

ABA REAL PROPERTY PURCHASE PROCEDURES

Failure to adhere to these procedures may cause a delay and/or approval of the transaction may be withheld. The process is governed by laws (§22-6-601), the ABA Minimum Standards and Criteria and other state laws cited below. Agencies are strongly encouraged to contact their legal representative for these transactions.

- a) Agencies may contact our Design Review Section (DRS) at 501-682-5544 to initiate a feasibility site review, which can determine the general conditions, market value, as well as flood plain restrictions, appraisal and environmental assessments, and overall suitability for the intended use. If a feasibility study is not requested, agencies shall obtain a flood plain status review from the DRS prior to the certified request in (c).
- b) Agencies shall provide written notification to the ABA Director when they have obtained the services of a certified/licensed appraiser. Agencies shall ensure that the appraiser takes an oath* and is properly licensed with the Appraisers Licensing Board.
- c) Agencies shall certify to the ABA Director by providing justification for the proposed purchase. The certification letter shall be accompanied with the following documentation:
 1. Offer and acceptance* (O/A);
 2. Current appraisal of the property and the appraiser's oath;
 3. E098-04 disclosure forms;
 4. Title commitment (seller's expense/§ 25-16-706; title insurance agent's license/§ 23-103-301); and
 5. Any documentation from the Office of the Attorney General (§ 25-16-706).
 6. If an agency is proposing to purchase a building, the agency shall provide documentation or a statement, or both, that §22-3-2005 is being complied with by providing documentation or a statement:
 - (i) The building met the design and construction standards for a comparable building at the time of its construction; or
 - (ii) Major renovation of the building met the standard for energy and water efficiency that was applicable for a comparable building at the time of the major renovation.
 - (iii) (i) or (ii) above do not apply if the building has historic, architectural or cultural significance; is acquired by devise or gift or purchased for demolition.
- d) Upon receipt of the documents, ABA will review the proposed purchase and provide a recommendation to the Governor. ABA notifies the agency of the Governor's determination (approval/non-approval).
- e) Agencies are exempt from revenue tax stamps regarding property purchases (§ 26-60-102).
- f) While ABA discourages the use of "earnest monies", agencies may insert language pertaining to the use of earnest monies as long as the O/A states the earnest monies will be made part of the purchase price if negotiations are successful and will be refunded to the agency if the transaction is not completed regardless of the circumstances.
- g) Following the closing process, agencies should:
 - Submit a copy of the recorded deed to the Commissioner of State Lands (§ 22-5-411).
 - Remind the surveyor that any plat made by them of all surveyed property boundary lines should be filed in the county circuit clerk's office, unless exempted by § 17-48-106.
 - Send written documentation regarding state ownership to the County Assessor's Office with respect to tax or tax-exempt status.
 - Provide written notification to the RES Administrator of the property ownership and other required information. (§ 22-2-121).
- h) Agencies should review laws (§25-1-121) on prohibitions of the naming of public building, structures or facilities.

*See our website at www.aba.arkansas.gov (Click on Forms & Resources – sample O/A and Appraisal Oath forms can be found under RES). Executed copies of the O/A will be acceptable if it is conditional upon the approval of the Governor. *However, ABA would strongly suggest that agencies not execute Offer and Acceptances without an initial review by RES prior to the submittal in (c).* ABA approval of the draft offer and acceptance should not be deemed in any manner as a favorable recommendation to the Governor under (e).