropriate box(es) below, and provides any comments. ORPM signs and dates the TAR and, if approving a recommended disposal, obtains the concurrence from the Deputy Director for Canal Maintenance and Operations that the real property is not needed for Corporation purposes. ORPM also obtains the review and concurrence from the Director of Canals for all disposals. When all required signatures are obtained, ORPM sends the TAR Package to the CO for review and approval. Upon receipt of CO approval/disapproval, ORPM sends approval notification/rejection letter to applicant, sends a copy of TAR to the Director of Canals and returns a copy of TAR and letter to the DCE for Division files. ORPM keeps original TAR, copies of any letters and all supporting documentation in Transaction Record.</p>			
<input type="checkbox"/> I concur with the recommended disposal or <input type="checkbox"/> I do not concur with the recommended disposal (provide explanation in Comments below) or <input type="checkbox"/> Recommend for alternate disposal (provide explanation in Comments below)	The following are required (See SOP 900-1-02.1, Exhibit 6): <input type="checkbox"/> Survey <input type="checkbox"/> Appraisal <hr/> The following process is recommended (See SOP 900-1-02.1, Exhibits 7 and 8): <input type="checkbox"/> Competitive Process <input type="checkbox"/> Non-Competitive Process <input type="checkbox"/> Invitation For Bid <input type="checkbox"/> Public Auction Without Publicly Advertising For Bids <input type="checkbox"/> Request For Proposal <input type="checkbox"/> Negotiation <input type="checkbox"/> Auction <input type="checkbox"/> Explanatory Statement Likely Required (See SOP 900-1-02.1, Exhibit 9) <input type="checkbox"/> Other _____	Disposals for less than fair market value: <input type="checkbox"/> Board Notification Likely (See SOP 900-1-02.1, Exhibit 10)	
<input type="checkbox"/> Sale <input type="checkbox"/> Lease <input type="checkbox"/> Other _____		Comments:  <hr/> <hr/> <hr/>	
_____ Director of Real Property Management	_____ Date		

EXHIBIT 1  
TRANSACTION ANALYSIS/RECOMMENDATION  
Page 4 of 4

TA-N99116 (01/2012) Page 4 of 4	TRANSACTION ANALYSIS/RECOMMENDATION (TAR)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;"> <b>Real Property Reference No. or Permit No.</b> </td> </tr> </table>	<b>Real Property Reference No. or Permit No.</b>
<b>Real Property Reference No. or Permit No.</b>			
<p><b>Section VI Canal Headquarters Disposal Concurrence</b></p> <p><b>A. Deputy Director for Canal Maintenance and Operations Disposal Concurrence</b>                  Deputy Director reviews and ensures that the real property is not needed for Corporation purposes, and then checks appropriate box below, signs and dates TAR and sends TAR Package to the Director of Canals.</p> <p> <input type="checkbox"/> I concur with the recommended disposal                                      <input type="checkbox"/> I do not concur with the recommended disposal (provide explanation in Comments below)             </p> <p>Comments:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p style="text-align: center;">                 _____ Deputy Director for Canal Maintenance and Operations                      _____ Date             </p>			
<p><b>B. Director of Canals Disposal Concurrence</b>                  Director of Canals reviews and then checks appropriate box below, signs and dates TAR and sends TAR Package to the ORPM.</p> <p> <input type="checkbox"/> I concur with the recommended disposal                                      <input type="checkbox"/> I do not concur with the recommended disposal (provide explanation in Comments below)             </p> <p>Comments:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p style="text-align: center;">                 _____ Director of Canals                      _____ Date             </p>			
<p><b>Section VII Contracting Officer Disposal Review/Approval</b></p> <p>A. CO reviews and approves/disapproves recommended disposal type. If disapproving, or approving an alternate disposal type, provides explanation in Comments below. If approving an alternate transaction type, indicates transaction type to be used.</p> <p> <input type="checkbox"/> Approved    or    <input type="checkbox"/> Disapproved    or    <input type="checkbox"/> Approved For Alternate Disposal Method             </p> <p> <input type="checkbox"/> Sale                      <input type="checkbox"/> Lease                      <input type="checkbox"/> Other _____             </p> <p>Comments:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>B. CO signs and dates below and returns TAR Package to ORPM.</p> <p style="text-align: center;">                 _____ Contracting Officer                      _____ Date             </p>			

EXHIBIT 2  
TAR SECTION II - CONSIDERATION FACTORS

When making a use or disposal recommendation, the DCE, or designee, must consider a number of factors regarding the proposed transaction and provide information to assist in making the final transaction determination. The following items correspond to consideration factors 1 – 9 listed in Section II of the TAR. They provide a brief narrative explanation of what information should be provided when describing each factor.

1. Proposed length of use: Indicate how long the applicant proposes to use the Canal property. Indicate specifically if proposed use is greater than 3 years.
2. Area: Describe the size of the Canal property (e.g., acreage, square footage) involved in the proposed transaction.
3. Location: Division, county, municipality, tax map parcel number, etc.
4. Access: Describe what access is available to the property (e.g., public access to a road, property landlocked, through upland owner, water access, legal access, etc.).
5. Proposed use: Describe the primary use proposed (e.g., residential, commercial, industrial, municipal) and other factors related to property's use (e.g., assemblage with adjacent property, including property under the jurisdiction of the Corporation, generation of revenue, etc.).
6. Proposed improvements: Describe any proposed improvements to be made to or placed on the property (e.g., storage tanks, structures, pavements, ground disturbances, including but not limited to, footings, foundations, slabs, etc.).
7. Current use: Describe the current use of the property (e.g., vacant, active permit/lease, easement(s), existing improvements, encroachment, etc.). If property is currently permitted/leased, provide any available details pertaining to existing agreement (term, annual fee/rent, etc.).
8. Use of adjacent property: Describe how adjacent property is used (e.g., residential, commercial, industrial, municipal) and other factors related to adjacent property's use that may impact recommendation (e.g., assemblage with proposed property and other property under the jurisdiction of the Corporation, generation of revenue, etc.).
9. Other factors: Describe and provide details of other factors pertinent to the proposed use (e.g., known legal issues or disputes, title claims, etc.).

February 2012

900-1-02.1

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EXHIBIT 3  
SAMPLE REJECTION LETTER

ORPM sends letter when application is rejected and provides the reason for the rejection.

<insert date>

<insert name of applicant>  
<insert address of applicant>

Re: <insert location and description of property>  
Real Property Reference Number:<insert Real Property Reference Number> OR  
Occupancy Permit Number <insert Occupancy Permit Number>

Dear <insert name of applicant>:

Thank you for your interest in the property at the above referenced location. I regret to inform you that your request has been denied at this time, because <insert appropriate text based on one of the choices below>.

Should you have any questions, I can be reached at <insert phone number>.

Sincerely,

<insert Name>  
<insert Title>  
Office of Real Property Management  
NYS Thruway Authority/Canal Corporation

cc: Division File

- Option 1: the property is needed for future Canal Corporation purposes.
- Option 2: the proposed use of the property is not consistent with the Canal Recreationway Plan or Canal Corporation goals.
- Option 3: the Canal Corporation is not the owner of the property or the property is not under the jurisdiction of the Canal Corporation.
- Option 4: If none of the above applies, insert specific details to explain the reason for the rejection.

EXHIBIT 4  
DETERMINING CONSISTENCY WITH CRP AND CORPORATION GOALS  
Page 1 of 2

The CRP establishes goals for development of the Canal System which are the driving considerations when determining whether a proposed use is consistent with the CRP and Corporation goals. The three fundamental goals of the CRP are:

- Preserve the best of the past;
- Enhance recreational opportunities; and
- Foster appropriate and sustainable economic development.

The following planning principles are the basis for the CRP's land-use and conservation guidelines which should be considered when reviewing a proposed use:

- The historic pattern of cluster development connected by stretches of undeveloped open space should be maintained. New development should be encouraged to locate within existing communities;
- Conservation of open space and natural vegetation should be encouraged. Where possible, open space should be connected by means of a greenway to establish a continuous linkage of open spaces between existing developed areas;
- Public access to the Canal should be enhanced;
- Agricultural land should be conserved;
- Existing wetlands and aquatic/terrestrial ecosystems should be protected and restored where possible;
- Fish and wildlife habitats should be protected and enhanced.

Land use types should fall into one of the following categories based on the consideration of the factors outlined above:

- Greenway: a recreational or aesthetic greenway along the Canal bank connecting existing parkland and public open space;
- Canalway Trail: a trail maintained within the Corporation's jurisdiction;

EXHIBIT 4  
DETERMINING CONSISTENCY WITH CRP AND CORPORATION GOALS  
Page 2 of 2

- Access and Services for Canal Users: service and access including the addition of facilities at strategic locations;
- Existing Settled Areas: commercial and residential development within the existing roadway and infrastructure network or in extensions that retain the traditional local design character or public access to the Canalway Trail accommodated in all new development;
- Areas Not Currently Settled: new development located as close to existing settlements as possible and to be clustered to preserve existing patterns of landscape and vegetation. Open space, existing landscaping features, farmland and other unique environmental factors in the specific proposed project area must also be reviewed and considered.

The CRP has identified the potential land use types for each thematic Canal region. These should also be referred to and considered.

Property under the jurisdiction of the Corporation within the Adirondack Park has additional requirements and restrictions. For projects proposed in this area, ORPM will handle these proposed projects on a case-by-case basis.

EXHIBIT 5  
CRITERIA FOR RECOMMENDING THE BEST TRANSACTION TYPE FOR THE  
PROPOSED USE OR DISPOSAL OF REAL PROPERTY  
Page 1 of 5

Once it has been determined that a proposed transaction can be progressed, and all factors that may affect the real property have been considered and described in Sections II and III of the TAR, the DCE must make a recommendation for the proposed use or disposal of the real property in Section IV of the TAR.

The first threshold question is whether the land is needed for Corporation purposes such as navigation, maintenance, repair, dredging, operation, etc. If not, the land may be surplus property which is defined as:

Canal lands or structures which, in the opinion of the Canal Corporation, have or may become no longer necessary or useful as a part of the Canal System, as an aid to navigation thereon, or for Canal terminal purposes. In general, lands and structures may not be deemed surplus and abandoned if they include the Canal prism, locks, dams, lift bridges, terminal walls, retaining walls, spillways, waste weirs, gates, feeders, reservoirs, culverts, buildings, embankments, a portion of the Canalway Trail, land needed to access Canal structures or lands, or other amenities or features critical to the mission of the Canal Corporation. It may also be determined that a distance of land beyond the outboard toe of slope, top of slope, banks along the river or in cut sections of the Canal System, is necessary for Canal purposes and may not be deemed surplus.

The following information provides guidance regarding the appropriate transaction type to be recommended for proposed use/disposal:

### **PERMITS**

#### **Occupancy Permits**

Occupancy Permits should be the transaction type recommended for allowing use of any/all real property needed by the Corporation (i.e., not surplus to the needs of the Corporation).

EXHIBIT 5  
CRITERIA FOR RECOMMENDING THE BEST TRANSACTION TYPE FOR THE  
PROPOSED USE OR DISPOSAL OF REAL PROPERTY  
Page 2 of 5

Occupancy Permits, which are revocable upon 30 days notice, provide the Corporation with the greatest flexibility for managing property under its jurisdiction. Therefore, in most cases, Occupancy Permits should be recommended whenever real property is needed for Corporation purposes, or may be needed for Corporation purposes in the future. Specifically, Occupancy Permits should be the recommended transaction for use of Corporation real property when all or a portion of the real property applied for:

- has not been declared surplus to the Corporation's needs, but can be used on a revocable basis;
- may need to be available for future Corporation or public purposes;
- needs to be available upon demand for Corporation purposes;

-or-

- is within an existing Canal subdivision, permanent camp or habitable boathouse encroachment and such real property is currently under an occupancy permit. As an interim measure, such real property may continue to be permitted under an occupancy permit and may continue to be transferred. However, such subdivision permits must be for the same use (e.g., no additional improvements, no change in existing structure square footage and footprint, etc.). Generally, if the real property is not currently under an occupancy permit, no new permit shall be issued unless authorized by the Director of ORPM.

The existence of an encroachment or the ownership of a structure on real property needed for Corporation purposes, while salient information and a consideration factor to be described, does not warrant a disposal or the granting of a real property interest via an alternate transaction (e.g., sale or lease). Canal lands or waters may not be used or occupied without a permit issued from the Canal Corporation. For encumbered or occupied property, regardless of whether the recommended transaction is a disposal, the property must first be permitted or vacated so the occupation is in compliance.

EXHIBIT 5  
CRITERIA FOR RECOMMENDING THE BEST TRANSACTION TYPE FOR THE  
PROPOSED USE OR DISPOSAL OF REAL PROPERTY  
Page 3 of 5

Unless otherwise authorized by the Executive Director, where a disposal of real property surplus to the needs of the Corporation is contemplated, an Occupancy Permit will not be issued in advance of completion of the Disposal. If a permit is to be issued in advance of a disposal, a memorandum explaining in detail the need for issuing the permit must be submitted by the Director of Canals, along with a TAR, to ORPM. ORPM will review the request and provide a recommendation to the Contracting Officer. The Contracting Officer will then, if appropriate, seek the approval of the Executive Director.

### **DISPOSALS**

The Corporation may decide that certain categories of land are surplus to the Corporation's needs (i.e., not needed for present or future Corporation purposes) and may be disposed of. These are properties that are no longer necessary or useful as part of the Canal System and the disposition is in the best interest of the Corporation. Disposals may be by sales, leases, easements, or other transfers of interest in the real property based on the nature of the proposed use.

When it is determined that real property under the jurisdiction of the Corporation is not needed for Corporation purposes, the preferred transaction to be used for disposal is a sale.

Disposals may be performed by the Commissioner of General Services on behalf of the Corporation when the Corporation has entered into an agreement with the Commissioner of General Services pursuant to the Public Authorities Accountability Act of 2005 and Public Authorities Law.

### **Sales**

A sale is the preferred transaction type to be recommended when the real property is not needed for present or future Corporation purposes. Sales are also to be recommended when real property is requested for railroad bridges by the railroad corporation.

EXHIBIT 5  
CRITERIA FOR RECOMMENDING THE BEST TRANSACTION TYPE FOR THE  
PROPOSED USE OR DISPOSAL OF REAL PROPERTY  
Page 4 of 5

**Leases**

A lease may be recommended under the following circumstances:

- the real property is needed for Corporation purposes, but will be used for revenue generation;
- the real property is not needed for Corporation purposes; and

the proposed use is for a longer term (e.g., over 3 years), but the applicant does not want to acquire the real property;

-or-

the property will be used by the applicant for revenue generation, but applicant does not want to acquire the real property.

Leases may not be used for lands within the Adirondack Park.

**Easements**

An easement is not a preferred transaction method:

- when land is needed for Canal Corporation purposes, a permit is typically the recommended transaction;
- if the applicant requests an easement, the DCE should refer the request to ORPM for consultation with the Legal Department.

EXHIBIT 5  
CRITERIA FOR RECOMMENDING THE BEST TRANSACTION TYPE FOR THE  
PROPOSED USE OR DISPOSAL OF REAL PROPERTY  
Page 5 of 5

**Transfers of Jurisdiction**

Transfers of jurisdiction may be recommended when another State agency, authority or other State governmental interest requests real property under the jurisdiction of the Corporation under the following circumstances:

- the real property is not needed for Corporation purposes; and
- the request is for public health, safety or welfare reasons.

If the request for real property by another State agency, authority or State governmental interest is not for public health, safety or welfare reasons, the preferred transaction type is a sale.

EXHIBIT 6  
CRITERIA FOR DETERMINING SURVEY AND APPRAISAL PROCUREMENT  
Page 1 of 2

**SURVEY MAPS AND PLOT PLANS**

A survey map prepared by a professional land surveyor shall be required for any:

- Disposal of most real property including a sale, lease and or an easement
- Acquisition of real property, except for real property associated with certain office-space leases where a non-surveyed description of the leased premises is deemed to be adequate by ORPM
- Transfer of Jurisdiction as deemed necessary

A plot plan or similar property description shall be required to be submitted by an applicant and as needed, may be prepared by authorized staff for an occupancy permit. A plot plan or similar property description may be required for a work permit.

**APPRAISALS**

Authorized staff may conduct or coordinate procurement of appraisals for occupancy permits for which an appraisal is deemed by ORPM to be necessary.

The Corporation shall utilize independent appraisers to conduct appraisals for the following types of transactions:

- Acquisitions
- Disposals
- Real property transactions, generally, regardless of value of the real property, when it is deemed to be in the best interest of the Corporation as determined by the Contracting Officer

Except for permits, two independent appraisals shall be conducted if: (i) the appraised value of the real property is anticipated to be greater than \$300,000; or (ii) it is deemed to be in the best interest of the Corporation as determined by the Contracting Officer.

EXHIBIT 6  
CRITERIA FOR DETERMINING SURVEY AND APPRAISAL PROCUREMENT  
Page 2 of 2

For transfers of jurisdiction, the Contracting Officer shall determine whether an appraisal is necessary. Such determination may be based upon the appraised value of the real property and/or the complexity of the assignment.

**EXCHANGE OF PROPERTIES**

- Where the transaction involves an exchange of property and the value of each property is anticipated to be \$300,000 or less, one survey map and one independent appraisal shall be required for each property.
- Where the transaction involves an exchange of property and the value of either property is anticipated to be greater than \$300,000, one survey map and two independent appraisals shall be required for the property with a value anticipated to be greater than \$300,000.
- In order to proceed with an exchange of property, the appraisals must demonstrate that the property to be acquired is of at least equal value to the property to be disposed of.

EXHIBIT 7  
DETERMINING WHEN A COMPETITIVE PROCESS MUST BE USED  
Page 1 of 2

Based on the TAR information, ORPM will determine whether a competitive process or non-competitive process is appropriate for the particular real property transaction.

The competitive processes for real property transactions involve publicly advertising for bids, such as IFB, RFP, or the auction process. Non-competitive processes include negotiations or an auction where there is no public advertising for bids.

**Non-Competitive Process Determination**

The Corporation shall use a competitive process open to the public for all real property transactions, except in limited circumstances. Disposals and contracts for disposal may be negotiated or made by public auction without publicly advertising for bids only when one of the following conditions is met:

- The fair market value of the real property does not exceed \$15,000;
- Bid prices after advertising are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;
- The Disposal will be to a state or any political subdivision and the estimated fair market value of the property and other satisfactory terms of Disposal are obtained by negotiation; or
- Under those permitted circumstances set forth in Exhibit 10, DISPOSALS FOR LESS THAN FAIR MARKET VALUE; or
- Such action is otherwise authorized by law.

EXHIBIT 7  
DETERMINING WHEN A COMPETITIVE PROCESS MUST BE USED  
Page 2 of 2

**Competitive Process Determination**

When deciding whether a competitive process is appropriate, ORPM will consider the following factors:

- What is the estimated fair market value of the property? Fair market value may be determined through appraisals, requests for proposals, the bid or auction process, or other means.
- What is the nature of the proposed project and what is the interest to be conveyed?
- Has the project already been bid? Were the bids reasonable?
- Who is the disposal to (e.g., State, political subdivision, private party, etc.)?
- Can fair market value be obtained through negotiations?
- Is the proposed use for public or private purposes?
- Does the disposal have a public health or safety factor?
- Would the project promote economic development (e.g., jobs, revenues, etc.)?
- Would the project provide public recreation or access opportunities?
- What are the site specific factors (e.g., character or condition of the property such as critical environmental area, presence of contamination restricting use, land locked, neighboring use, etc.)?
- Are other factors pertinent to the situation allowable by law?

## EXHIBIT 8 DETERMINING COMPETITIVE OPTIONS

Once ORPM has determined that a competitive process is required, the method to use must be decided and documented on the TAR by ORPM.

Practical factors for consideration when determining the most appropriate solicitation method include:

- What are the applicable legal requirements?
- Is an appraisal required before a solicitation method can be determined?
- What is the proposed timetable? Is it realistic and, if not, can it be modified? How time sensitive is it?
- Is there likely to be competition (i.e., multiple parties that are likely to respond)?
- Which method is the most cost effective?
- What are the benefits and disadvantages of the options for that transaction?
- Does the solicitation method help the Corporation to achieve its mission?

### **Request for Proposals (RFP)**

An RFP solicits competitive proposals from prospective contractors for particular work or services, such as development of a particular parcel of property under the jurisdiction of the Corporation.

### **Invitation for Bid (IFB)**

An IFB is most typically used where requirements can be stated and an award made to the highest responsive and responsible bidder(s).

### **Auctions**

An auction is a public sale in which property is sold to the highest bidder.

**EXHIBIT 9**  
**CRITERIA FOR DETERMINING IF AN EXPLANATORY STATEMENT IS REQUIRED**

When it is determined that there will be no public advertising for bids and the disposal will be through negotiation, the following transactions require the submittal of an explanatory statement:

- Any real property that has an estimated fair market value in excess of \$100,000 except leases or exchanges described below;
- Any real property disposed of by lease, if the estimated annual rent over the term of the lease is in excess of \$15,000;
- Any real property or real and related personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.

EXHIBIT 10  
DISPOSALS FOR LESS THAN FAIR MARKET VALUE  
Page 1 of 3

**A. CIRCUMSTANCES**

No asset owned, leased or otherwise in the control of the Corporation may be sold, leased, or otherwise alienated for less than its fair market value except if:

1. The transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity;
2. The purpose of the transfer is within the purpose, mission or governing statute of the Corporation; or
3. In the event the Corporation seeks to transfer an asset for less than its fair market value to other than a governmental entity, which disposal would not be consistent with the Corporation's mission, purpose or governing statutes, the Corporation shall provide written notification thereof to the governor, the speaker of the assembly, and the temporary president of the senate, and such proposed transfer shall be subject to denial by the governor, the senate, or the assembly. Denial by the governor shall take the form of a signed certification by the governor. Denial by either house of the legislature shall take the form of a resolution by such house. The governor and each house of the legislature shall take any such action within sixty days of receiving notification of such proposed transfer during the months of January through June, provided that if the legislature receives notification of a proposed transfer during the months of July through December, the legislature may take any such action within sixty days of January first of the following year. If no such resolution or certification is performed within sixty days of such notification of the proposed transfer to the governor, senate, and assembly, the Corporation may effectuate such transfer.

EXHIBIT 10  
DISPOSALS FOR LESS THAN FAIR MARKET VALUE  
Page 2 of 3

**B. REQUIRED BOARD INFORMATION**

In the event a below fair market value asset transfer is proposed, the following information must be provided to the Corporation Board and the public:

1. A full description of the asset;
2. An appraisal of the fair market value of the asset and any other information establishing the fair market value sought by the Corporation Board;
3. \*A description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the asset is situated as are required by the transfer;
4. A statement of the value to be received compared to the fair market value;
5. \*The names of any private parties participating in the transfer, and if different than the statement required by subparagraph (4) of this paragraph, a statement of the value to the private party;
6. The names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used;
7. \*Why the transfer must be for less than fair market value; and whether there are any other reasonable alternatives to the proposed below fair market value transfer that would achieve the same purpose(s) of such transfer, including an explanation as to why: (i) the applicant does not have a financial alternative to a less than fair market value disposal; (ii) there is no other site available that could be acquired by the applicant that would achieve the same purpose(s); and (iii) there is no other entity willing to undertake the projects contemplated for the property proposed to be disposed of; and
8. How the proposed transfer fits within the purpose, mission or governing statute of the Corporation (provided by staff for entities qualifying under A.2).

\*This information must be provided by the applicant who expresses an interest in a disposal for less than fair market value.

EXHIBIT 10  
DISPOSALS FOR LESS THAN FAIR MARKET VALUE  
Page 3 of 3

**C. WRITTEN DETERMINATION**

Before approving the disposal of any property for less than fair market value, the Corporation Board shall consider the information described in paragraph B above and make a written determination that there is no reasonable alternative to the proposed below market transfer that would achieve the same purpose of such transfer.