

SITE SELECTION AND ACQUISITION

6849

(Revised 5/98)

PWB's role: Using DGS as its agent, PWB selects and acquires real property for most departments when the appropriation is subject to the Property Acquisition Law (Government Code Sections 15850–15866). Exceptions are listed in Section 6842. Even if a specific site is designated for acquisition by the Legislature, PWB must approve the site before any purchasing activities can begin, including negotiating with the prospective seller. DGS prepares all land acquisition and related agenda items for consideration and approval by the PWB.

Overview of site selection and acquisition: The phase has two major steps:

1. Site selection, CEQA compliance, and PWB approval of the chosen site with authorization to proceed to purchase; and
2. Site purchase with subsequent PWB approval of the settlement price only if it exceeds the previously reported appraisal price.

This phase starts when the client department makes a written request to DGS to prepare a formal appraisal for the approved project. The request must be made by a department manager authorized to commit project funds and must give the Budget Act appropriation citation or statutory authority.

After the appraisal, but before beginning any formal acquisition activities, DGS obtains PWB approval for a specific site consistent with the requirements of the Budget Act or enabling statute. (Where a specific site is not designated in the appropriation, DGS first assists the department in selecting a site).

After PWB approves the site, DGS negotiates a settlement with the owner. If the settlement price exceeds the appraised value DGS reported to PWB at the time acquisition was authorized, DGS returns to the board for approval of the higher settlement price (and may, as necessary, request augmentation). Typically, the property acquisition phase must be completed before DOF releases design and construction funds to improve the site. Site selection and acquisition costs include:

1. Investigations,
2. Surveys,
3. Title costs,
4. Appraisal fees,
5. Staff time, and
6. Relocation assistance (depending upon DOF's assessment of need; requires specific justification).

Evidence required by PWB: Current law requires that before a project is submitted to PWB for concurrence on site selection, there must be evidence that:

1. Implied dedication has been considered in the appraised value. *Implied dedication* refers to a public easement which has been created through a history of use. (Determination of implied dedication is case-specific and based on facts involved in a given situation.) Implied dedications may reduce the value of a property.
2. The project has complied with CEQA, as described in Section 6850.
3. If improved property is to be acquired, a relocation study has been prepared and adequate funds are available for relocation costs.
4. A legal description and title report covering each parcel to be selected has been completed.
5. Notice has been given of the time and place of the PWB meeting and an agenda has been mailed to interested parties.

Types of board action to acquire property: There are three types of board actions associated with this phase (not including any possible augmentations or scope changes):

1. Approval of site selection and authorization of acquisition;
2. *Possibly* approval for acquiring less property than originally contemplated;
 - a. Submit this item only if the project is solely an acquisition project, the reduction in property exceeds 20 percent of the legislatively-approved acquisition value, *and* the client department believes that a lesser portion of the property is sufficient to meet the objectives of the project approved by the Legislature (see Section 13332.11 [g] of the Government Code);

(Continued)

(Continued)

SITE SELECTION AND ACQUISITION**6849** (Cont. 2)

(Revised 5/98)

- b. Legislative notification is required; therefore the item must be submitted 30 working days in advance of the proposed PWB meeting date.
- 3. *Possibly* approval of the settlement price, but only if it exceeds the appraisal price previously reported at the time PWB authorized the acquisition.

In all cases, DGS is responsible for submitting the agenda package to DOF for those departments which must acquire property through PWB (for exempt departments, see Section 6842). However, client departments are responsible for meeting DGS' information needs to prepare the agenda packages.

Agenda information:

1. **Site selection and acquisition.** The following information is required:
 - a. All elements specified in Section 6845 for both the agenda package and standard fiscal reporting requirements;
 - b. CEQA documents per Section 6850.
2. **Acquiring less property pursuant to Government Code Section 13332.11 (g).** The agenda package includes:
 - a. All the elements specified in Section 6845 for both the agenda package and standard reporting requirements. However, if this request is made at the same time as the board item for site selection and acquisition, it is handled as a sub-item and uses the agenda package and standard reporting requirements for the main item;
 - b. A written statement explaining why the purchase of lesser property fulfills the Legislature's intent; and
 - c. A draft notification letter to the Legislature.
3. **A settlement price which exceeds the appraisal.** The agenda package includes:
 - a. All elements specified in Section 6845 for both the agenda package and standard reporting requirements. However, if this request is made at the same time as the board item for site selection and acquisition, it is handled as a sub-item and uses the agenda package and standard reporting requirements for the main item;
 - b. An explanation for the increase in the settlement price;
 - c. If an augmentation is required, a separate agenda package is not needed but the submittal must include the additional information outlined in Section 6861.

Interim property management by DGS after acquisition: Until property acquired under the Property Acquisition Law is needed, jurisdiction lies with DGS:

1. The Director of General Services may transfer jurisdiction to the client department if in his opinion early transfer is in the best interest of the state (e.g., the department requires interim use for parking);
2. DGS may lease all or any part of the property;
3. DGS may remove or demolish structures;
4. DGS may sell or dispose of the improvements; and
5. Rentals received are deposited in a special account in the General Fund and, when appropriated by the Legislature, are available to DGS to maintain, improve or care for the property until needed for the purpose acquired (Government Code Section 15863), with the exception of lands acquired for the State Park System (Public Resources Code 5003.17). However, proceeds of sale of improvements are *not* deposited in the special account or available for maintenance.