



Housing and Redevelopment Authority
of the City of Saint Paul, Minnesota:
Redevelopment project files

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OUTLINE OF PROCEDURAL STEPS
FOR LAND DISPOSITION OF REDEVELOPMENT PROJECT LANDS

1. Determination by the Authority of use value of redevelopment lands proposed to be offered for sale. (Required by Minnesota Statutes Annotated, Sections 462.525, Subd. 1, and 462.541, Subds. 1 and 2.) (See Footnote No. 1.)

2. Preparation, publication and distribution of brochure and other printed material, and correspondence, advertising and other means of publicity to stimulate interest by potential redevelopers in the offering for sale of the project lands. (The time required, therefore, should be a minimum of 4 months, so as to afford sufficient time to adequately publicize the offering.)

3. The adoption of criteria, standards and specifications by the Authority governing all bidders to insure conformity with the redevelopment plan as finally approved, and to serve as a basis and guide to the Authority in its evaluation of the various bids. (See Footnote No. 2.)

4. Issuance and publication of call for bids to be submitted on or before a fixed cutoff date, i.e. 60 or 90 days thereafter.

5. Submission of bids to the Authority; staff tabulations and analyses of submitted bids and proposals; transmission to bidders of said tabulations and analyses; opportunity afforded to bidders to discuss with Land Disposition Committee of the Authority any matter or problem relating to said offering for sale.

6. Recommended changes by the Authority in respective bidder's plans and proposals, if the Authority deems such changes advisable.

7. Meeting of the Authority, held upon at least 10 days published notice and personal notice by mail to each of the bidders, affording the opportunity to submit revised proposals and bids, limited to previous bidders; staff tabulations and analyses and revisions, if any, of said

Proposals and bids; distribution of said final tabulations and analyses to bidders.

8. The revision by the Authority, if necessary, of established "fair use value". (See No. 1 above.)

9. Public hearing as required by Minnesota Statutes upon published notice, and personal notice by mail to each of the bidders, to determine the successful bidder. (See Footnote No. 3.)

Footnote No. 1

"Such land shall be made available at its fair use value, as determined by the Authority, which determination shall be based on its proposed use as set forth in the redevelopment plan." (Minnesota Statutes Annotated Section 462.525, Subd. 1.)

In lieu of the lease or sale of a project area as an entirety, the Authority may lease or sell parts of that area separately to redevelopment companies, or other persons, any such sale or lease or a part or parts of a project area shall be fully subject to the provisions of the Sections, including property required for public low-rent housing projects." (Ibid Subd. 4.)

Footnote No. 2.

Such criteria will include the bid price; anticipated benefits, economic, social and financial, including anticipated tax revenue, effects on adjacent and nearby areas; rentals or sale price to be established for the completed units; the introduction of new commercial enterprise in the area, and consequential increase in employment; effect on traffic and public

transportation; aesthetic factors, location of various units in relation to the State Capitol approach; qualifications, experience, ability, financial status and interest of the proposed redeveloper, participants and sponsors; anticipated commencement and completion dates for the construction of the proposed development and improvements; the relation and effect of the particular proposed improvements covered by the bid upon the entire proposed redevelopment plan; compliance with all federal, state, and municipal laws and all regulations thereunder, including requirements by the redevelopment Authority.

Footnote No. 3.

Minnesota Statutes Annotated, Section 462.525, Subd. 2 provides in part, "Any such lease or sale may be made without public bidding but only after public hearing, after 10 days public notice, by the Authority upon the proposed lease or sale and the provisions thereof." This Section contains some, but not all, of the requirements to be followed and qualifications to be met by bidders in the offering for sale of redevelopment lands.

Footnote No. 4.

The establishment of a revised "fair use value" by the Authority becomes necessary if all bids received should be below the original "fair use value". (See Minnesota Statutes Annotated Section 462.525, Subd. 1, quoted under Footnote No. 1 above.)

TO: R. T. Jorvig
FROM: B. Warner Shippee
SUBJECT: Conference with URA

Representatives Concerning Land Disposition
Procedures

This meeting was held May 9, 1955 with the following in attendance:

Tyler Price, Land Branch, Stephen Harris, Field Office Representative and George G. Bell, Field Office Engineer, all from the Urban Renewal Administration and Robert T. Jorvig, Harold Rutchick, William Serbine and Warner Shippee representing the Authority. It was explained that the Authority was basing its disposition procedure planning on the draft dated 2/3/55 of Chapter 6, Land Disposition, of the Manual of Policies and Requirements of URA. Mr. Price expressed his approval of using this as a guide explaining that the draft chapter had been approved by the Land Disposition Branch and reflected its thinking. Mr. Price emphasized the desirability of establishing conditions which assured competition, although he does not favor sealed bids. He believes that it is best to set a fair market value for a parcel and obtain a firm offer from a responsible redeveloper at this price and then allow a period for others to come in with proposals. He feels that the developer who has agreed to buy the parcel at the established price should be given an open opportunity to meet other bids.

The Draft of May 5, 1955, Proposed Methods of Land Disposition - St. Paul Redevelopment Projects UR Minn. 1-1 and UR Minn. 1-2 was discussed. Mr. Price agreed that the procedure was generally adequate if some provisions were made for a further opportunity for bidders to change their bids openly after the cut-off date specified in the procedure. It was agreed that this could be accomplished by setting an open meeting for this purpose within 60 days after the cut-off date. Thereafter, the Authority would schedule the legally required open hearing with due notice. There was a difference of opinion whether this hearing would be on a proposed award to a specified bidder at a given price and so stated in the published notice. The alternative would be not to publicize the proposed award, but have the Authority announce the award after everyone wishing

to be heard had been heard. The possibility of an unsuccessful bidder questioning the award if a "proposed award" were announced in advance of the public hearing was raised in this connection. The consensus of opinion appeared to be that some wording could be worked out for the notice of the public hearing which would indicate the nature of the award, but avoid giving an opportunity for the award to be challenged on the grounds of pre-judgment on the part of the Authority.

In summarizing the procedure would be as follows:

1. Period of general publicity and invitation of expression of interest through a brochure and other means (about 6 months).
2. Advertising for formal proposals with plans and bids with a cut-off date in 60 to 90 days.
3. Period of analysis of proposals with discussion with the bidders.
4. Opportunity for bidders to change their plans or bids in an open meeting of the Authority.
5. Public hearing and award after due notice.

Red =

Rule Disposition

Draft - H.L.R.
March 23, 1955

PROCEDURES AND AUTHORITY FOR DISPOSITION
OF REDEVELOPMENT PROJECT LANDS

The following discussion is concerned solely with the problems and legal procedures incident to disposition of redevelopment project lands already acquired by the Housing and Redevelopment Authority of the City of Saint Paul.

I. Harmonizing of State and Federal laws and regulations.

The applicable statute is M. S. 462.525 (disposal of property) and 462.541 (use value). The federal statute is contained in USCA, title 442, Section 1440 et seq (see particularly Sec. 1455, amended 1954.).

The following regulations have been issued by the HHFA Local Public Agency letter No. 36, land disposition through competitive bidding, dated July 19, 1954; Local Public Agency letter No. 37 relating to approval of selling prices, etc., for public purposes or non-profit institutional purposes; and Local Public Agency letter No. 48, redevelopers, qualifications and responsibility. In addition, a manual governing disposition of redevelopment lands has been issued by the HHFA (see Part 3, and Part 2, Chapter 8, as revised). It is the policy and declaration of the HHFA (letter No. 36) that "if state or local law prevents compliance with any of the foregoing requirements, the local public agency shall promptly advise the division so that consideration may be given to modifications that would be consistent with such law".

It is thus the declared policy of the HHFA that wherever possible, the federal regulations shall be so construed or modified in particular instances so as not to conflict with local law.

II. Method of disposition of redevelopment lands; whether by competitive bidding or by negotiation.

A. Minnesota Statute 462.525, Subdivision 2, provides in part any such lease or sale may be made without public bidding but only after a public hearing, after ten (10) days published notice by the Authority upon the proposed lease or sale and the provisions thereof.

B. However, HHFA Local Public Agency letter No. 36 requires that, with certain exceptions relating (a) to land to be developed for a public or non-profit institutional use or (b) land which has special adaptability or value for

the use of a specific private developer and (c) land which can best be sold or leased on a fixed price basis, applying to single family residential lots to be sold or leased in small parcels from the larger holding, that all sales or leases for disposition of project land shall be by competitive bidding through sealed bids, and award made to the highest bidder meeting the bidding requirements including compliance with the approved redevelopment plan.

Since the state statute is permissive only as to negotiated sales, the HHFA has taken the position by letter dated September 9, 1954, that the HHFA regulation requiring competitive bidding is not in conflict with the state statute permitting negotiated sales. The HHFA interpretation implies that negotiated sales under the state statute are intended to apply only where federal grants or other assistance are not involved. The question is not free from doubt since the statute apparently declares a public policy of negotiated sales where it would best serve the purposes of the redevelopment program.

Nevertheless, since the Housing Authority is empowered to establish criteria for such sales or leases that compliance of a proposed redeveloper bidding on project lands offered for sale must comply with, it necessarily follows that as to each criteria established by the Authority it is the sole judge, in the exercise of its judgment and reasonable discretion to determine which of the bidders complies as to each criteria in the manner which will best serve the redevelopment program. Therefore, the Housing Authority need not accept the highest bid, but may evaluate the proposals of each bidder with a reference to the various criteria and determine on that basis who is the highest responsible bidder most nearly complying with or fulfilling the adopted criteria.

The Minnesota Supreme Court in several cases has declared that where plans and specifications reasonably and necessarily demand a consideration of several factors, and no single bid is lowest in all the factors for consideration, the governing body may, in the reasonable exercise of its discretion, decide what weight is to be given the various factors and accept what it deems to be the acceptable responsible bid, considering all factors, and such acceptance will not be set aside by the Courts where there is no showing of an abuse of discretion. *Otter Tail Power Co. vs. Village of Wheaton*, 49 N.W. 2d, 804, *Otter Tail Power Co. vs. Village of Elbow Lake*, 49 N.W. 2d, 197, 234 Minn. 419; *Mason's Dunnell Minn. Digest, Municipal Corporations, Sec. 6707, 43 Am. Jur., page 786, Sec. 44.*

Similarly the Supreme Court has held that the determination of the responsibility of the bidders calls for the exercise of the liberation and discretion of a judicial nature; and that the exercise of this discretion by governmental officers or boards will not be interfered with by the Courts, except for fraud or abuse.

It appears therefore that even with competitive bidding through sealed bids, the Authority may weigh all factors concerning conformity to adoptive criteria and the matter of responsibility of bidders, applying judicial discretion and the exercise of reasonable judgment in determining who is the highest responsible bidder in a particular instance, and in so doing need not necessarily accept the highest bid where in its judgment such high bidder does not satisfactorily comply or fulfill the adopted criteria or is not accepted by the Authority as responsible, considering all factors involved.

III. Suggested procedure for sale of redevelopment lands.

A. The adoption of criteria, standards and specifications by the Authority governing all bidders to insure conformity with the redevelopment plan as finally approved, and to serve as a basis and guide by the Authority for evaluating the various bids.

Such criteria will include the price or rental bid; benefits, economic, social and financial, including anticipated taxes, additional improvement effects on adjacent and surrounding lands; rents or sale prices to be established for the completed units, the introduction of new commercial enterprises in the area; conformity with the requirements of the redevelopment plan, effect on traffic and public transportation, ~~aesthetic~~ factors; location of various units in relation to the State Capitol approach; qualifications, experience, ability, financial status and interest of the developer, participants and sponsors; anticipated commencement and completion date for the construction of the proposed development and improvements, the relation and effect of a particular proposed improvement covered by the bid upon the entire proposed development plan.

B. Determination by the Authority of upset or minimum price, being equivalent to the fair use value of the lands offered for sale.

1. The Minnesota statute M. S. 462.541, Subdivision 1, provides that after the Authority has acquired land in the project area "it shall, as an aid to it in determining the rentals and other terms upon which it will lease or the price at which it will sell the area or parts thereof, place a use

value upon each piece or tract of land which, in accordance with the plan is to be used for private purposes or for low-rent housing, such use value to be based on the planned use; but nothing contained in this section shall be construed as requiring the Authority to base its rentals or selling prices upon any such appraisal."

M. S. 462.525, Subv. 4 (Disposition in parts). In lieu of the sale or lease of a project area as an entirety, the Authority may lease or sell parts of that area separately to redevelopment companies, or other persons. Any such sale or lease of a part or parts of a project area shall be wholly subject to the provisions of this section, excluding property required for public low-rent housing project.

M. S. 462.525, Subv. 5 (Limitations upon disposal by purchaser). "Until the Authority certifies that all building construction and other physical improvements specified to be done and made by the purchaser of the area have been completed, the purchaser shall have no power to convey the area, or any part thereof, without the consent of the Authority, and no such consent shall be given unless the grantee or mortgagee of the purchaser obligates itself or himself by written instrument to the Authority to carry out that portion of the redevelopment plan which falls within the boundaries of the conveyed property, and also that the grantee, his or its heirs, representatives, successors, and assigns shall have no right or power to convey, lease, or let the conveyed property or any part thereof, or erect or use any building or structure erected thereon, free from the obligation and requirement to conform to the approved project area development plan or approved modification thereof. . . ."

After determination by the Authority of the use value, the Authority should establish a minimum or upset price which in the absence of unusual circumstances applicable to the particular situation, should be the same as the re-use value for the land involved, so that all bidders will be advised that their bids must be in excess of the upset price.

2. Optional procedure. The Authority may consider the advisability of the following: Whether after bids have been submitted and tabulated a public auction should then be held whereat the various bidders¹ and others being advised of the highest bid offer² may have the opportunity to bid against one another

with the thought of receiving a higher price than the highest accepted price offered by the sealed bids, after which of course the Authority would then evaluate the various bids in the light of the redevelopment plan, the adopted standards and specifications, the criteria, and other guides which the Authority may reasonably deem pertinent or advisable before taking its final action in awarding the contract.

C. A brochure or pamphlet should be prepared and made available to the public for the special benefit of the potential redevelopers, giving a description of the project land offered, its general location, site advantages, general neighborhood, summarizing the redevelopment plans and proposed uses, stating amount of adopted reuse value and minimum upset price* material portions of adopted standards and specifications applicable, the criteria for evaluating bids, making reference to all pertinent plans, maps, sketches, documents on file with the Authority for public inspection. A clear statement prohibiting restrictions based on race, color or creed in the sale, use, occupancy, disposition or improvement of the offered project property, emphasizing that the completion date proposed by bidders will be an important factor among the other criteria in the consideration by the Authority of submitted bids requiring that bidding shall be open and competitive through sealed bids, that each bidder will be required to submit a bid bond with his bid, and that the accepted bidder will be required to file a performance bond as directed by the Authority.

All bidders should be advised of the necessity for compliance of all bid proposals with the redevelopment plans as finally approved and that the bidders are advised to inform themselves of all plans, sketches, maps, documents, applicable laws and regulations, federal and state ordinances of the City of Saint Paul, resolutions and requirements by the Housing Authority effecting said program and the proposed sale.

In this connection the Authority should make available by mimeograph or printed copies forms for the bid proposals, bid bonds, proof of redevelopers qualifications and responsibility (see form attached to Local Public Agency Letter No. 48), the proposed agreement for sale to the successful bidder, performance bond, etc. The brochure pamphlet should also state the prohibition against all restrictions and discriminations in the use, occupancy, sale or lease of any part of the project land against any person because of race, color, creed or national

* Unless special circumstances require otherwise, the fair use value and the minimum upset price should be the same.

origin; and that for a period of at least 25 years the project lands and improvements thereon shall be used strictly in accordance with the redevelopment plan for the project. The brochure should further advise all bidders that the acceptance of bids and forms for the call for bids and all other documents relating to the bidding procedure, and all required bonds, and the contract itself are subject to the approval of the HHFA. Particular care must be taken to indicate that the information contained in the brochure is informative only for the purpose of interesting all potential redevelopers in the project and is not to be considered as warranties, and that responsibility rests with the bidders to verify all material which they consider material to their bids.

Undoubtedly there will be other material which the administrative officers of the Authority will consider advisable to insert in the brochure, the foregoing is intended merely as suggestion.

The availability and distribution of the brochure should be made long enough in advance of the call for bids so as to interest as many potential bidders as possible. The redeveloper will be prohibited from assigning, selling, leasing or otherwise transferring the project area or the project, or any part of either thereof, without prior consent of the Authority until the Authority shall have certified in writing that the redevelopment project has been completed in accordance with the redevelopment plan as approved. The accepted bidders will be required to protect and indemnify the Authority against all lien claims against the project land and for that purpose will procure a lien bond from each contractor where the contract shall exceed \$500.00. The time for commencement and completion as contained in the accepted bid, will be considered of the essence and the successful bidder will be held responsible in liquidated damages for each day of delay provided, however, that liquidated damages shall not be the exclusive remedy by the Authority against the accepted bidder for delay.

D. General advertising and publicity of availability of project lands for sale. Issuance and call for bids.

E. Submission to the HHFA. Submission for approval and concurrence by the HHFA of the call for bids and all documents, procedures, standards, criteria, etc., the proposed bonds, a copy of the brochure, copies of resolutions adopted by the Authority, etc. All appraisals of reuse value should likewise be

submitted to the Authority, together with a copy of the resolution by the Authority establishing reuse value and the minimum upset price.

F. Publication of call for bids. Any revision of the development plan as adopted, must be approved by the HHFA. All proposed dispositions of project land must comply with all requirements under the loan and grant allocation and the loan and grant contract with HHFA, which are conditions precedent to the offering or disposition of land with the request for review and concurrence of HHFA, a recordable proposed subdivision plat, if any, or if the filing of a new plat is not proposed a map showing existing subdivisions, state lines and other features should be submitted; and also another copy of the same map or a property map on which there has been superimposed the boundaries of the areas or parcels to be offered separately or designated for different uses, further any proposed restrictions should be submitted for approval, in form suitable for recording. Opinion of counsel should also be submitted as to the enforceability of restrictions, if any, of recordable restrictions, if any, and of the validity of all bidding procedures as enumerated above. It is of course contemplated that before final action in awarding a contract shall be made by the Authority, prior approval and concurrence shall be obtained from HHFA. Where evidence of proceedings taken by the Authority, or of documents on file with the Authority are submitted to the HHFA, they should be certified.

G. Call for bids. When the sale brochure has been made available and distributed, and a reasonable time thereafter has elapsed, a notice or a call for bids, pursuant to the redevelopment plan, standards, specifications, etc., shall be issued, setting a date approximately 60 days thereafter for the submission of sealed bids. Copies of maps, sketches, profiles relating to the redevelopment plan and the plan itself should be made available to all persons, on inquiry upon deposit of an amount to be fixed by the Authority or its appropriate officer. Similarly, forms for bid bonds and for redevelopers statement of qualifications and financial responsibility, the proposed contract should be made available upon inquiry to potential bidders.

H. Tabulation of bids.

I. Review and evaluation of bids by Authority during a period of 90 (60) days after the expiration of the time for submitting bids.

J. A public hearing by the Authority to determine the highest responsible bidder, as determined by the Authority in the light of all factors.

K. Resolution awarding contract to highest responsible bidder subject to the approval of the HHFA, which resolution should state the basis for the award and recite the compliance of the successful bidder with the requirements of the redevelopment plan, standards, specifications, criteria, financial responsibility, as set out above. In other words, to tabulate as to each bidder, particularly where the award is made to one who is not the highest bidder in dollars and cents, whether the various bidders have complied with or failed to comply with such requirements. This will enable the HHFA to understand the basis for the award. Copies of all resolutions relating to the bid and the award should be included with other material sent to the HHFA, and its approval and concurrence in the award obtained by the Authority prior to the execution of the contract.

L. Resolution authorizing execution of contract subject to approval of HHFA (a form of which contract should be attached to the resolution).

M. Resolution approving performance bond.

H. L. R.

*Pick up **

Note:

In submitting documents and other materials to the HHFA for approval and concurrence, particular care must be taken to comply with the requirements of the HHFA manual containing regulations for disposition of redevelopment land insofar as the number of copies to be submitted are concerned, in some instances documents should be submitted in duplicate and others in triplicate, etc.

Comments on Use Value Appraisals .

Use Value appraisals were made (a) by Beeth and Dolan jointly, and
(b) ~~Beeth~~ by Roy Wenzlich and Co.

Western Project Area (1-2), as approved.

(a) Wenzlich and Co. appraisal of reuse value. The reuse value by Wenzlich and Co. dated November 12, 1953, was set at \$1,040,330. However, as to tract M (see development plan, plate 19, page 74, of Wenzlich report), this report attributes no value whatever to said tract M which is designated as a commercial tract having 119,800 square feet, or 2.75 acres. The report states that this tract, which according to the redevelopment plan is to be used for underground parking, "encumbered by the existing restrictions as to use, is valueless except for parked purposes. It would be impractical for the city to purchase and develop the tract for parking, as the loop merchants would raise too much objection. . . . because we do not believe a buyer could be found for this tract under the existing development plan. We are concluding that this tract is valueless for the purpose." Accordingly, no value was attributed thereto in the appraisal report.

(b) Beeth and Dolan report. In the Beeth and Dolan report, dated December 1, 1951, at page 49, the estimated total reuse value is set at \$1,201,099, attributing a square foot value of \$1.40 to 631,630 square feet for commercial property or a total for commercial property of \$884,268.

An amended appraisal report filed by Beeth and Dolan covered by letter of July 3, 1952, estimates the commercial area (631,630 square feet) at \$1.68 per square foot or a total for commercial area property of \$1,061,138.40 and concludes that the ~~X~~estimated total reuse value of the western project area is \$1,560,857.12.

Thus the Wenzlich appraisal for the western project is \$160,769 less than the original Beeth and Dolan appraisal and \$520,527.12 less than the amended appraisal.

A tabulation of the land values for reuses as estimated by (a) Beeth and Dolan and (b) Roy Wenzlich and Co. contained in "Land Disposition Material" folder states that the Beeth and Dolan appraisal aggregates \$1,627,024, and the Wenzlich appraisal at \$1,093,405. The commercial property which includes the parking area to which Wenzlich attributed no value is indicated by an asterisk (*) on the tabulation sheet.

It would appear that because of the great divergence in the reuse values as appraised by (a) Beeth and Dolan and (b) Roy Wenzlich and Co., that a reconciliation of these values should be attempted, otherwise the Authority would seem to be without guidance in establishing either a reuse or minimum upset price for purposes of disposition. A Minnesota statute, M. S. 462.525, states that the reuse value as determined by the Authority should be a guide, though not a controlling one in the disposition of the property. It is difficult to see how the Authority, could properly be guided by values as divergent as those stated in the separate appraisals and a reconciliation therefor of these appraisal figures is desirable. This reconciliation can perhaps best be effected by the same appraisers who made the original reuse value appraisals and it would be desirable further if a joint appraisal could be made by all. If it is contemplated that tract M will be devoted to commercial uses other than for parking, certainly a new appraisal should be made of tract M and an adjustment made in the total appraisal figure.

Eastern Project Area (1-1).

(a) The fair market value for reuse for the eastern project was established by Roy Wenzlich and Co., in its appraisal report at \$603,140.

(b) The fair market value for reuse for the eastern project was established by Beeth and Dolan in its appraisal report at \$559,309, and in their amended appraisal report, covered by letter of July 3, 1952, the estimated future use value is estimated for the eastern project area at \$809,649.72. Here, too, is a substantial difference in the respective reuse value appraisals, and a reconciliation by the appraisers of the estimated reuse values, seems advisable so as to better guide the Authority. It should be noted that in the "Land Disposition Material" folder, on the tabulation of appraisal figures for both the western area and the eastern area, an attempt has been made to strike an average between the appraisals of (a) Beeth and Dolan and (b) Roy Wenzlich and Co., however, because of the substantial variance in the respective valuations as to each area it is difficult to understand the rationale of an average between both appraisals, since what is desired is not merely a bookkeeping figure but rather an expert's conclusion of values.

Chapter 6. Land Disposition

Section 1. Land Disposition Requirements

Basis for Land Disposition Program

This chapter and Chapter 8 in Part 2 set forth the procedures and requirements for obtaining the Division's concurrence in proposed land dispositions submitted for the Division's review pursuant to Loan and Grant Contracts. The procedures and requirements thus set forth are based on such contracts and are prescribed for the purpose of implementing the contractual provisions pertaining to the disposition of project land.

This chapter also describes the final steps of preparation for the disposition of project land. It supplements the material in Part 2, Chapter 8, particularly Section 1, which sets forth in some detail the objectives to be sought in the disposal of project land, the criteria for determining disposition prices, and certain basic requirements of the Division. The material in Part 2, Chapter 8, is essential to a complete statement of the basic principles and requirements and, therefore, should be reviewed and considered as fully as if repeated here in its entirety.

Land Disposition Plan

The Land Disposition Plan (Part 2, Chapter 8, Section 3) is the basis for the Local Public Agency's land disposition program. If the Local Public Agency subsequently proposes to deviate from the plan, the consent of the Division to the deviation should be requested and obtained before taking an action that would not be in accordance with the plan. Likewise, if any of the proposals in the Land Disposition Plan are in conflict with requirements of this Manual

or a letter from the Division to the Local Public Agency, the consent of the Division should be requested and obtained before following the conflicting proposal.

Compliance with Local Law

All land disposition activities and actions of the Local Public Agency must be in compliance with State and local law. If such law prevents compliance with any of the requirements of the Division, the Local Public Agency shall promptly advise the Division so that consideration may be given to modifications that would be consistent with such law.

Determinations of the Local Public Agency

Dispositions of project land and contracts committing the Local Public Agency to such dispositions must be approved by the governing body of the Local Public Agency after taking into consideration, on the basis of appropriate and adequately documented supporting data, all relevant facts that reasonably would be pertinent to such determinations. Before the Division will concur in a proposed disposition or in the execution by the Local Public Agency of a contract committing the Local Public Agency to a disposition, the proposal must have been thus approved by the governing body of the Local Public Agency or, if the Local Public Agency is a municipality, by the department or organizational unit of the municipality authorized to recommend proposed dispositions to the governing body of the municipality. Evidence of such approval and the analyses and supporting data considered in making the determination shall be submitted (or referred to in the case of material previously submitted) with the request to the Division for concurrence in the action proposed to be taken.

Determinations of the Division

Proposed dispositions of project land will be reviewed by the Division for the purpose of determining compliance with the Loan and Grant Contract. In making such determinations, the Division will review the supporting data and analyses considered in making the local determination and submitted by the Local Public Agency with its request for the concurrence of the Division.

Section 2. Final Preparation for Land Disposition

Prerequisites to Offering Project Land

As soon as practicable after entering into a Loan and Grant Contract and before making of any commitment with respect to disposition of land, the Local Public Agency shall:

- a. Comply with all requirements of the loan and grant allocation and the Loan and Grant Contract, which are conditions precedent to the offering or disposition of land.
- b. Complete, to the satisfaction of the Division, the Land Disposition Plan (Part 2, Chapter 8, Section 3) by supplying any information or documentation which was not furnished in the plan originally submitted or which is required by the Loan and Grant Contract or requested by the Division.
- c. Submit for the review and concurrence of the Division a proposed subdivision plat in form acceptable for recording among the land records of the locality, if dispositions of land should be made by reference to a recorded plat. If the filing of a new plat is not proposed, submit a map showing existing subdivisions, street lines, and other features to which reference will be made in land descriptions in disposal instruments; and also submit another copy of the same map or a Property Map (Part 2, Chapter 7, Section 5) on which there has been superimposed the boundaries of the areas or parcels to be offered separately or designated for different uses.

- d. Submit for the review and concurrence of the Division a proposed declaration of restrictions in form suitable for recording and the opinion of counsel for the Local Public Agency as to its enforceability and conformity to the redevelopment plan, if dispositions of project land are to be made subject to a general declaration of restrictions.
- e. Submit for the review and concurrence of the Division proposed forms of contracts for the sale or lease of land (such contract forms may be in the form of offers to purchase or lease which would become contracts upon acceptance by the Local Public Agency) and proposed instruments of sale or lease, together with the opinion of counsel for the Local Public Agency as to their enforceability and conformity to the redevelopment plan.
- f. Obtain and submit for the Division's review one additional appraisal of the project land for use in accordance with the approved redevelopment plan, unless the procurement of such additional appraisal has been determined by the Division in writing to be unnecessary.
- g. Submit for the review and concurrence of the Division the proposed program for promoting the disposition of the land, including proposed advertisements, public announcements, brochures, and other sales-promotion material.

Before the first publication of an advertisement for sealed bids or notice of a public auction, the Local Public Agency shall, with respect to the land to be thus offered:

- h. Submit for the review and concurrence of the Division the proposed bidding documents, including the proposed public notices and advertisements, invitation to bid, and bid forms, together with the opinion of counsel for the Local Public Agency as to their adequacy and conformity to State and local law.

Submissions shall be in duplicate, except that documents required by "c," "d," and "e" above shall be submitted in triplicate for project land to be redeveloped for residential use. If the submission is a document or other material for which suggestions of the Division could be made most readily by notations on the draft, two additional copies should be furnished.

No further action shall be taken by the Local Public Agency with respect to a submission required above until the Division's concurrence has been received.

Items "a" through "g" are necessary for effective promotional efforts and for negotiations with prospective redevelopers. Such items, therefore, should be completed early in the development stage so that there will be ample time to develop the interest of prospective redevelopers and ample time for such redevelopers to make the investigations, plans, and arrangements that usually would be undertaken before submitting a proposal or bid.

Submission of Approved Documents

After receiving the comments or concurrence of the Division and taking official action on a document submitted for the Division's review, the Local Public Agency shall furnish to the Division one certified copy of the document (except appraisals) as approved by the governing body of the Local Public Agency, together with evidence of such approval. Documents requiring recording should include information as to the place, date, and book and page at which the document was recorded.

Map Showing Disposition Parcels and Areas

The subdivision plat of a project area shall be prepared in accordance with requirements of local law and custom by an engineer or surveyor having legal authority to prepare such plats. The plats should show the boundaries and dimensions of each parcel or area to be offered separately or to be devoted to a different use. The plat must conform to the approved redevelopment plan. If appropriate, the plat should show the area in square feet of each parcel. If that is not appropriate, the engineer or surveyor should be required to furnish a tabulation, certified by him to be correct, showing the area of each parcel in square feet. The plat must be suitable for filing among the land records of the locality.

If a new subdivision plat is not proposed, the Local Public Agency may, in lieu of the subdivision plat, substitute a Property Map (Part 2, Chapter 7, Section 5) or a plat showing existing subdivisions, street lines, and other land description features and superimpose on such map the boundaries and dimensions of the parcels or areas to be offered separately or to be devoted to different uses. A tabulation showing the area in square feet of each disposal parcel should be placed on the map or if that is impractical on a separate sheet attached to the map. The boundaries of the disposal parcels and areas must conform to the approved redevelopment plan.

The subdivision plat or plan should provide parcels of such size and character as may reasonably be expected to stimulate competition and to produce the highest return from the sale or lease of the land.

Declaration of Restrictions

For residential and other types of subdivisions involving separate redevelopment or future ownership of land by a number of persons or firms, it

usually will be desirable to prepare and record a declaration of restrictions so that each redeveloper or ultimate owner of the land will have the protection of a general set of protective covenants applicable to all such land. The development of a declaration of restrictions applicable to all project land, or perhaps only to specific areas, may be worthwhile even though ownership of the land will be confined to relatively few. The recording of a declaration of restrictions simplifies the drafting of land disposition contracts and the instruments of conveyance or lease. It will also reduce recording costs, particularly where a large number of deeds or leases is involved.

Like deeds and leases, a declaration of restrictions must conform strictly to the approved redevelopment plan if it is not in fact part of the redevelopment plan as approved by the governing body of the locality. Such declarations are so significant to the attainment of good redevelopment and a successful land disposition operation as to justify the time and effort required to devise a comprehensive set of well-thought-out provisions. The covenants should be designed to protect the project area from inharmonious uses of project land and to ensure that land uses will be in accordance with the approved redevelopment plan. The instrument should be reviewed by legal counsel for the Local Public Agency to ensure that it will be legally enforceable, that it may be filed in the land records of the locality, and that, upon such filing, constructive notice will be afforded of its provisions. The literature on land subdivision is replete with advice and examples of general-plan type restrictive covenants. A good example of the form and organization of a comprehensive declaration of restrictions is to be found in the HHFA publication, Suggested Land Subdivision Regulations, February 1952, obtainable for 45 cents from the Superintendent of

Documents, U. S. Government Printing Office, Washington 25, D. C. This publication also contains information on subdivision plats and other matters pertaining to the development of land.

Contracts and Instruments for the Sale or Lease of Land

A proposed form of contract for sale or lease of land and a proposed form of instrument of conveyance or lease will be required for each parcel, group of parcels, or area to be made available for redevelopment under different terms and conditions. Such contract or instrument, or both, as appropriate, shall:

- a. Obligate the purchasers and lessees and successors in interest to devote the land to the uses specified in the redevelopment plan and to use the land only in accordance with such plan.
- b. Obligate the redeveloper to begin and complete the building on such land of the improvements required by the redevelopment plan within proposed specific periods of time determined by the Local Public Agency to be reasonable. If the redeveloper is to be required to perform any demolition or removal work or to provide any site improvements, such requirements must be specified fully.
- c. Assure that there is not effected or executed by the Local Public Agency, the purchasers or lessees, or their successors in interest, any agreement, lease, conveyance, or other instrument whereby the project land is restricted upon the basis of race, creed, or color in the sale, lease, or occupancy thereof.
- d. Contain appropriate safeguards against speculation in land holding.

- e. Contain such provisions and conditions, not inconsistent with applicable local law, as are necessary to enable the Local Public Agency to observe, require appropriate observance of, and perform and carry out applicable provisions of the Loan and Grant Contract.
- f. Contain such other terms or conditions as may be required by local law.

The contracts and instruments of sale or lease should be drafted so as to ensure that purchase or lease of the land will be for use rather than for resale. They must require use of the land only in accordance with the redevelopment plan, either by covenants or conditions in the instruments themselves or by reference to a declaration of restrictions, and they must ensure that redevelopment of the land will proceed to completion without undue delay.

The terms and conditions of land-disposition documents and the limitations and requirements as to redevelopment and use of land should be designed so that they will not discourage redevelopers or limit competition. The restrictions and the provisions for their enforcement, therefore, should be of a character that will not increase unnecessarily the risks assumed by the redeveloper. They should not be so detailed as to building requirements or land use as to confine the ability or desire to use the land to a specific redeveloper. On the other hand, the limitations on land use must be definite so that it will not be possible for a redeveloper to use the land more intensively than contemplated by the redevelopment plan. Particular care should be taken to avoid provisions that would impair the ability of a redeveloper to obtain needed mortgage financing.

The condition of the site at the time of delivering title and possession (and any commitments for improvements to be provided subsequent thereto)

should be specified fully if different from the conditions existing when a contract may be executed. This would include not only the condition of the site itself but also of the site improvements and supporting facilities to be provided for the project. With respect to site clearance and site improvements, consideration ought to be given to the possibility of obtaining a better net recovery from land disposition by making the redeveloper responsible for demolition and removal of structures and necessary grading (but not for relocation of occupants) or for the installation of the site improvements, or both.

Proposed time limitations for the beginning and completion of the redevelopment of the land should be fixed after weighing all factors affecting the proposed program for the future utilization of the specific parcel. The times should not be so long as to encourage acquisition of the land for speculation but, on the other hand, must not be so short as to limit the potential market for the land or to constitute a financial hazard to a competent redeveloper.

Bidding Documents

The proposed forms of invitation to bid, bid forms, and legal advertisement for bids shall be complete except for dates of offering and dates and times for receipt and opening of bids. The bidding documents must be specific and detailed, either in the text or by reference, on such matters as description of the property offered, conditions of sale or lease, requirements for construction of improvements, requirements and procedure for submitting offers or proposals, deposit and payment requirements, information required as to qualifications and financial ability and responsibility of the bidder, and, if necessary, the proposal of the bidder as to how he proposes to redevelop the land in conformity with the redevelopment plan. The bidding documents should be drawn not only to protect the Local

Public Agency, but also with the objective of encouraging prospective redevelopers actually to submit proposals. The invitation or notice shall provide that the Local Public Agency may reject any and all bids.

Public notice of the availability of the project land, by advertisements and other means, must be adequate to apprise all interested persons of the proposed disposition of the land and to provide such persons ample opportunity to submit bids. The bidding documents themselves and the bidding procedures specified therein must provide for open competitive bidding through the submission of sealed bids to be opened and publicly read at a date, time, and place specified in the invitation for bids.

The time between the first publication of the advertisement for bids and the closing date for receipt of bids must be sufficient (considering previous public announcements, promotional efforts, and negotiations) to afford interested redevelopers ample time to prepare and submit their bids. The date for submission of bids should not precede the date title and possession can be delivered to the successful bidder by so long a time as to discourage wide participation in the bidding or to increase significantly the risks of the redeveloper. A minimum interval of 30 days between receipt of bids and award of the disposition contract should be provided, however, for evaluation of the bids and obtaining the concurrence of the Division in the action proposed by the Local Public Agency. Of the suggested 30-day minimum period, 14 days are required for the review and action by the Division.

Appraisals

The additional disposition appraisal to be obtained in the development stage of the project should conform generally to the specifications in the

guide form of contract HHFA Form H-324, Contract for Appraisal of Redevelopment Sites. The requirements of the contract should be revised, however, if changes will produce a report that would be more useful in evaluating proposals of prospective redevelopers or in assisting the Local Public Agency to dispose of the land.

Sales-Promotion Material

The proposed program of the Local Public Agency for promoting the disposition of project land initially may consist of a statement of the things the Local Public Agency proposes to do and a proposed schedule of the dates when each step will be completed. The preparation and submission of proposed advertisements, brochures, and other sales-promotion materials should follow in accordance with the time schedule proposed in the initial submission.

Section 3. Land Disposition Methods and Procedures

Factors Affecting Selection of Disposal Method

The public interest requires that project land be made available for redevelopment in ways that will produce the highest practical return to the project consistent with the requirements of the redevelopment plan. The public interest also requires that dispositions of land be effected in a fair and equitable manner. The achievement of these objectives depends both on the selection of appropriate disposal methods and on the skill and energy applied to the execution of the program.

Because of the diversity of property characteristics and redevelopment uses, no single disposal method is best for all types of property. Usually, the combination of a method that fosters competition with a redevelopment plan that permits wide interest and participation by redevelopers will produce the highest net return from the sale or lease of the land. But this is not always true. Where the demand for the land for the permitted use or at an obtainable price is limited to one buyer, the adoption of competitive methods obviously might reduce recovery. And even where a competitive method is indicated, the selection of the appropriate method of taking advantage of the existing market may be determinative of the success or failure of the disposition program. Thus, land that can be marketed and developed effectively only by numerous redevelopers over a period of years could be offered either at fixed prices or in units at successive dates under competitive bidding conditions, or it could be offered all at once under a competitive bidding procedure. But if this last method were selected under the circumstances assumed, it is self-evident that the results of the

bidding probably would be disappointing. As illustrated by these examples, it is essential that the appropriate disposal method be selected for each type of property to be made available for redevelopment.

Classification of Property for Selection of Disposal Method

Later in this Section of the Manual, there are set forth separate disposal procedures, acceptable to the Division, for each of the following types or classes of project land:

1. Land to be redeveloped for a public or non-profit institutional use,
2. Land which has special adaptability and value for the use of a specific private redeveloper,
3. Land which, in the interest of the over-all project undertaking, can best be sold by negotiation to a redeveloper from whom land is to be acquired for the project,
4. Land which can best be sold or leased on a fixed-price basis, such as single-family residential lots to be made available individually and industrial land to be sold or leased in small parcels from a large holding,
5. Land possessing general marketability and which can best be sold or leased, following promotional and negotiating efforts, under competitive bidding conditions.

Each of the foregoing classes of land is defined more fully later in this Section under headings identifying the type of property and bearing the numbers shown above.

Information to be Made Available to Potential Redevelopers

The Local Public Agency should be prepared, upon request, to supply to potential purchasers and lessees full information regarding project land and the conditions under which it is to be made available for redevelopment. All possible assistance should be rendered to potential redevelopers so that they may obtain all information needed for the preparation of proposals for the purchase or lease of the land. Such person should be permitted to make a complete inspection of the property, including pertinent surveys and engineering reports made in connection with the property. Pertinent information regarding the project land and the uses for which it is suitable under the redevelopment plan should be compiled so that such information and the requirements to be imposed on the redeveloper can be made available to potential purchasers or lessees in convenient form.

Advertising and Promotion

Except for the first three classes of property for which the development of competitive interest will not be essential, wide publicity should be given to the availability of the project land for redevelopment. Advertising, brochures, and public announcements should provide information sufficient to inform potential redevelopers of the nature and character of the land, of its possible uses under the redevelopment plan, and of the source from which complete information can be obtained.

Publicity as to the availability of the land for redevelopment should be by public advertisement and other means of reaching prospective redevelopers. The Local Public Agency should consult with local groups and organizations and should endeavor to promote and develop the interest of persons and firms qualified to redevelop the land in accordance with the redevelopment plan.

ACCEPTABLE LAND DISPOSITION PROCEDURES

1. Land to be Redeveloped for a Public or a Non-Profit Institutional Use

With respect to project land which is to be made available for a public use or for a non-profit institutional use, the Division requires, prior to concurring in the obligation of loan funds for land acquisition or paying any grant funds under a contract for a capital grant only, satisfactory evidence of a commitment from the redeveloper to acquire such land at a price and upon and subject to terms and conditions which shall have been concurred in by the Division before the contract for the disposition of the land is executed by the Local Public Agency.

Public use includes any land to be retained for redevelopment by the Local Public Agency itself and any land to be sold, leased, or dedicated to the Federal government, the State, a political subdivision thereof, or any agency or instrumentality of the Federal, State or local government, for public use such as a post office, street, school, city hall, library, public housing project, vehicle parking facility, park, or playground.

Non-profit institutional use includes any land to be redeveloped by a non-profit scientific, literary, educational, religious, public-health, public-welfare, charitable, hospital, eleemosynary, or similar institution, corporation, organization, or association which has been held exempt from Federal taxation under the Internal Revenue Code, for such institutional uses as hospitals, churches, libraries, schools, and playgrounds.

A commitment from a public or non-profit institutional redeveloper generally should be in the form of an unaccepted offer to purchase or lease which upon acceptance by the Local Public Agency will constitute

the contract for the disposition of the land.

Submissions to the Division of proposed dispositions of land for public use or for non-profit institutional use shall include the determinations and documentation required by Section 5 of this Chapter except that the information and evidence as to the qualifications and responsibility of the redeveloper may be supplanted in the case of public-body redevelopers by appropriate evidence of the financial ability and legal authority of the redeveloper to acquire and develop the land in accordance with the redevelopment plan.

If the proposed redeveloper is a non-profit institution, the submission of the proposed disposition must include evidence that the redeveloper has been held exempt from Federal taxation under the Internal Revenue Code.

With respect to proposals to dedicate land or easements therein for streets, alleys, and other public rights-of-way, the submission shall include a statement of the conditions, if any, which must be fulfilled by the Local Public Agency before dedication of the land will be accepted.

2. Land Having Special Adaptability and Value for the Use of a Specific Private Redeveloper

For land having special adaptability and value for the use of a specific private redeveloper, it is required that, prior to approval of the loan and grant allocation, an agreement be executed by such redeveloper and the Local Public Agency. The agreement should provide (subject to such safeguards as are deemed appropriate, including the contingency of not obtaining a Loan and Grant Contract from HHFA) that the Local Public Agency

will offer such land at public auction, that the redeveloper at the public auction will bid not less than a specified price which shall have been concurred in by the Division prior to the execution of the contract, and that the Local Public Agency will accept such price if a higher price is not bid at the auction. The terms and conditions of such agreements are subject to the concurrence of the Division.

Land having special adaptability and special value for the use of a specific private redeveloper means land which, because of its location or other unique characteristics, is substantially more valuable to one possible buyer than it would be to typical buyers. Such cases will develop most often when project land is suitable for expansion of the facilities of an adjacent property. An example of special adaptability and value not involving proximity to other property of the redeveloper would be a site which, because of its commanding elevation, is especially valuable as a television-transmitter site. Special adaptability and value, therefore, may result either from location in relation to other property of a specific redeveloper or from special adaptability for a use for which there would be only one or at most a very few possible buyers. In such cases, the redeveloper to whom the site has special value may be willing and fully justified in paying a much higher price than typical buyers. However, once such land is acquired or approved for acquisition without having first obtained a commitment from the "special redeveloper," the bargaining advantage is gone. Agreements with such redevelopers, therefore, should be worked out at the earliest possible time in the preparation of the project.

Proposed agreements with such redevelopers should be submitted for the concurrence of the Division in accordance with the requirements of Section 5 of this Chapter. The public auction, to which reference has been made, generally should be scheduled for a time shortly before the Local Public Agency will be able to deliver title and possession so that a maximum opportunity to bid will be afforded to possible competitors for the land. As security for the performance of this type of agreement, the redeveloper should be required, at the time of entering into the agreement, to make a substantial payment in lieu of compensatory damages. Such payment should not be less than (1) 25% of the agreed-upon price or (2) an amount equal to the difference between the proposed price and the estimated value of the land to typical buyers, whichever is the greater.

3. Negotiated Dispositions to Redevelopers from Whom Land is to be Acquired for the Project

The negotiation of dispositions of project land to redevelopers who own land in the project area and agree to sell their properties at a proper price may, under some circumstances, be the most prudent method of disposing of the land. Such negotiation of dispositions will be considered an acceptable method only when the redeveloper, as owner of other land in the project area, agrees voluntarily to sell his land to the Local Public Agency at a price that is fair and proper under the circumstance of being afforded the privilege of acquiring land in the project area without being subjected to the risk of being out-bid in a public offering.

Such negotiated disposition of land to a redeveloper from whom land is to be acquired for the project will be considered appropriate only when

the disposition is for the purpose of adjusting the apparent boundary of the project area, preventing the payment of severance or consequential damages to property not to be acquired for the project, or providing no more than a substantially equivalent substitution for land to be acquired from the redeveloper. For the last-mentioned type of case, evidence must be supplied showing that such disposition is required by local law or is clearly in the best interest of the project and will not deprive other prospective redevelopers of a fair opportunity to meet their legitimate needs by acquiring land in the project area.

The redeveloper, as a condition of such disposition, must agree to pay not less than the fair value of the land for use in accordance with the redevelopment plan and to sell such of his holdings as are required for the project at a price that is appropriate under all the circumstances. The appropriate price to be paid by the Local Public Agency for property to be acquired generally could not exceed the fair market value of such property without allowance for consequential or severance damage.

The prices and terms and conditions of both the acquisitions from and dispositions to such redevelopers are subject to the review and concurrence of the Division. Proposed agreements involving such dependent transactions should be fully documented and submitted in accordance with Section 5 of this Chapter.

4. Disposition at Fixed Prices

If the project land and its proposed reuse are such that offering the land for disposition at fixed prices would be the most prudent method of making the land available for redevelopment, the Local Public Agency may (after obtaining the concurrence of the Division in the proposed method

and in proposed prices, terms, and conditions of the offering) dispose of the land accordingly.

The most common type of redevelopment plan for which fixed-price offering of the land would be appropriate is a residential subdivision in which the lots are to be sold or leased individually. Projects involving large areas of industrial or heavy-commercial land to be sold in many smaller units sometimes may be sold or leased more suitably on a fixed-price basis because of the variation in the size of the parcels that would be desired by different redevelopers.

If the Local Public Agency proposes to offer any land for private redevelopment on a fixed-price basis, the submission of its proposal as to prices and the terms and conditions of the proposed offering must include evidence of the Local Public Agency's determination that the proposed disposition method is the most prudent disposal method, together with the supporting data and analysis on which such determination was made.

Other data to be furnished with the Local Public Agency's submission are as set forth in Section 5 of this Chapter, except that no information need be submitted at that time as to the qualifications or responsibility of the redevelopers. If the disposal program will involve individual land dispositions and redevelopment undertakings of relatively small magnitude, the Local Public Agency may propose standards according to which it will agree to evaluate the qualifications of prospective redevelopers so that dispositions of land may be made in accordance with the approved fixed-price offering without specific concurrence in each

individual transaction. If such standards are not proposed and concurred in by the Division, each proposed disposition, together with appropriate information respecting the proposed redeveloper's qualifications and financial responsibility, must be submitted to the Division for review, and such proposed disposition shall not be effected until the concurrence of the Division has been received.

5. Land Having General Marketability; Competitive Bidding

Land having general marketability should be made available under such conditions and at such time or times as will afford a maximum inducement to potential redevelopers to submit acceptable offers for the land. The development of real competition requires that the land (a) be offered under terms and conditions that do not impose unnecessary risks on the redeveloper, (b) be subject to limitations and requirements as to redevelopment and use of the land that will permit the redeveloper reasonable discretion and choice in the planning and carrying out of the redevelopment of the land, (c) be made available in parcels of such character and size as will appeal to a sufficient number of potential redevelopers to provide competition, and (d) be offered under competitive bidding conditions at a time when title and possession can be delivered shortly after award to the successful bidder.

The formal offering of land under competitive bidding conditions should be preceded by a period in which the land and the opportunities for its redevelopment are brought to the attention of as many potential redevelopers as practicable by advertising, personal contacts, and other means of reaching persons likely to become interested. This period before formal advertising for bids should be sufficiently long to allow

potential redevelopers ample time to make the studies, investigations, and arrangements that are necessary before making a definite proposal. The providing of ample time requires that all plans and details of the disposal program be worked out early in the redevelopment stage so that potential redevelopers will have all details of the offering as soon as practicable and so that the land can be offered without further delay when title and possession can be delivered.

After adequate exposure to the market and the interest of potential redevelopers has been developed to a point that an acceptable bid can be expected from a public offering, the land should be made available through free and open competitive bidding involving the submission of sealed bids to be opened and read publicly in conformity with requirements to be prescribed in the bidding documents.

To obtain the concurrence of the Division in a proposed disposition of project land by competitive bidding, the Local Public Agency must submit satisfactory evidence:

- a. That adequate public notice of the availability of the land was given through advertising and other means reasonably calculated to apprise all interested persons of the proposed disposition of the project land and to provide ample opportunity for such persons to submit bids;
- b. That the bidding and other contract documents pertaining to the disposition of the project land permitted open competitive bidding through the submission of sealed bids opened and publicly read at a date, time and place specified in the invitation for bids;

- c. That the interval of time between the cutoff date for receipt of bids and the date when title and possession will be delivered to the successful bidder are not so long as to have discouraged wide participation or increased unreasonably the risks of the redeveloper;
- d. That the project land offered for disposition was made available on such terms and conditions, subject to such limitations and requirements as to redevelopment and use of land, and with such time limit for the preparation and submission of bids as would encourage competition;
- e. That the project land was offered for disposition in parcels of such size and character as reasonably would be expected to foster competition and produce the highest practicable return;
- f. That the bid proposed to be accepted is the highest bid received from a bidder meeting the bidding requirements; and
- g. That the proposed redeveloper is qualified and financially responsible and capable of carrying out the redevelopment of the project land.

The proposed forms of bidding documents and contracts and instruments for the disposal of the land, together with other documents are required by Section 2 of this Chapter to be submitted for the review and concurrence of the Division prior to the first publication of an advertisement for bids. The proposals of the Local Public Agency for meeting requirements "a" through ^{"e"}~~"d"~~ above, therefore, will have been concurred in by the Division before the date for receipt of bids is publicly announced. After having concurred in such proposals of the Local Public Agency, the Division will be satisfied if the submission of proposed dispositions be limited, with respect to such requirements, to evidence that the proposals as concurred in by the Division were carried out without

Promptly after opening the bids, the Local Public Agency shall submit to the Division a tabulation of all bids received and its determination as to the action it proposes to take with respect to the results of such bidding. The submission, if it recommends acceptance of a bid, shall be made in accordance with Section 5 of this Chapter and shall include the complete bid proposed for acceptance and evidence of compliance with the requirements set forth above.

If a satisfactory bid is not received, the Local Public Agency nevertheless shall transmit to the Division the tabulation of the bids received and make a definite proposal as to the additional steps to be taken by the Local Public Agency to obtain an acceptable offer. The transmittal shall include an analysis by the Local Public Agency of the bids received and of all factors believed to have contributed to the failure to receive an acceptable bid.

After having offered the land under conditions calling for the submission of sealed bids, as in this Section provided, and not receiving an acceptable offer, the Local Public Agency may, unless the reasons for the failure suggest other steps, undertake to obtain an acceptable proposal through negotiations with such potential redevelopers as are interested in acquiring the land, provided such procedure (a) is permitted by local law, (b) has been approved by the governing body of the Local Public Agency, and (c) is announced by a public notice in a newspaper of general circulation in the locality in which the project is situated and by letter to each person or firm that submitted a bid.

Section 4. Qualifications and Financial Responsibility of Redeveloper

Necessary Qualifications of Redevelopers

Purchasers and lessees of project land must be of good reputation, have available sufficient financial resources and cash for the acquisition and development of the land, and be capable of organizing, constructing, and managing the project redevelopment. Evidence that the redeveloper possesses such qualifications is a prerequisite to obtaining the Division's concurrence in a land disposition agreement submitted by a Local Public Agency for the Division's review pursuant to the Loan and Grant Contract.

Redeveloper's Statement of Qualifications and Financial Responsibility

As a condition precedent to the Division's concurrence in a disposition of project land, the Local Public Agency must have required, among other things, that each prospective redeveloper submit, with its proposal or bid, such statements and evidence as would enable a determination to be made as to whether or not the redeveloper is qualified to undertake the obligations to be imposed under the proposed agreement of sale or lease. Bidding documents pertaining to disposition of project land should specify the evidence which bidders must submit. The requirements should be sufficiently complete to ensure (1) identification of the principals (officers, directors, stockholders having a significant interest, partners, or proprietors) of the redeveloper, (2) disclosure of the relationship of the redeveloper to any corporation or firm of which the redeveloper is a subsidiary or affiliate, and (3) submission of pertinent financial and credit information.

If the estimated value of the land covered by the proposal or bid is more than \$50,000, each prospective redeveloper shall be required to submit a sworn

statement substantially in accordance with HHFA Form H-6xx, Redeveloper's Statement of Qualifications and Financial Responsibility.

If the proposal covers land that has been designated in the redevelopment plan for a public use and is to be redeveloped by a State, municipality, or other public entity, whatever evidence is appropriate to show that such Redeveloper has the financial ability and legal authority to acquire and develop the land in accordance with the redevelopment plan should be obtained instead of the statement.

Determinations by Local Public Agency

The Local Public Agency, on the basis of its own investigations and the statements of the redeveloper, shall make a determination as to whether or not the redeveloper is qualified and financially capable of performing the proposed agreement of sale or lease. Statements and evidence submitted by the proposed redeveloper should be supplemented by investigations by the Local Public Agency, including reports of reliable national and local credit agencies and information obtained by the Local Public Agency from bank references and other sources. When the redeveloper is a new or relatively new organization, the investigations and credit reports should include the principal individuals and firms involved. Credit agencies should be requested to issue their reports for the use of both the Local Public Agency and HHFA, so that no question can arise as to the propriety of submitting such reports to the Division. If the Local Public Agency does not have facilities for obtaining reports from reliable national credit agencies, the Division, upon being advised of the name and address of the proposed redeveloper and the persons and firms listed in response to Items 3 and 5 of Form H-6xx, will obtain such reports and inform the Local Public Agency of conclusions reached from its review of the reports.

Documents to Be Submitted to the Division

Evidence of the Local Public Agency's determination with respect to the qualifications of the Redeveloper, together with the analyses and data on which it is based, shall be furnished as part of the documentation of proposed land dispositions submitted by the Local Public Agency for the concurrence of the Division. The supporting data must include the Redeveloper's statement, the information obtained from bank and trade references, and the reports of credit agencies or, if such reports cannot be furnished, the conclusions derived from review of such reports. One duplicate original or certified conformed copy of each such item is required for the Division's review.

Section 5. Summary of Documents and Proposals
Pertaining to Land Disposition to be
Submitted to the Division

This Section lists the documentation in connection with land disposition to be submitted by a Local Public Agency to the Division during the development stage of a project, as described elsewhere in this Chapter.

Final Preparation for Land Disposition

Land disposition documents to be submitted to the Division early in the development stage and prior to the first publication of an advertisement for bids for project land or the making of any commitment with respect to land disposition are as follows:

- a. Documents submitted to comply with requirements of the loan and grant allocation or the Loan and Grant Contract.
- b. Information or documentation required to complete the Land Disposition Plan.
- c. Proposed subdivision plat or other map designating the land for disposition.
- d. Proposed declaration of restrictions and opinion of counsel thereon if such a declaration is to be filed of record.
- e. Proposed forms of contracts for the sale or lease of land and proposed instruments of sale or lease, together with opinion of counsel thereon.
- f. An additional reuse appraisal of the project land unless procurement of such appraisal has been determined by the Division in writing to be unnecessary.

- g. Proposed program for promoting the disposition of the land, including proposed advertisements, public announcements, brochures, and other sales-promotion material.
- h. Proposed bidding documents and opinion of counsel thereon.

Such submissions shall be in duplicate, except that documents required by "c," "d," and "e" above shall be in triplicate for project land to be redeveloped for residential use. Two additional copies should be submitted if the suggestions of the Division could be made most readily by notations on the draft.

No further action shall be taken with respect to such submissions until the concurrence of the Division has been received.

Submissions of Proposed Land Dispositions

Proposed contracts for the sale or lease of project land, proposed contracts which commit the Local Public Agency to accept a specific offer if not bettered at a public auction, and proposed programs for the disposition of land on a fixed-price basis shall be submitted to the Division for its concurrence prior to execution of such contracts or programs by the Local Public Agency. The submission of such proposals shall include determinations and documentation as follows:

- a. A copy of the proposed contract of sale or lease and the proposed instrument of conveyance or lease unless such contract and instrument are identical in form to contracts and instruments for the parcel previously approved by the Division, in which case a statement to that effect will suffice.
- b. Evidence of the Local Public Agency's determination of the proposed disposition price for the land, together with a

statement of the considerations and the analyses and supporting data on the basis of which the Local Public Agency made its determination.

- c. Evidence of the Local Public Agency's determination as to the qualifications and financial ability of the redeveloper to acquire and redevelop the land in accordance with the redevelopment plan, together with the considerations and the analyses and data on the basis of which the Local Public Agency made its determination.
- d. Reports of such negotiations as may have been held with prospective redevelopers by the staff of the Local Public Agency or by its real estate representatives, together with information as to all offers or proposals for acquisition of the land received by the Local Public Agency.
- e. If the proposed disposition was the result of competitive bidding, (1) a tabulation of all bids received and (2) evidence that the offering and bidding requirements met the conditions specified in Section 3 of this Chapter.
- f. If the proposed disposition is to a non-profit institution, evidence that the proposed redeveloper has been held exempt from Federal taxation under the Internal Revenue Code.
- g. If the proposed disposition is to be by dedication, a statement of the conditions, if any, which must be fulfilled by the Local Public Agency before dedication of the land will be accepted.

- h. If the proposed disposition is with respect to land having special adaptability and value for the use of a specific private redeveloper, evidence that the proposed cash payment to be made as security is adequate to ensure that the redeveloper will carry out the contract.
- i. If the proposed disposition was negotiated (without competitive bidding) with a proposed redeveloper who is also an owner from whom land is to be acquired for the project, evidence, in the agreement for the disposition of land to such redeveloper, that the land to be acquired from such redeveloper will be sold to the Local Public Agency at a reasonable price.
- j. If the submission is a proposed program for disposition of land at fixed prices, evidence of the Local Public Agency's determination that such method would be more prudent than disposition by competitive bidding and the supporting data and analyses on which such determination was based.

Such submissions shall consist of an original or certified copy and no action shall be taken with respect thereto until the concurrence of the Division has been received.

Submissions After Disposition of Land

After execution of each contract for the disposition of land and the delivery of the executed conveyance or lease, the Local Public Agency shall furnish the Division one certified conformed copy of such documents.