

**STATE OF ALASKA RFP NUMBER 190000043
AMENDMENT NUMBER 2**

RETURN THIS AMENDMENT TO THE ISSUING OFFICE AT:



Department of Natural Resources
Support Services Division
Procurement Section
550 W. 7th Avenue, Suite 1330
Anchorage, Alaska 99501

THIS IS NOT AN ORDER

DATE AMENDMENT ISSUED: February 14, 2018

RFP TITLE: Real Estate Broker Services for Trust Land Office

RFP CLOSING DATE AND TIME: 2:00 p.m. on February 22, 2018 (CHANGED!)

This amendment is for informational purposes only and need not be returned to the State.

The following changes/additions are required:

1. **Change the Deadline for Receipt of Proposals** from 2:00 p.m. on February 20, 2019 to 2:00 p.m. on **February 22, 2019**. Amend the dates within paragraph 1.12 and elsewhere within the RFP by 2 days to reflect this change.

2. **Question:** On page 12 and 13, the RFP talks about a sealed bid auction, and that the Broker Commission (on a new offer from a Buyer who had previously submitted an offer) shall be applied to the difference between the previous offer and the new consummated offer. Later, on Page 24, the RFP discusses the commission as a percentage of \$4,000,000 (for proposal evaluation purposes.)

I guess I have two specific question areas:

a.) Does this mean that there will be a commission on the Purchase Price as a straight percentage, IF it is a new Buyer?

Response: Yes, it is anticipated that the contract for services entered between the TLO and the Broker will compensate the Broker through a straight commission if it is a new Buyer or as discussed below in #2 if it is purchased by an existing offeror.

b) And if it is the previous Buyer, is it that the first scenario applies (that the commission will just be applied to the difference between the newly consummated offer and the previous offer from that Buyer)?

Response: That is correct, assuming the questioner is referring to a Buyer who had previously submitted an offer, as opposed to a "previous Buyer." The purpose of structuring the compensation in this manner is to ensure the Broker is incentivized to bring as many purchase participants to the process as possible and to then achieve the highest sales price among those participants. The commission is paid on sales amounts over and above what the TLO could have

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accomplished on its own.

c) And how will the make-up or identity of the Buyer be determined, does it have to be exactly the same Buyer as the previous offer, for instance the same LLC or individuals? What if the LLC is the same LLC but has slightly different members, would that be considered the same Buyer as before or a new Buyer and thus the full commission? Or what if the previous offer was from an individual, and the new offer resulted in the sale to an LLC owned by that individual? Since it would be a different entity buying (an LLC as opposed to an individual), would the commission be on the difference or the whole purchase price?

Response: The specifics of how that is to be determined will be defined in the contract between the TLO and Broker. The winning Broker will be given information about the current offeror and the TLO and Broker will work together to specifically define what would ultimately constitute an offer by the previous offeror. It is anticipated that if the original offer was from an LLC and the winning offer was also from an LLC that had slightly different members it would be considered the same party as the original offer. Similarly, if the original offer was from an individual and the winning offer was from an LLC of which the original individual offeror is a member it would be considered the same party as the original offer.

To reiterate, this would be a specifically defined provision of any brokerage agreement entered with the winning Broker.

d) Is there going to be an Auction, and, if so, what are your expectations of an Auction? (I ask this question to see if a strict, short auction is expected, or whether it's a more open expectation, in that all sales are controlled and, to a degree, an auction of the best and highest bidder. For instance, could it be a traditional Brokerage/ Marketing/ Negotiate a Contract/ Record (under the prism of representation) scenario, or some more structured variation?

Response: The TLO is procuring brokerage services in part to receive advice as to the best sales methodology that fulfills our legal obligations to sell the property. Specifically, TLO regulations require that sales of Trust land be made on a competitive basis (as opposed to negotiated) (reference 11 AAC 99.020; 11 AAC 99.030; A.S. 38.05.045 et seq.). The TLO anticipates working with the winning Broker to develop a sale/auction program, including the possibility of offering Seller financing as part of its obligations under any contract entered. This might include a sealed bid or outcry auction. In sum, the exact method of the auction is to be determined and TLO will solicit advice from Broker to develop the same.

e) My honest opinion is that the Trust Office would be better served with one commission between the selected Broker, regardless of Buyer, and that commission would be split, shared and advertised to the Brokers representing Sellers, or, if it was a Neutral Licensee situation, that it would be that fixed commission percentage or perhaps a reduced fixed commission percentage. The commission to the Seller-repping brokers, when advertised, tends to get their interest, and the lack of a commission advertised to those Brokers tends to kill their interest. And I think you need their interest when it comes to attracting national buyers and even state-wide buyers and their representing brokers.

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Response: The TLO is willing to pay a percentage of the purchase price (up to 5%) as commission. How that commission is shared among the buyer's representation and the seller's representation will be set by those parties in accordance with the laws and customs of the real estate industry. Bidders should bid a commission that they believe will allow themselves and buyer's representation (if present) to be compensated.

3. This amendment is for informational purposes only and need not be returned to the State. Offerors who have already submitted a proposal in response to this RFP may submit an amended proposal based on information in this amendment at their sole discretion. If an amended proposal is submitted it must be received within the DNR Procurement section no later than the revised Deadline for Receipt of Proposals.

//Signed Copy on File//

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*******END OF AMENDMENT*******