

## **El Paso County Sale Procedures**

- 1) Sales are held on Wednesdays at 10 a.m. in the Office of the Public Trustee, 105 East Vermijo, Suite 101, Colorado Springs. Enter our office after 9:45 through the door off the west hallway.
- 2) During the sale, there will be no side discussions with, announcements to, or financial transactions among the bidders or others present at sale. Any such may potentially be a violation of C.R.S. 6-4-106, bid-rigging; 18-8-306, attempt to influence a public servant; or 18-18-9-108, disrupting lawful assembly.
- 3) Once in the sale area, please respect the fact that our deputies are continuing work prior to and during sale. Do not disrupt our operations – this may potentially be a violation of C.R.S. 18-8-102, obstructing government operations; or C.R.S. 18-9-110, public buildings – trespass, interference. The building lobby near the elevators would be a better location for conversation.
- 4) Cell phones and other noisemaking electronic devices are to be turned off during the sale.
- 5) Sale begins with the Public Trustee or a deputy reviewing these procedures, and selected established policies (posted in the office and on the website).
- 6) The Public Trustee does not read the details on each individual property. These details are on the pre-sale list, which is available at the sale in limited quantities, in our office on Wednesday morning at no charge, and on our website by early Tuesday afternoon. Since lenders can submit written amendments to their bids until Tuesday noon, we do not post the pre-sale list until that time. Where the presale list refers to an Exhibit A, that Exhibit is available in our office and also on our website.
- 7) Next, the Public Trustee announces sales that have been continued from the pre-sale list.
- 8) The Public Trustee accepts the timely written bids, submitted by the lenders, that remain on the sale list and asks if there are any other bids on any of the properties on the sale list.
- 9) Bidding proceeds on properties, in the order in which competitive bid information sheets are given to the Public Trustee. In most cases, several sheets are turned in just prior to sale. The information on these sheets is not disclosed to others until bidding begins on that property.
- 10) The competitive bid information sheet must be turned in prior to bidding on a property. It must be legible, identify the property, and give the name of the bidder for the Certificate of Purchase and contact information.
- 11) Bidding rotates among bidders in the order the competitive bid information sheets were provided. Bidders may join, drop out, and rejoin the bidding at any point while the bidding is going on.
- 12) When bidding stops, the high bidder provides payment to the Public Trustee prior to the property actually being sold.
- 13) The Public Trustee reviews the funds provided. All cash is counted twice in the presence of the bidder and marked with a counterfeit detection pen. If \$10,000 or more in cash is provided, the bidder must also fill out IRS and Homeland Security paperwork. If a wire transfer is used for payment, the Public Trustee must have verified receipt of the transfer prior to sale, and the transfer must include the wire transfer fee, currently \$12. All checks must be properly signed by the bank, add up to at least the amount of the high bid, be payable to “El Paso County Public Trustee”, and be marked as either an official, teller, cashiers or certified check.
- 14) If funds are not sufficient, or are defective, the bidding is backed up to the bid following the highest bid for which the high bidder had sufficient funds, and resumed from that point to determine the new high bidder. If there were no other bidders, the property is returned to the sale list and may be bid upon later.

- 15) Persons who fail to provide sufficient and valid funds upon the conclusion of bidding may in the future be required to show their funds to the Public Trustee at future sales, to ensure valid bidding in the future.
- 16) Persons who are unable to show that they have sufficient funds to bid on a property will not be allowed to bid.
- 17) If the funds are valid and sufficient, the Public Trustee accepts the payment, strikes the property from the sale list, and announces it as sold to the high bidder.
- 18) Bidding continues with the next property for which there is a bidder.
- 19) When there are no more bidders (other than the lenders), the Public Trustee announces all remaining properties as sold to the lenders who submitted written bids as shown on the sale list. That concludes the sale.
- 20) After sale, there is usually an educational Q&A session conducted by the Public Trustee. The Public Trustee cannot give legal advice.
- 21) All transactions at sale are separate – you cannot apply the pending “change” from one purchase towards the purchase of another property
- 22) If a property is sold to a lender, the lender may within 8 business days request an administrative rescission of the sale.
- 23) Except as noted just above, the Public Trustee cannot set aside a sale once it has been announced. Any request by a non-lender to undo a sale, or any request by a lender outside the 8 business day window, would need to be filed with the courts.
- 23) If the winning bidder provides more money to the Public Trustee than the amount of the final winning bid, the Public Trustee will issue a check for the balance after verifying that the funds have cleared. Upon the advice of our attorney, this will occur on the 4<sup>th</sup> business day following sale, or later if the check is written on a bank from outside our Federal Reserve region. The check will be mailed to the winning bidder unless the bidder asks, on the competitive bid information sheet, that it be held for pick-up.
- 24) In lieu of waiting for the refund check to be written, the winning bidder has the option of bringing the Public Trustee replacement funds of the same type described in policy #13 above. Such funds would replace one or more of the checks provided at sale, and should be received by noon on the day of sale. Shortly after noon, we will begin the process of entering and depositing the funds received, and no replacement funds will be accepted once that process begins. No prior notice need be given the Public Trustee by the investor choosing to exercise this option, and the Public Trustee will not hold up the deposit process in anticipation of receiving replacement funds. All funds provided at sale will remain in the Public Trustee’s custody until replacement funds are brought in, reviewed for validity, and accepted.
- 25) No third-party endorsed checks are accepted. This includes checks from the Public Trustee endorsed back to the Public Trustee.
- 26) A lender may send a representative to participate in competitive bidding. This representative must be identified to us in writing prior to the sale. As long as there is a deficiency remaining on the property, the lender does not need to provide funds to the Public Trustee if it has the high bid. If the deficiency is exhausted, then a winning lender needs to provide funds in the same form as any other bidder, in the amount exceeding the original bid and the deficiency.
- 27) A lender may amend a sale bid after Tuesday at noon only by sending someone to the sale in person. Such amendments will be made at the same time as the continuances are announced. If the Public Trustee has required an amended bid, the sale will be continued if the bid is not amended by the start of sale.