

U.S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250

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| DEPARTMENTAL REGULATION | | Number: 5100-003 |
| SUBJECT: Real Property Leasing Officer Warrant System | DATE: March 1, 2012 | |
| | OPI: Office of Procurement and Property Management, Property Management Division | |

1. PURPOSE

This regulation prescribes the USDA Real Property Leasing Officer Warrant System.

2. CANCELLATION/SPECIAL INSTRUCTIONS

- a. This regulation supersedes DR 5100-002 Real Property Leasing Officer Warrant System, dated April 23, 2010.
- b. This regulation is effective upon issuance and shall be implemented pursuant to GSA Acquisition Letter MV-11-01 and FAR Circular 2005-45, Item I <http://www.federalregister.gov/articles/2010/08/30/2010-21024/federal-acquisition-regulation-federal-acquisition-circular-2005-45-introduction#h-7>.
- c. The Office of Procurement and Property Management (OPPM) will be responsible for approval and issuance of all warrants for Real Property Leasing Officers (RPLO) within USDA, as the Appointing Official for the Department.
- d. The Agency's Head of Real Property Leasing Authority (HRPLA) will submit all applications and supporting documents to the Appointing Official (Director, OPPM).
- e. Warrants issued by OPPM will list organization as USDA, instead of the individual agency.

3. POLICY

It is USDA policy to require that only individuals with a minimum or better level of training and experience, as set forth in Appendix A, are appointed as RPLOs as documented through the Real Property Leasing Officer Warrant System. The Director

of OPPM, or his/her designee, is the Appointing Official with authority to issue warrants to RPLOs.

4. BACKGROUND

On November 10, 2010, all GSA Contracting Activities were notified that the simplified acquisition Level 1 was raised from \$100,000 to \$150,000 by GSA Acquisition Letter V-06-06, Supplement 2 (posted on the USDA OPPM PMD Sharepoint site). Therefore, effective immediately, all USDA RPLOs holding a Level I, simplified acquisition warrant, may proceed with the increased threshold, provided this has been approved by agency management. The threshold is \$150,000 net annual rent. This threshold includes all options and excludes all operating costs such as janitorial service, water, electricity, fuel, gas, coal, oil, etc.

5. ABBREVIATIONS

AGPMR - Agriculture Property Management Regulation
AO – Appointing Official
ASD – Administrative Service Director
COR-Contracting Officer Representative
FAR - Federal Acquisition Regulation
FMR - Federal Management Regulation
GSA - General Services Administration
GSAM - General Services Administration Acquisition Manual
HRPLA - Head of the Real Property Leasing Activity
OIG - Office of Inspector General
OPPM - Office of Procurement and Property Management
PMD – Property Management Division
RPLA - Real Property Leasing Activity
RPLO - Real Property Leasing Officer
USDA - United States Department of Agriculture

6. COVERAGE

Only individuals appointed under the provisions of this regulation, acting within the scope of delegated real property leasing authority, may enter into, amend, and administer and/or terminate a lease, as defined in Section 8a of this Departmental Regulation (DR) on behalf of any Real Property Leasing Activity (RPLA) of USDA.

7. DEFINITIONS

- a. Appointing Official (AO). The Director of OPPM, or designee, is the AO and is the only USDA individual with the signatory authority to issue a warrant. The AO has overall responsibility for the Department Real Property Leasing Officer program and will ensure that each agency complies with all regulations and delegated authorities.

- b. Certification. An evaluation, issued by the HRPLA, concluding that a candidate for a warrant has the experience, education, and training as well as the business acumen, judgment, character, reputation and ethics to perform properly the duties of an RPLO.
- c. Contracting Officer Representative (COR). RPLOs may designate a COR authority to properly trained individuals to perform lease administration activities that do not involve obligating the Government. The requirements for a COR are described in Departmental Regulation 5001-1 (<http://www.ocio.usda.gov/directives/doc/DR5001-1final.pdf>).
- d. Head of the Real Property Leasing Activity (HRPLA). An Agency official or designee who has overall responsibility for managing a RPLO. The HRPLA verifies the need for a warranted leasing officer and submits the warrant request to the AO. The HRPLA has overall responsibility for the Agency's real property leasing program, including the verification that there are sufficiently properly trained and experienced RPLOs to carry out their agency's leasing requirements. This individual, who represents the agency, and the Administrative Service Director (ASD), will ensure that their agency's program has adequate resources, including organizational structure, staffing and internal policies to carry out all delegated leasing authority activities.
- e. Lease or Leasehold Interest in Real Property. A conveyance by a landlord to the Government of the right of exclusive possession of real property for a definite period of time. It may include services such as heating, air-conditioning, utilities, custodial services and other services and alterations furnished by the landlord.
- f. Real Property Leasing Activity (RPLA). OPPM and other USDA agencies that have delegated leasing authority. An RPLA's authority and responsibility to manage its leasing function and those of other agencies to which it provides administrative support are established by written delegation from the Director, OPPM.
- g. Real Property Leasing Officer (RPLO). A USDA employee appointed by the Director of OPPM or designee, granted signatory power to execute, modify, or terminate lease contracts using delegated authority through the Director, OPPM and the Secretary of Agriculture, in accordance with Federal acquisition and property laws and regulations. As the lease contracting officer, the RPLO has primary responsibility for the entire lease procurement process.
- h. Warrant. A delegation which defines the extent of authority vested in an individual to execute, modify, and terminate leasehold interests in real property; specifically, the signatory authority of an individual to obligate funds and contractually commit the Department or agency. All delegations of leasing authority shall be conveyed to the individual using the Standard Form (SF) 1402, Certificate of Appointment. A

current version may be obtained from the GSA Forms Library:
<http://www.gsa.gov/forms>.

8. APPOINTING OFFICIAL

- a. If, after review of the application from the candidate, the candidate is determined to have the appropriate qualifications, and it is determined that a valid need for an RPLO exists, the Director or designee will issue a warrant. The Director or designee will determine the scope of authority and re-delegation of authority that will be included in the warrant, consistent with the applicable requirements of the FMR, AGPMR, FAR and the delegation of authority from the Director of OPPM.
- b. OPPM shall develop a system for tracking warrants and certifications; however the RPLOs will be responsible for ensuring that their information is kept current in the system.

9. APPOINTMENT PROCEDURE

- a. RPLO warrant authority levels are based on lease contract value and range from Level I to III. Agencies may further limit or restrict the threshold levels stated in this Directive, but may not expand them and may never issue an authorization to proceed with any lease that exceeds prospectus levels for construction, alterations, and lease projects. Prospectus limits are published at <http://www.gsa.gov/portal/content/101522>. Warrants are issued based on a prescribed combination of education and experience. To remain valid, RPLOs must maintain their warrants by completing specific types and amounts of relevant training on a regular basis (a minimum of 80 hours every two years) as described in this DR. All classes are subject to approval by the Department.
- b. Each HRPLA shall establish procedures for nominating RPLO candidates, documenting their qualifications through use of qualification statements similar to that set forth in Appendix B, requests for appointments similar to that set forth in Appendix C, and keeping records of appointments as warranted leasing official by maintaining copies of the warrants issued by the Appointing Official. The HRPLA shall determine the need for agency RPLOs based on factors such as volume of real estate activity, complexity of leases, and location of leases.
- c. Effective June 1, 2010, all applicants for a RPLO warrant must meet the education requirements in Appendix A. RPLOs who were warranted prior to June 1, 2010 are considered to have met the educational requirements for their existing warrant. This requirement was stated in a letter from the Director of OPPM, on January 15, 2010. All requests for waiver of an educational requirement will be submitted to the AO.

10. APPOINTMENTS

- a. The Director of OPPM (AO) or designee shall appoint RPLOs using the SF-1402, Certificate of Appointment, and specify any limitation on the scope of the authority, other than limitations contained in applicable laws or regulations (e.g., type of contract, or dollar threshold). The following language shall be included on the SF-1402 for the appropriate level of warrant being issued:

Level I – Leasing/Simplified Acquisition

Awarding and administering contracts for (1) the advertising of proposed real estate transactions in newspapers, (2) the acquisition of leasehold interests in real property provided the dollar value of individual contract actions do not exceed \$150,000 average net annual rent, and (3) the alteration of space in buildings which USDA has leased provided the alterations do not exceed \$150,000 and are acquired from the lessor. Net average annual rent excludes operating expenses and includes option periods.

Level II – Leasing/Intermediate Acquisition

Awarding and administering contracts for (1) the advertising of proposed real estate transactions in newspapers, (2) the acquisition of leasehold interests in real property provided the dollar value of individual contract actions do not exceed \$10,000,000 average net annual rent, and (3) the alteration of space in buildings which USDA has leased provided the alterations do not exceed \$10,000,000 and are acquired from the lessor. Net average annual rent excludes operating expenses and includes option periods.

Level III – Leasing/Senior Acquisition

Awarding and administering contracts for (1) the advertising of proposed real estate transactions in newspapers, (2) the acquisition of leasehold interests in real property without limitation as to the dollar value of individual contract actions, and (3) the alteration of space in buildings which USDA has leased without limitation as to the dollar value provided the alterations are acquired from the lessor.

The SF 1402 can be obtained from the GSA Forms Library:
<http://www.gsa.gov/forms>.

- b. The Appointing Official shall make appointments to individuals only and not to positions. An individual's official position description should be amended to reflect any duties and responsibilities as an RPLO. If the individual's warrant is terminated or withdrawn, the position description must be amended to delete those duties and responsibilities, or the position must be filled by another duly appointed RPLO.

11. DOCUMENTATION

- a. The HRPLA must maintain a file that complies with the Privacy Act of 1974 for each RPLO , including a copy of:
 - (1) A qualification statement;
 - (2) A request for appointment;
 - (3) The warrant; and,
 - (4) Training records.
- b. OPPM will also keep a file of all RPLO applications and education certificates.

12. REAL PROPERTY LEASING OFFICERS

RPLOs should display their Certificates of Appointment openly in or near their workstations allowing the public and co-workers to be aware of the appointment and its limitations. RPLOs must comply with the Standards of Ethical Conduct and any agency implementing regulations, and file the appropriate forms as required.

13. MAINTAINING A WARRANT

- a. In order to maintain a warrant, an RPLO must receive, at least every two years, a minimum of 80 continuous learning points (CLP) of training related to real property leasing covering such areas as new requirements, techniques or procedures brought about by changes in law, regulations, policy, or delegations of authority. Other acceptable training could include other topics in real estate such as property management, as is offered from organizations such as the Building Owners and Managers Association (BOMA); real estate appraisal from the Appraisal Institute (AI); and real estate investment courses from Certified Commercial Investment Managers (CCIM). Additionally, formal training in the Department's real property inventory system, CPAIS, would suffice for continuing education requirements. This type of training can be accomplished through participation in workshops, seminars, symposia, e-Learning and formal classroom training and must be documented in writing.
- b. Training is due by the anniversary date of the issuance of the warrant (not by calendar year).
- c. OPPM/PMD may be contacted for approval of any planned continuous education course if there is any uncertainty about its relevance in maintaining a RPLO warrant.

d. Continuous Learning Points (CLPs) are calculated as follows:

| CREDITABLE ACTIVITIES | CLPs (see note) |
|--|---|
| Academic Courses: | |
| Quarter Hour | 10 per Quarter Hour |
| Semester Hour | 10 per Semester Hour |
| CEU (Continuing Education Unit) | 10 per CEU |
| Equivalency Exams | Same points as awarded for the course |
| Training Courses/Modules: | |
| Federal Acquisition Institute (FAI) Courses/Modules | 10 per CEU or: |
| <ul style="list-style-type: none"> ▪ Awareness Briefing/Training – no testing/assessment associated ▪ Continuous Learning Module-testing/assessment associated | <ul style="list-style-type: none"> ▪ .5 point per hour of instruction ▪ 1 point per hour of instruction |
| Other Functional Training | 1 point per hour of instruction |
| Leadership or Other Training | 1 point per hour of instruction |
| Equivalency Exam | Same points as awarded for the course |
| Professional Activities: | |
| Professional Exam/License/Certificate | 10-30 points |
| Teaching/Lecturing | 2 points per hour; maximum of 20 points per year |
| Symposia/Conference Presentations | 2 points per hour; maximum of 20 points per year |
| Workshop Participation | 1 point per hour; maximum of 8 points per day and 20 points per year |
| Symposia/Conference Attendance | .5 point per hour; maximum of 4 points per day and 20 points per year |
| Publications (such as writing of posted issuances) | 10 to 40 points |

- e. OPJM shall track the maintenance of continuing education requirements for each RPLO.
- f. It is recommended that RPLOs avoid repeating the same course from year to year, unless there have been policy/regulation changes. Instead, RPLOs are encouraged to take continuing education courses in new topics affecting real estate.

14. TERMINATION/REVOCAION OF APPOINTMENT

- a. The Appointing Official shall establish procedures for the termination or revocation of a RPLO warrant. Such procedures should provide for termination or revocation at any time when, following notice and opportunity for reply, one or more of the conditions listed below or similar circumstances exists:

- (1) Failure to comply with applicable laws and regulations.

- (2) Violation of the code of conduct.
 - (3) Failure to maintain training standards after appointment.
 - (4) Failure to maintain a satisfactory performance rating.
 - (5) Reassignment of the individual to a position not requiring a warrant.
 - (6) Discontinuance of the organizational need for appointment.
 - (7) Separation of the individual from USDA.
- b. Upon revocation for any reason, OPPM/PMD is to be notified immediately. The originally signed Certificate of Appointment (SF 1402), is to be returned to OPPM/PMD within ten (10) working days.
 - c. A termination or revocation of appointment notice given to an RPLO must be in writing. A separation from USDA shall constitute an automatic termination of the RPLO appointment. Notice of separation from the Department or transfer to another USDA agency, or any of the factors listed in paragraph (a) of this section must be provided to the AO.

15. REAL PROPERTY MANAGEMENT REVIEW

- a. Real property leasing activity appointment documents, procedures, practices and individual appointment shall be subject to the Real Property Management Reviews conducted by Department and agency review teams. The Department and the agency review teams may recommend revocation of appointments for failure to comply with applicable laws and regulations.
- b. In addition, an OPPM review team may evaluate the performance of any individual RPLO in regard to compliance with applicable laws and regulations in the exercise of the individual's leasing authority. Findings issued by the OPPM review team may serve as the basis for revocation by the Department or agency review teams.

16. INQUIRIES

Please direct inquiries, through agency channels, to the Property Management Division, OPPM, 1400 Independence Avenue, SW, Mail Stop 9304, Washington, DC. 20250, Telephone (202) 720-3141.

APPENDIX A

QUALIFICATION REQUIREMENTS

An individual must meet the following warrant course and educational requirements to qualify for a Warrant to act as a Real Property Leasing Officer (RPLO).

Warrant Course Requirements:

Simplified Acquisition/Level I - Obligation Authority up to \$150,000 average net annual rental.*

*includes all options and excludes all operating costs (e.g., janitorial service and utilities).

1. At least two years of current (within the past five years) real property lease contracting experience to demonstrate his or her ability to execute leasehold contracts in accordance with Federal leasing procedures.
2. Successful completion of the following training courses:
 - a. Federal Real Property or Basic Lease Contracting,
 - b. Cost and Price Analysis of Lease Proposals, and
 - c. Real Estate Law or Federal Real Property Lease Law
 - d. Techniques for Negotiating Real Property Leases.

Intermediate/Level II - Obligation Authority up to \$10,000,000 average net annual rental.

1. At least three years of current (within the last seven years) progressively complex and responsible real property leasing contracting experience involving negotiations, market surveys, appraisals, etc., or related staff/policy support activity that has demonstrated his or her ability to execute lease contracts in accordance with Federal leasing procedures.
2. Required successful completion of the following training courses:
 - a. Federal Real Property or Basic Lease Contracting
 - b. Cost and Price Analysis of Lease Proposals,
 - c. Real Estate Law or Federal Real Property Lease Law, and
 - d. Techniques for Negotiating Real Property Leases.

Intermediate/Level II Warrant Holders cannot execute leases above prospectus levels.

Senior/Level III – Obligation Authority Unlimited

1. At least four years of current (within the last ten years) progressively complex and responsible real property leasing contracting experience involving

negotiations, market surveys, appraisals, etc., or related staff/policy support activity that has demonstrated his or her ability to execute lease contracts in accordance with Federal leasing procedures.

2. Successful completion of the following training courses:
 - a. Federal Real Property or Basic Lease Contracting,
 - b. Cost and Price Analysis of Lease Proposals,
 - c. Real Estate Law or Federal Real Property Lease Law,
 - d. Techniques for Negotiating Federal Real Property Leases, and
 - e. Real Estate Appraisal Principles.

Educational Requirements:

Applicants at grades 5 through 12: Applicants for permanent warrants above the simplified acquisition level must have completed a four year course of study leading to a bachelor's degree or 24 semester hours in any combination of the designated educational fields listed below. These requirements apply to all candidates for permanent warrants, regardless of job series.

Applicants at grades 13 and above: Applicants for permanent warrants above the simplified acquisition level must have completed a four year course of study leading to a bachelor's degree that included or was supplemented by at least 24 semester hours in any combination of the designated fields listed below. The applicant must demonstrate significant analytical and decision-making capabilities, an acceptable job performance record, and qualifying experience.

The designated educational fields are: Accounting, Business, Finance, Law, Contracts, Purchasing, Economics, Industrial Management, Marketing, Quantitative Methods, and Organization and Management.

Acceptable substitutes for Other than Mandatory Requirements:

Training courses of equivalent content may be substituted if the AO or designee determines that a particular course is equivalent in content. Substitute courses may be accomplished through, but not limited to the following: 80-credit hours from an accredited institution of higher learning in pre-law, real property management and/or business administration. Below is a non-exhaustive list of vendors that offer real estate classes. Please contact them for more information:

Army Corps of Engineers Real Estate Division
<http://www.usace.army.mil/cere/pages/default.aspx>

Appraisal Institute - <http://www.appraisalinstitute.org/>

Federal Highway Administration – Planning, Environment and Realty
<http://www.fhwa.dot.gov/reaalestate/>

General Services Administration Training Programs.

<http://www.gsa.gov/portal/content/104738>

Management Concepts -

<https://www.managementconcepts.com/portal/server.pt/community/home/314>

Federal Highway Administration – Planning, Environment and Realty

<http://www.fhwa.dot.gov/realestate/>

Building Owners and Managers Association

www.boma.org

Certified Commercial Investment Managers Institute

www.ccim.org

APPENDIX B

QUALIFICATIONS STATEMENT – The RPLO candidate is to complete the GSA 3409 found at

<http://www.gsa.gov/portal/forms/download/CCCB5A0C0496AC6385256A7300109366> ,

or a form substantially the same that includes the following information:

1. Name
2. Title, series, grade;
3. Office;
4. Relevant experience;
5. Other relevant special qualifications, certifications, or skills
6. Relevant honors, awards, or fellowships received;
7. Education; and
8. Real property related training.

APPENDIX C

REQUEST FOR APPOINTMENT

The following information shall be included in the Request for Appointment:

1. The level of warrant being requested.
2. Candidate's name, title, series, grade.
3. Organizational level (Office/Branch/Division/Location).
4. Enclose candidate's Qualification Statement. Include a certification that the candidate's experience and training meet the qualification standards of the Real Property Leasing Officer Warrant System.
5. Include a statement that the candidate's current conflict of interest disclosure statement is on file in the appropriate personnel office.
6. Specify any limitations on the scope of the authority, other than limitations contained in applicable laws or regulations (e.g., type of contract, or dollar threshold).
7. Request for Appointment shall be signed by the HRPLA and submitted for approval to the Appointing Official.