

# Burbank Unified School District Surplus Property Procedure



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# Overview of Surplus Property Procedure

- 1. Advisory Committee Formation & Report
- 2. Board Meeting to Consider Report
- 3. Establish RFP or Bid Auction Process
- 4. Pursue Sale or Lease
- 5. Board Consideration of Final Agreement
- 6. Use of Funds

# 1. Form Advisory Committee

- 7-11 Members from Specific Groups
- Purposes/Duties
- Brown Act
- Conflict of Interest
- Public Hearings
- Recommendation

# Membership of the Advisory Committee

- Comprised of at least 7 but no more than 11 members representing specific community groups:
  - Ethnic, age group, and socioeconomic composition of the District
  - The business community
  - Landowners or renters
  - Teachers
  - Administrators
  - Parents of students
  - Persons with expertise in property laws

# Committee Purpose and Duties

1. Review enrollment and other data to determine amount of surplus space and real property
2. Hold hearings for community input
3. Determine tolerance of use of property
4. Report to Board recommending uses of property

# Committee Potential Recommendations

The Committee may recommend

## **1. Uses**

- A. Keep “As Is”
- B. Pursue Lease
- C. Pursue Sale
- D. Pursue Exchange

## **2. Process**

- A. Bid
- B. Waiver / RFP Process

## **3. Board Accepts Reports but is not required to follow recommendations**

## 2. Board Meeting

- **1) Review and Accept 7-11 Final Report**
  - Board is not required to follow recommendation
- **2) Declare Property Surplus**
  - Declare property is not needed for District purposes
  - Exempt from Surplus Lands Act
- **3) Authorize Staff to Take Action**
  - Through “competitive bid process” or “waiver RFP process”

# 3. Competitive Bid Process

## Features

- “Standard” process required by the Education Code
- Requires District to award an agreement to the highest bidder
- District cannot negotiate with interested parties but instead must establish the terms and conditions and assess bids based only on total price

# Competitive Bidding

## General Process

- Public Hearing
- Open Bids
- Call for Oral Bids / 5% of Highest Written Proposal
- Award to Highest Bidder
- Presented to Board for Consideration

## 4. RFP Process

- Request permission from State Board of Education (SBE) to waive bid process and use RFP Process
- District issues RFP asking interested parties to propose terms and conditions of lease
- Negotiate with interested parties to determine “most beneficial deal” for the District
- Can consider price and other factors such as length of lease term, use of Property, deposit structure, due diligence period, etc.
- Requires waiver from SBE

# RFP Process

- Non-Waiveable Provisions
  - Offer to some public entities; Use of proceeds
- Consult Employee Collective Bargaining Units
- General Waiver Request
  - CBE two regular meetings to process waiver
- CBE must approve unless increase to State costs, or jeopardizes pupils, parental involvement, etc.
- “Un-Official” Requirements by Waiver Office:
  - RFP Process
  - Approve within 60 days of receipt of proposals
  - State reasons for “most beneficial” deal

# Benefits of RFP Process

## Versus Competitive Bid Process

- Bid is the “Standard” process required by the Education Code
- Bid requires District to award a lease or sale agreement to the highest bidder
- Bid process does not allow negotiations with interested parties, but instead District must establish the terms of lease or sale and assess bids based only on total price
- RFP grants flexibility, ability to negotiate with interested parties, and option to consider both lease and sale (or exchange) concurrently to select best overall option

# Traditional Bid vs. Request for Proposal Process

<b>Traditional Bid</b>	<b>Request for Proposal</b>
1. Required by Education Code	1. Requires Waiver from DOE
2. Notification to Public of Auction	2. Issue Request for Proposal
3. Conduct Bid Auction Hearing	3. Receive and Review Proposals
4. Award to Highest Bidder	4. Select Best Proposal

# Traditional Bid vs. Request for Proposal Benefits

<b>Traditional Bid</b>	<b>Request for Proposal</b>
1. No Need for Waiver	1. Can Consider Proposed Uses & Improvements of Property
2. No Detailed Analysis of Bids Needed	2. Can Consider Different Lease Terms & Payment Structures
3. Potentially Reach More People with Public Auction	3. Can Target Specific Parties
4. Quicker Process If Rush to Lease	4. Can Negotiate with Proposing Parties

# Pursue Both Options Concurrently

## Process to Pursue Bid and RFP Process at same time

1. Start Competitive Bid Process for Lease
  - a) Send Notice to required Public Agencies
  - b) Issue “Bid Package” to solicit Bids at Bid Auction Date
2. Seek Waiver from CBE to use RFP process for Lease
  - a) Gather information required for Waiver Application
  - b) Submit Waiver Application and worked with CBE to guide waiver through process

## 6. Board Action

1. Final Agreement Presented to Board for Consideration
  - A. RFP = Present Proposals & Negotiations
  - B. Bid Auction = Present Highest Bidder
2. Board Can Accept or Reject
  - A. If RFP, can discuss negotiations in closed session
  - B. If Bid Auction, can “reject all bids” or approve highest bidder

# 7. Use of Proceeds

## Sale Proceeds

- 1) Capital Outlay Expenses
- 2) Maintenance
  - not recur within 5-year period
- 3) General Fund\*\*\*\*
  - Education Code 17462

# 7. Use of Sale Proceeds

## General Fund Only If...

- 1) District and State Allocation Board
  - No anticipated need for additional sites or building construction
  - 10 year period following sale
- 2) One-Time Expenditure
- 3) Prohibition
  - Ongoing expenditures
  - Salaries operating expenses

# 7. Use of Sale Proceeds

## General Fund Drawbacks

- 1) Reduction in Apportionment of hardship assistance
  - Amount equal to amount of proceed uses for one-time expenditure
- 2) Ineligible for Hardship Funding
  - State School Deferred Maintenance Fund
  - Five years after deposit into general fund

## 7. Use of Lease Proceeds

- Lease Proceeds to be Held in General Fund (Education Code section 41002); Unless...
- Board Resolution Specifies Fund in Which Lease Proceeds Are to be Deposited (Education Code section 41003)
- Different than Property From Sale Proceeds
- Note: SAB and OPSC Opinion

# Next Steps

- 1) Form Advisory Committee
  - Board Resolution
  - Release Application
- 2) Advisory Committee will provide Report
- 3) Board will consider Advisory Committee Report
- 4) Board may instruct staff to pursue disposal of properties discussed in Advisory Committee Report

Question & Answer  
Session