

# MINNESOTA RULES 1983

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## CHAPTER 1245 DEPARTMENT OF ADMINISTRATION REAL ESTATE MANAGEMENT DIVISION RULES GOVERNING STATE-OWNED REAL PROPERTY

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### 1245.0200 PROPERTY ACQUISITION.

Subpart 1. **Scope.** Pursuant to Minnesota Statutes, chapter 16 and specific legislative enactments, this part shall govern the state's acquisition of real property for the operation of state government.

Subp. 2. **Request to acquire property.** Unless otherwise provided by law or by reorganization order issued pursuant to Minnesota Statutes, sections 16.125 and 16.135, a state department or agency needing real property shall make a request in writing to the Department of Administration to acquire property, specify the property to be acquired, and indicate the source and sufficiency of funds needed for the acquisition.

Subp. 3. **Acquisition procedure.** Real Estate Management Division shall proceed with acquisition as follows:

A. The title to the property shall be examined by an attorney for the division, whereupon a field title report shall be prepared by the division. The field title report shall be based on information from the owner or a representative of the owner. The purpose and nature of the acquisition shall be explained to the owner at the time of the field title interview. Where there are occupied buildings involved, a relocation study shall be made to ensure that displacees can be relocated without undue hardship.

B. A legal description of the property to be acquired shall be written. Where necessary, a written engineering assessment shall be obtained from the state architect's office.

C. The property to be acquired shall be appraised. Appraiser(s) shall be selected by the director or the assistant director, and may be state employees or fee appraisers. Where fee appraisers are used, they shall be selected from a list of qualified fee appraisers, which list shall be maintained by the division. The fee to be paid to the appraiser shall be as agreed upon between the appraiser and the director or the assistant director.

D. The appraisal(s) shall be reviewed by members of the division staff. Where the appraisal(s) are deemed satisfactory, the appraisal amount which is deemed to represent value (and damages, where applicable) shall be certified by the director or the assistant director.

E. Instruments appropriate for the acquisition shall be requested from the attorney general's office.

F. A direct purchase offer shall be submitted to the property owner. Where possible and practical, the offer shall be submitted in person. A detailed explanation of the state's acquisition policies and of the owner's options shall be made to the owner, especially including, where applicable, a full explanation of relocation benefits available to the owner.

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G. If the owner accepts the offer, the property shall be purchased. The division shall be responsible for proper execution of instruments, closing of transaction, recording of instruments, payment to owner, relocation assistance to the owner, and removal of buildings, where applicable.

H. If the owner rejects the offer, and the legislature has directed by law that acquisition by eminent domain proceedings shall or may be pursued, the division shall institute necessary proceedings to so acquire.

**Statutory Authority:** *MS s 16.02; 16.05*

**1245.0300 ISSUANCE OF PERMITS OR EASEMENTS ACROSS STATE LANDS.**

Subpart 1. **Scope.** Pursuant to Minnesota Statutes, section 16.88, this part shall govern the availability to the public of permits or easements to cross state-owned land other than state-owned land expressly exempted.

Subp. 2. **Permit or easement application.** An application for a permit or an easement to cross state-owned land shall be made in compliance with Minnesota Statutes, section 16.88, subdivision 3, to: Director, Real Estate Management Division, Department of Administration, Room G-22, Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155.

Subp. 3. **Notice to applicant.** The Real Estate Management Division shall grant or deny the application in accordance with the provisions of Minnesota Statutes, section 16.88. The applicant shall be informed in writing of granting or denial of the permit or easement. Where the application for permit or easement is denied, the applicant shall be informed of the reasons for such denial.

Subp. 4. **Conditions.** Pursuant to subpart 3, where the application for permit or easement is granted, the permit or easement shall be granted only after agreement by the applicant to pay to the state an amount to be determined on the basis of an appraisal by the Real Estate Management Division, and to comply with all terms and conditions of the permit or easement. Except where the permit or easement is clearly a benefit to the state, no permit or easement shall be granted for less than the amount of \$100.

**Statutory Authority:** *MS s 16.88*

**1245.0400 PERMITS TO SEARCH FOR LOST PROPERTY; SCOPE AND PURPOSE.**

Pursuant to Minnesota Statutes, sections 16.021, 16.022, and 16.023, parts 1245.0400 to 1245.0900 govern the granting of permits to search upon lands owned by the state for abandoned or lost property and disposition of abandoned or lost property found thereunder.

**Statutory Authority:** *MS s 16.021; 16.05*

**1245.0500 TERMS AND CONDITIONS.**

Permits shall be granted upon permittee's agreement to and performance of the following terms and conditions:

A. Permittee shall indemnify and hold the state of Minnesota harmless for any claim, meritorious or otherwise, and for any causes of action regardless of their nature arising directly or indirectly out of any permittee's activities. The state shall not be liable for any damage to property of permittee or injury to permittee or invitees.

B. If in the opinion of the director or the assistant director the activity to be conducted may endanger life or property, permittee shall purchase liability insurance which protects all persons and their property from injury or damage. The amount of such liability insurance shall be no less than \$100,000 minimum coverage per person per occurrence and \$500,000 minimum coverage per

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occurrence.

The state of Minnesota shall be designated as sole payee in the event of loss.

C. Permittee shall obey and conform to all federal, state, and local laws, rules, and ordinances.

D. Permittee shall cause no damage to any property by virtue of its activities. In the event of any damage to any state property, permittee shall immediately repair same. Failure to immediately make such repairs when advised to do so in writing by the director or assistant director shall result in cancellation of permit.

E. Permittee shall conduct its activities in a manner so as not to adversely affect the environment and shall restore areas of activity to original conditions. Permittee shall remove all equipment relating to and debris resulting from permittee's activities from state land by the termination date of the permit.

F. Permittee shall limit its activities on state land to areas specified by the permit.

G. Unless otherwise specified, permits shall remain in effect for one year from effective date so long as conditions prescribed hereby and in the permit are met.

H. Permittee shall neither assign nor transfer any rights or obligations under the permit without the prior written consent of the commissioner or his authorized designee.

I. Permittee shall not vary the permit without the prior written consent of the commissioner or designee.

J. Receipt of permit shall not constitute an exclusive grant, and the state may issue similar or identical permits for the same or overlapping areas of land.

K. The permit may be canceled by either party at any time, with or without cause, upon 30 days' written notice to the other party.

L. Unless specifically excepted for cause in the permit, all permits shall be granted with the understanding that the lost or abandoned property which is recovered from state lands shall be turned over to the Department of Administration for disposition as provided by statute. The permittee's share of the proceeds shall be agreed upon between the permittee and the state prior to issuance of the permit. The state's share shall be deposited in the general revenue fund.

**Statutory Authority:** *MS s 16.021; 16.05*

### 1245.0600 APPLICATION FOR PERMIT TO SEARCH.

Applications for permits shall be made in writing to the division to the following address: Director, Real Estate Management Division, Department of Administration, G-22 State Administration Building, Saint Paul, Minnesota 55155. Application shall include the following items: applicant name, mailing address, and phone number; description of proposed search; written acceptance of the specified terms and conditions; and specification of area within which activity will take place.

**Statutory Authority:** *MS s 16.021; 16.05*

### 1245.0700 GRANTING OF PERMITS.

Upon receipt of application, the commissioner or designee shall undertake the following action:

A. determination as to department jurisdiction over the lands concerned in the application;

B. determination as to the necessity for liability insurance as specified in part 1245.0500, items A and B;

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C. preparation of a written agreement between the state and the applicant; and

D. submission of permit (written agreement) for review and signature by Department of Finance and attorney general.

Upon execution of the written agreement, the permit shall be in effect under the terms and conditions thereof.

**Statutory Authority:** *MS s 16.021; 16.05*

## 1245.0800 DISPOSITION OF FOUND PROPERTY.

Upon discovery of lost or abandoned property, permittee shall, within 30 days of discovery, place such property at the disposal of the commissioner. The commissioner or designee shall determine the method and location of maintenance and storage of property. Property will be disposed of under the procedure specified by Minnesota Statutes, section 16.022. Upon disposition, the commissioner or designee shall, in a timely manner, authorize payment to the finder the share due him under the terms and conditions of the permit.

**Statutory Authority:** *MS s 16.023; 16.0231; 16.05*

## 1245.0900 PROPERTY LEASING (WHERE STATE IS LESSOR).

Subpart 1. **Scope.** Pursuant to Minnesota Statutes, section 16.02, subdivision 14, this part governs the leasing out of state-owned real property which is temporarily not needed by the state.

Subp. 2. **Requesting notice of available property.** All persons wishing to be notified of the availability for leasing of state-owned property shall request in writing such notification. Requests shall be sent to: Director, Real Estate Management Division, Department of Administration, G-22 Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155.

A list of persons having requested such notification shall be maintained by the Real Estate Management Division. The list shall indicate the particular area in the state and the type of property (i.e., farm, office, etc.) the interested party has expressed an interest in. Notice shall be sent to all appropriate parties on the list when state-owned property is leased out.

Subp. 3. **Bids.** At least 15 calendar days prior to the bid return deadline, bid solicitations shall be mailed to appropriate parties who have requested notification of the availability of property for leasing. In addition to mailing of bid solicitation to all parties known to have an interest in leasing the property, the Department of Administration may, where circumstances merit, advertise the property for lease in a newspaper having general circulation in the area in which the property to be leased is located. The property shall be leased to the highest responsible bidder, consistent with the state's intended use and management of the property. The department expressly reserves the right to reject any or all bids or to waive informalities therein.

Subp. 4. **Grounds for not using competitive bidding.** Competitive bidding shall not be used when the commissioner or designee determines that one or more of the following circumstances exist.

A. there is only one interested party that can feasibly use the property;

B. factors other than bid price, such as maintenance of the property, are paramount;

C. the contemplated rental term is of short duration;

D. other governmental entities have expressed the desire to lease the property; or

E. factors exist which make the taking of competitive bids impractical or not in the best interest of the state of Minnesota.

**Statutory Authority:** *MS s 16.02 subd 14; 16.05*