

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

DEPARTMENTAL REGULATION		Number: 5100-002
SUBJECT: Real Property Leasing Officer Warrant System	DATE: April 23, 2010	
	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 replaces Departmental Regulation 5100-002, dated June 7, 2007.
- b. Effective June 1, 2010, all candidates receiving a Real Property Leasing Officer (RPLO) Level II warrant must meet the educational requirements as specified in the General Services Administration (GSA) Transitional Guidance Memorandum dated October 24, 2006, (GSA Acquisition Letter V 06-06 and associated GSAM 501.603 changes to the Contracting Officer Warrant Program (COWP)) and GSA Acquisition Letter V-06-06, Supplement #1, dated September 2008. Employees who are warranted prior to June 1, 2010, are considered to have met the educational requirements for their existing warrant.
- c. This revision updates the warrant training and education requirements and eliminates appraisal course requirements. Additionally, this revision requires agency warrants to be updated to reflect the completion of 80 continuous learning hours every two years, instead of the minimum of 40 hours every three years previously required for warrant maintenance.
- d. The exemptions allowing individuals to execute lease transactions without obtaining a warrant has been eliminated.

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 Office of Procurement and Property Management (OPPM) is responsible for designating an agency official as the Appointing Official with authority to issue warrants to USDA RPLOs.

4. BACKGROUND

The issue of educational requirements for RPLOs has been a gray area ever since the change in the GS-1102 Contracting Officer Warrant Program was implemented in January 2000. Recent research and discussion with the General Services Administration's legal counsel, as well as realty subject matter experts, and a review of the direction contained in the Office of Management and Budget's, Office of Federal Procurement Policy (OFPP) Policy Letter 05-01, indicates that this requirement does apply to all RPLOs as well as Contracting Officers within the GS-1102/1105 job series.

5. ABBREVIATIONS

AGPMR - Agriculture Property Management Regulations
FAR - Federal Acquisition Regulation
FMR - Federal Management Regulation
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
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, and administer and/or terminate a lease, as defined in Section 8a, on behalf of any Real Property Leasing Activity (RPLA) of USDA.

7. DEFINITIONS

- a. Lease or Leasehold Interest in Real Property. A conveyance by a landlord to the Government 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.
- b. Real Property Leasing Activity. 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.

- c. Head of the Real Property Leasing Activity. An official or designee who has overall responsibility for managing a RPLO. This official verifies the need for a warranted leasing officer, requests that a person be warranted, and certifies the qualifications of that person to the appointing official.
- d. Real Property Leasing Officer. An individual appointed according to the regulation with the authority to enter into, administer, amend and/or terminate real property leasehold contracts in accordance with Federal acquisition and property laws and regulations.
- e. Warrant. A delegation which defines the extent of authority vested in an individual to enter into, administer, amend 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 on a Standard Form (SF) 1402, Certificate of Appointment.
- f. Certification. An evaluation 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.
- g. Appointing Official. The official within the RPLA who has been delegated the authority to issue a warrant by the Director, OPPM. The appointing authority will be issued on a Certificate of Appointment by the Director, OPPM.
- h. Nominal Rent. Generally denotes a consideration wholly unrelated to the actual or fair market value of the lease premises, such as \$1 per annum, or \$1 per annum together with the obligation to repair and maintain the premises or to pay taxes assessed against the property.

8. APPOINTING OFFICIAL

- a. If, after review of the certification of the candidate, the Appointing Official concurs with the recommendation of the HRPLA, the Appointing Official will issue the warrant. The Appointing Official 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 authority from OPPM.

- b. The Appointing Official shall maintain a list of RPLOs who have warrants and make it available upon request to OPPM, OIG, and other interested parties.

9. APPOINTMENT PROCEDURE

- a. Each HRPLA shall establish procedures to ensure that RPLOs, who meet the minimum qualification requirements specified in Appendix A, are appointed at the appropriate levels, and only when a valid need exists for a new RPLO. Needs shall be determined on the basis of such factors as volume of actions, complexity of work, and organizational structure. In addition, each HRPLA shall establish procedures for nominating RPLO candidates, documenting their qualification through use of qualification statements similar to that set forth at Figure A-1 and requests for appointments similar to those set forth at Figure A-2, and keeping record of their appointment as a warranted leasing official by maintaining a copy of the warrant issued by the Appointing Official.
- b. Each HRPLA that currently has a warrant program in effect must ensure that the program meets the minimum standards contained in Appendix A.
- c. Each HRPLA that does not have a warrant program in effect shall establish a program, which will, at a minimum, comply with the standards contained in Appendix A. In the alternative, an HRPLA may request certification of RPLO candidates by OPPM. These requests should be addressed to Director, OPPM.

10. APPOINTMENTS

- a. The Appointing Official shall appoint RPLOs on a 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:

(1) Level 1 – 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 \$100,000 average net annual rent, and (3) the alteration of space in buildings which USDA has leased provided the alterations do not exceed \$100,000 and are acquired from the lessor.

(2) 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.

(3) 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 provided the alterations are acquired from the lessor.

The SF 1402 can be accessed at the following Web site:

<http://www.gsa.gov/Portal/gsa/ep/formslibrary.do?viewType=DETAIL&formId=26356DA22CA38F7B85256A1F005F1C89>.

- 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 a 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.
- c. The Appointing Official shall not appoint individuals as RPLOs if they do not meet the requirements set forth in Appendix A.

11. DOCUMENTATION

The HRPLA must maintain a file that complies with the Privacy Act of 1974 for each RPLO with the RPLA, including a copy of:

- a. A qualification statement;
- b. A request for appointment;
- c. The warrant; and,
- d. Training records.

12. REAL PROPERTY LEASING OFFICER

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. Holders of RPLO Certificates of Appointments 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 hours 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. 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.

14. DETERMINATION/REVOCAION OF APPOINTMENT

- a. Each Appointing Official shall establish procedures for the termination or revocation of a RPLO warrant. Such procedures should provide for termination or revocation at anytime 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 the leasing activity.
- b. A termination or revocation of appointment notice given to a RPLO must be in writing. A separation from the real property leasing activity shall constitute an automatic termination of the RPLO appointment.
- c. In the case of termination/revocation of an appointing official certificate of authority, a separation from the Department, a change of agency, or a change of duties of that appointing official, the authority of that appointing official to issue warrants shall terminate. The OPPM shall, upon request and concurrence with the agency, issue a new delegation to an official of that agency for that purpose.

15. REAL PROPERTY MANAGEMENT REVIEW

- a. Real property leasing activity appointment documents, procedures, practices and individual appointment may be subject to the Real Property Management Reviews conducted by Department or 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 to the Property Management Division, OPPM, 1400 Independence Avenue, SW, Mail Stop 9304, Washington, D.C. 20250, Telephone (202) 720-3141, through agency channels.

-END-

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 \$100,000 net annual rental.*

1. Sufficient experience with real property leasing activities to demonstrate his or her ability to execute leasehold contracts in accordance with Federal leasing procedures.
2. Successful completion of training of the following training courses:
 - Cost and Price Analysis of Lease Proposals
 - Real Estate Law or Federal Real Property Lease Law
 - Techniques of Negotiating Federal Real Property Leases

Intermediate/Level II - Obligation Authority up to \$10,000,000.

1. The individual must have consecutive years of progressively complex and responsible real property leasing 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:
 - Federal Real Property or Basic Lease Contracting
 - Federal Real Property Lease Law or Real Estate Law
 - Cost and Price Analysis of Lease Proposals
 - Techniques of Negotiating Federal Real Property Leases

Senior/Level III – Obligation Authority Unlimited

1. The individual must have consecutive years of progressively complex and responsible real property leasing 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:

- Federal Real Property or Basic Lease Contracting
- Federal Real Property Lease Law or Real Estate Law
- Cost and Price Analysis of Lease Proposals
- Techniques of Negotiating Federal Real Property Leases
- 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 4-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, Organization and Management.

Acceptable substitutes for Other than Mandatory Requirements

Training courses of equivalent content may be substituted if the Head of the Real Property Leasing Activity 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.

* Net annual rental is defined as the gross annual rental paid to the lessor minus the lessor's operating cost. The following supplies and services are considered operating costs that can be subtracted from the gross annual rental to determine the net annual rental:

--utilities

--janitorial

- building systems repair (does not include major repairs, e.g., replacement of systems and replacement of roof)
- building systems maintenance
- property protection
- that portion of management cost developed to these items

APPENDIX B

QUALIFICATIONS STATEMENT

An Optional Application for Federal Employment (OF 612), a GSA Form 3409, or a form substantially the same as the following may be used as an application for a RPLO Warrant.

1. NAME:
2. TITLE, SERIES, GRADE:
3. OFFICE:
4. RELEVANT EXPERIENCE: (Begin with current position and work back four relevant positions.) Information on each position should be included.
 - A. NAME OF EMPLOYER
 - B. DATES EMPLOYED
 - C. TITLE OF POSITION
 - D. KIND OF BUSINESS/ORGANIZATION
 - E. DESCRIPTION OF WORK.
5. OTHER RELEVANT SPECIAL QUALIFICATIONS, CERTIFICATIONS OR SKILLS;
6. RELEVANT HONORS, AWARDS OR FELLOWSHIPS RECEIVED;
7. EDUCATION
 - A. HIGHEST LEVEL COMPLETED
 - B. NAME OF HIGH SCHOOL
 - (1) Dates Attended
 - (2) Diploma Received

C. NAME OF COLLEGE/UNIVERSITY

- (1) Dates Attended
- (2) Years Completed
- (3) Number of Credits Earned - Indicate Whether Credits are Semester Hours or Quarter Hours
- (4) Type and Year of Degree
- (5) Chief Undergraduate College Subjects
- (6) Major Field of Study at Highest Level of College Work

8. REAL PROPERTY RELATED TRAINING

- A. NAME OF COURSE
- B. NAME OF SCHOOL
- C. DATES ATTENDED

APPENDIX C

REQUEST FOR APPOINTMENT

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

- The level of warrant being requested.
- Candidate's name, title, series, grade.
- Organizational level (Office/Branch/Division/Location).
- Enclose candidate's Qualification Statement. Include a statement that the candidate's experience and training meet the qualification standards of the Real Property Leasing Officer Warrant System.
- Include a statement that the candidate's current conflict of interest disclosure statement is on file in the appropriate personnel office.
- 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).
- Request for Appointment shall be approved by HRPLA and Appointing Official.