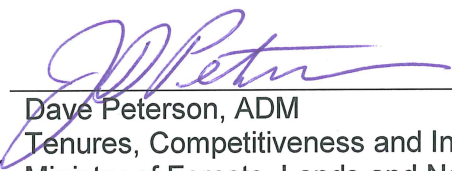




Land Procedure Acquisitions

NAME OF LAND PROCEDURE:	Acquisitions
APPLICATION:	Applies to land acquisitions for clients, properties transferred from other agencies and gifts of land to the Province.
ISSUANCE:	Assistant Deputy Minister, Tenures, Competitiveness and Innovation
IMPLEMENTATION:	Ministry of Forests, Lands and Natural Resource Operations
REFERENCES:	<i>Land Act (Ch. 245, R.S.B.C, 1996)</i> <i>Ministry of Lands, Parks and Housing Act (Ch. 307, R.S.B.C., 1996)</i> <i>Federal Income Tax Act (R.S.C. 1985, c. 1 (5th Supp.))</i>
RELATIONSHIP TO PREVIOUS LAND PROCEDURE:	This procedure replaces the previous Acquisitions Procedure in effect August 16, 2004.



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Resource Operations

MAY 26 2011

Date:

EFFECTIVE DATE: June 1, 2011
AMENDMENT:

FILE: 11040-00

APPROVED AMENDMENTS:		
Effective Date	Briefing Note /Approval	Summary of Changes:
June 1, 2011	BN 175892	Policy and Procedure update to reflect reorganization of resource ministries April 2011

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1. PURPOSE

This procedure applies to all forms of acquisitions which the Authorizing Agency may participate in.

- Acquisitions for clients - to provide a procedure for acquisition of privately-owned land for government programs.
- Properties transferred from other agencies - to establish procedures for administration, management and disposal of properties transferred to the Authorizing Agency from other agencies.
- Gifts of land to the Province - to ensure lands gifted to the Province are acquired for a specific purpose and in accordance with the Province's wishes, to acknowledge receipt or acceptance of the gift, and that procedures regarding acceptance and acknowledgement of gift acquisitions are followed in a consistent manner.

Land exchanges also involve the acquisition of land but are dealt with in separate procedure. See [Land Exchange – General](#) or [Land Exchange – Indian Reserve Lands](#).

2. DEFINITIONS

ALTOS means Automated Land Title Office System. A title print from ALTOS is obtained in lieu of a State of Title Certificate. It is a computer print-out of the actual title.

Authorizing Agency means the Provincial ministry responsible for the specific land use authorization.

First Nation is a term that refers to the Indian peoples in Canada, both Status and non-Status. Although the term First Nation is widely used, no legal definition of it exists. Some Indian peoples in British Columbia have adopted the term “First Nation” to replace the word “band” in the name of their community.

First Nation Government in British Columbia means the government of a First Nation in British Columbia that has a treaty or a lands claims agreement in effect with Canada and British Columbia. For the purposes of this document “First Nation Government in British Columbia” also includes a First Nation’s government, such as Sechelt Indian Government District, created by special legislation.

Gifting means the voluntary transfer of real property to the Crown, whether by individual, agency or private company.

Indian Reserve means a tract of land that has been set apart by the federal government for the use and benefit of an Indian band. The legal title to Indian Reserve land is vested in the federal government.

Non-recoverable means projects where the acquisition and its costs will not be recovered due to the Province's intended use of the property (i.e., parks, green belt, ecological reserve, etc.).

Public Offering means the use of a competitive process or real estate industry listing.

Surplus properties means Crown properties that are surplus to the program needs of Provincial ministries and are transferred to the Authorizing Agency for disposition or management.

Treaty Settlement Purposes means for the purpose of preserving negotiating options by protecting Crown land for a possible future treaty settlement.

3. ACQUISITIONS FOR CLIENTS

There are occasions when the Authorizing Agency is asked to acquire land on behalf of other ministries. However, Ministries often have their own funding mechanism for program needs.

This procedure applies to the acquisition of privately-owned land required for government programs. Requests for acquisition assistance must be in writing.

Independent fee appraisals are to be conducted on all acquisitions. See [Appraisals procedure](#).

No contractual arrangements are to be made verbally. During negotiations, information and details of appraisals will not generally be released.

Correspondence in which the Authorizing Agency offers to purchase real property is to be signed by the Authorizing Agency's Executive.

3.1 Acquisition for Non-Recoverable Projects

Crown Land Account Expenditures of funds for acquisition of real property for non-recoverable projects require Treasury Board and Order-in-Council approval. The Authorizing Agency must ensure that these approvals are in place before committing the Province to expenditure.

3.2 General procedures

The need for the land is identified by the Authorizing Agency's client.

The client carries out a preliminary examination, identifies the proposed acquisition, and the Authorizing Agency carries out a status of the property.

For non-recoverable projects, the client obtains the necessary funding approval through Treasury Board and the Lieutenant Governor-in-Council. Additionally, the client provides a draft copy of these submissions to the Authorizing Agency for input and approval before taking them forward.

The client submits a written request to the Authorizing Agency. Assuming the acquisition and funding is approved, the Authorizing Agency assumes full responsibility for the acquisition. After obtaining a state of title certificate, ordering, reviewing and accepting/rejecting fee appraisals, the Authorizing Agency will carry out the acquisition within approved guidelines and procedures.

When acquisitions are made for the clients, all the Authorizing Agency's book costs, (i.e. purchase price, appraisal, survey costs, etc.) are recovered from the client. Soft costs, such as miscellaneous staff time, travel, etc., are not usually charged to the client, but may be recovered through a management fee.

4. SURPLUS PROPERTIES TRANSFERRED FROM OTHER AGENCIES

It is Government's intention to market and manage the existing inventory of Crown properties to meet the demands for Crown land for commercial, industrial, settlement and treaty settlement purposes.

Ministerial Orders (see [Land and Management Transfers policy](#)) transferring administration and control of properties to the Authorizing Agency from other agencies are prepared by the transferring agency.

The regional office is responsible for the administration, management, and/or disposal of all properties that are transferred to the Authorizing Agency.

Properties which are surplus to government programs and which have been transferred to the Authorizing Agency will be offered for sale to the general public through a public offering unless prior commitments have been made by the donor agency, or direct sale is justified under the [Direct Sales procedure](#). The properties may be reserved for treaty settlement purposes.

When improvements exist on a property, and all requirements effecting transfer to the Authorizing Agency are met, prior to the Ministerial Order being accepted, the regional office will take adequate steps for inspection and management where necessary.

The Authorizing Agency's regional office should be provided with the following:

- donor ministry memorandum explaining the details of transfer;
- Ministerial Order transferring administration and control;
- legal description and civic address of property;
- ALTOS print of current title;
- location and subdivision plan (if available);
- zoning;
- details of access such as keys or location of keys;
- description of the site's past use (contaminated site assessment, if relevant);
- any other applicable information; and,
- record of First Nations consultations carried out by the other agency.

4.1 Disposal Activities

The Authorizing Agency's regional office will arrange an examination of the property to assess the following:

- the need for immediate/long term security;
- whether the property is to be retained in the Authorizing Agency's portfolio;
- whether the property should be disposed of as surplus to provincial requirements;
- the need for a phase 1 contaminated site assessment;
- the need for repairs, security management and weather proofing as required; and,
- the need for tenant management.

If the property is to be disposed of, the regional office will proceed as for other properties.

4.2 Temporary Management

There will be occasions when surplus properties require temporary property management. The Authorizing Agency's regions will ensure that properties are adequately managed to maintain asset value.

Properties may be vacant, improved and/or tenanted. Tenants must be dealt with in accordance with the *Residential Tenancy Act* and *Commercial Tenancy Act* as appropriate.

The Authorizing Agency may utilize internal, government agency, or private property management capacity. Where private property management agreements are used, the firm or contractor must have a thorough knowledge of property management matters and the *Residential Tenancy Act*. Management firms must be capable of managing rental units and rent collection on behalf of the Authorizing Agency, and able to carry out or arrange maintenance and repairs.

4.2.1 Property Repair Activities

When a property is acquired and obvious deficiencies need correction, the Authorizing Agency may arrange for the necessary repairs and/or maintenance.

When a property has been assigned by the Authorizing Agency to a property management firm, the rental agency will arrange repairs and maintenance as per the terms of agreement with the Authorizing Agency.

5. GIFTING OF LAND TO THE PROVINCE

The Province will not accept a land gift unless there is a specific use intended for the land, such as provincial parks, ecological reserves or treaty settlement purposes.

The Province will not accept the gifting proposal unless there is agreement by the receiving agency to accept the gift.

The Authorizing Agency is responsible for the completion of all land acquisitions by gifting agreement. All gifts of land require prior Authorizing Agency Executive approval.

Executive will consider the property's proposed use and any costs incurred by the Crown when making a decision regarding a land gift.

5.1 Reasons for the Gift

There are one or more reasons to gift private land:

- where the potential donor wants a letter from the Province acknowledging the value of the gift for a tax credit - the *Income Tax Act* recognizes the value of the gift - Section 110 (1) (b);
- where the owner wishes the property to remain in its natural or current state, or to be dedicated for a particular public use; and,
- where the utility of the property is diminished by river erosion or some other means, and public ownership is deemed to be more beneficial.

The following factors should be considered in the Province's determination of interest in land gifts:

Potential liabilities related to the property, including:

- status of the title;
- encumbrances or restrictions on title;
- contingent liabilities (i.e. private domestic water system);
- donor's motivation for the gift;
- donor's conditions regarding the Crown's use of the land (i.e. specified use in perpetuity; life estate); and/or,
- potential maintenance and holding costs, including costs to address soil or water contamination.

The market value declared by the donor.

The Crown's long-term interest in the acquisition (i.e. acceptance by receiving agency of the land management responsibility).

5.2 General Procedure

Following the Authorizing Agency's approval-in-principle and, where applicable, agreement by the agency assuming management responsibility, the Authorizing Agency will:

- Contact the potential donor to discuss the proposal, follow up with a letter outlining the procedure and mechanisms.
- Confirm status of Title and ascertain the impact of possible encumbrances.
- If the gift is for tax purposes, recommend that the donor seek professional income tax advice. Advise that acceptance of market value is a concern between the donor and the Canada Revenue Agency and recommend that the donor seek an independent fee appraisal.

- Negotiate tentative subdivision proposals and agreement on funding (Property Purchase Tax, surveys).
- Ensure the donor provides a written offer outlining the proposed gift, with all conditions specified.
- Present the gifting proposal to the client agency for acceptance and/or further instruction. Neither Treasury Board nor Order-in-Council approval is required for acceptance of a gift.
- Enter into a written agreement with the gifter. A letter of agreement may suffice for simple acquisition, whereas a gifting agreement prepared by Legal Services is required for more complex acquisitions.
- Provide a letter of thanks to the gifter upon receipt of Title to the parcel(s), and when all requirements are finalized. NOTE: This letter acknowledges the value of the gift to the province in the form prescribed by the *Income Tax Act*.
- In certain circumstances, the Minister signs a letter of thanks to the donor and the Authorizing Agency issues a press release.

Subsequent to the Crown receiving Title, the Authorizing Agency will transfer administration and control of the gifted land to its client agency, and will ensure all acquisition requirements are complete and properly documented.

6. FIRST NATIONS

The Authorizing Agency is responsible for ensuring the Province's obligations to First Nations are met in the disposition of Crown land. The Authorizing Agency carries out consultations with First Nations in accordance with its guidelines and policies on First Nations consultation to identify the potential for aboriginal rights or title over the subject property and to determine whether infringement of either might occur (refer to the Aboriginal Interest Consideration Report form contained in the Land Use Report in the Document Generator).