

49 CFR 24 Subpart B – Real Property Acquisition		
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24.101 Applicability of acquisition requirements		
		Federal Agencies may find that, for <del>For</del> Federal eminent domain purposes, the terms “fair market value” (as used throughout this subpart) and “market value,” which may be the more typical term in private transactions, <del>may be</del> <u>are</u> synonymous.
24.101(a) Direct Federal program or project.		
<p>(1) The requirements of this subpart apply to any acquisition of real property for a direct Federal program or project, except acquisition for a program or project that is undertaken by the Tennessee Valley Authority or the Rural Utilities Service. (See appendix A , §24.101(a).)</p> <p>(2) If a Federal <del>Agency</del> (except for the Tennessee Valley Authority or the Rural Utilities Service) will not acquire a property because negotiations fail to result in an agreement, the owner of the property shall be so informed in writing. Owners of such properties are not displaced persons, (<del>see §§ 24.2(a)(9)(ii)(E) or (H)</del>), and as such, are not entitled to relocation assistance benefits. However, tenants on such properties may be eligible for relocation assistance benefits. (See § 24.2(a)(9)).</p>	<p>(1) The requirements of this subpart apply to any acquisition of real property for a direct Federal program or project, except acquisition for a program or project that is undertaken by the Tennessee Valley Authority or the Rural Utilities Service. (See appendix A <u>to this part, section 24.101(a).</u>)</p> <p>(2) If a Federal <u>agency</u> (except for the Tennessee Valley Authority or the Rural Utilities Service) will not acquire a property because negotiations fail to result in an agreement, the owner of the property <u>or the owner's designated representative</u> shall be so informed in writing. Owners of such properties are not displaced persons, and as such, are not entitled to relocation assistance benefits. However, tenants on such properties may be eligible for relocation assistance benefits. (See § 24.2(a).)</p>	<p><i>Section 24.101(a) Direct Federal program or project.</i> All <del>49 CFR Part 24 Subpart B</del> <u>the requirements in subpart B of this part</u> (real property acquisition) <del>requirements</del> apply to all direct acquisitions for Federal programs and projects by Federal <del>Agencies</del> <u>agencies</u>, except for acquisitions undertaken by the Tennessee Valley Authority or the Rural Utilities Service. <del>There are no exceptions for “voluntary transactions.”</del></p>

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<b>24.101(b) Programs and projects receiving Federal financial assistance.</b>		
<p>The requirements of this subpart apply to any acquisition of real property for programs and projects where there is Federal financial assistance in any part of project costs except for the acquisitions described in paragraphs (b)(1) through (5) of this section. The relocation assistance provisions in this part are <del>applicable to any tenants that must move</del> as a result of an acquisition described in paragraphs (b)(1) through (5) of this section. Such tenants are considered displaced persons. (See § 24.2(a)(9).)</p> <p>(1) The requirements of Subpart B do not apply to acquisitions that meet all of the following conditions in paragraphs (b)(1)(i) through (iv):</p>	<p>The requirements of this subpart apply to any acquisition of real property for programs and projects where there is Federal financial assistance in any part of project costs except for the acquisitions described in paragraphs (b)(1) through (3) of this section. The relocation assistance provisions in this part are <u>not applicable to owner-occupants who move as a result of a voluntary acquisition. (See § 24.2(a), definition of displaced person.)</u> The relocation assistance provisions in this part are <u>applicable to tenants who must permanently relocate</u> as a result of an acquisition described in paragraphs (b)(1) through (3) of this section. Such tenants are considered displaced persons. (See § 24.2(a), <u>definition of displaced person.</u>)</p> <p>(1) The <u>agency will not use the power of eminent domain to acquire the property, and the following conditions are met:</u></p> <p><u>(i) No later than the time of the offer the agency informs the owner of the property or the owner's designated representative in writing of the following:</u></p> <p><u>(A) The agency will not acquire the property if negotiations fail to result in an amicable agreement; and</u></p> <p><u>(B) The agency's estimate of fair market value for the property to be</u></p>	<p><del>Section 24.101(b)(1)(i).</del> The term “general geographic area” is used to clarify that the “geographic area” is not to be construed to be a small, limited area.</p> <p><del>Sections 24.101(b)(1)(iv) and (2)(ii).</del> <u>Section 24.101(b)(1)(i)(B).</u> These sections provide <u>This section provides</u> that, for programs and projects receiving Federal financial assistance described in §§ 24.101(b)(1) and (2), Agencies <u>agencies</u> are to inform the owner(s) <u>or their designated representative(s)</u> in writing of the Agency <u>agency's</u> estimate of the fair market value for the property to be acquired.</p> <p><u>Section 24.101(b)(1)(i)(B).</u> While this part does not require an appraisal <u>or waiver valuation</u> for these transactions, Agencies <u>agencies</u> may still decide that an appraisal <u>or waiver valuation</u> is necessary to support their determination of the <u>fair</u> market value of these properties, and, in any event, Agencies <del>must have persons developing a waiver valuation</del> <u>must have sufficient knowledge of the local market (§ 24.102(c)(2)(ii)(B)) in order to establish</u> some reasonable basis for their determination of <u>fair</u> market value. In addition, some of the concepts inherent in Federal Program appraisal practice are appropriate for these <del>estimates-determinations</del>. It would be appropriate for Agencies <del>agencies</del> to adhere to</p>

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<p>(i) <del>No specific site or property needs to be acquired, although the Agency may limit its search for alternative sites to a general geographic area. Where an agency wishes to purchase more than one site within a general geographic area on this basis, all owners are to be treated similarly. (See appendix A , §24.101(b)(1)(i).)</del></p> <p>(ii) <del>The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits.</del></p> <p>(iii) <del>The Agency will not acquire the property if negotiations fail to result in an amicable agreement, and the owner is so informed in writing.</del></p> <p>(iv) <del>The Agency will inform the owner in writing of what it believes to be the market value of the property. (See appendix A , §-24.101(b)(1)(iv) and (2)(ii).)</del></p> <p>(2) <del>Acquisitions for programs or projects undertaken by an Agency or person that receives Federal financial assistance but does not have authority to acquire</del></p>	<p><u>acquired. (See appendix A to this part, sections 24.101(b)(1)(i) and 24.101(b)(1)(i)(B)</u></p> <p>(ii) Where an agency wishes to purchase more than one <u>property</u> within a general geographic area on this basis, all owners are to be treated similarly. (See appendix A <u>to this part, section 24.101(b)(1)(ii).</u>)</p> <p>(iii) The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area <u>must</u> be acquired within specific time limits. (See appendix A <u>to this part, section 24.101(b)(1)(iii).</u>)</p>	<p>project influence restrictions, as well as guard against discredited “public interest value” valuation concepts.</p> <p>After an Agency <u>agency</u> has established an amount it believes to be the <u>fair</u> market value of the property and has notified the owner of this amount in writing, an Agency <u>agency</u> may negotiate freely with the owner in order to reach agreement. Since these transactions are voluntary, accomplished by a willing buyer and a willing seller, negotiations may result in agreement for the amount of the original estimate, an amount exceeding it, or for a lesser amount. Although not required by the <del>regulations</del> <u>this part</u>, it would be entirely appropriate for Agencies <del>to</del> <u>agencies to ensure that estimates of fair market value are documented and shared with the property owner during negotiations, and to</u> apply the administrative settlement concept and procedures in § 24.102(i) to negotiate amounts that exceed the original estimate of <u>fair</u> market value. Agencies shall not take any coercive action in order to reach agreement on the price to be paid for the property.</p> <p><u>There may be an extraordinary circumstance in which use of eminent domain may be necessary. In those instances, the Federal funding agency may consider granting a waiver of regulations in this part under authority of § 24.7. The Federal funding agency</u></p>

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<p><del>property by eminent domain, provided that such Agency or person shall:</del></p> <p><del>(i) Prior to making an offer for the property, clearly advise the owner that it is unable to acquire the property if negotiations fail to result in an agreement; and</del></p> <p><del>(ii) Inform the owner in writing of what it believes to be the market value of the property. (See appendix A, § 24.101(b)(1)(iv) and (2)(ii).)</del></p> <p><del>(3) The acquisition of real property from a Federal Agency, State, or State Agency, if the Agency desiring to make the purchase does not have authority to acquire the property through condemnation.</del></p> <p><del>(4) The acquisition of real property by a cooperative from a person who, as a condition of membership in the cooperative, has agreed to provide without charge any real property that is needed by the cooperative.</del></p> <p><del>(5) Acquisition for a program or project that receives Federal financial assistance from the Tennessee Valley Authority or the Rural Utilities Service.</del></p>	<p><u>(2)</u> The acquisition of real property by a cooperative from a person who, as a condition of membership in the cooperative, has agreed to provide without charge any real property that is needed by the cooperative.</p> <p><u>(3)</u> Acquisition for a program or project that receives Federal financial assistance from the Tennessee Valley Authority or the Rural Utilities Service.</p>	<p><u>will make a fact based, case by case determination as to whether a waiver of this part's requirements may be allowed.</u></p> <p><u>Section 24.101(b)(1)(ii).</u> The term “general geographic area” is used to clarify that an agency carrying out a project or program can achieve the purpose of the project or program by purchasing any of several properties that are not necessarily contiguous or are not limited to a specific group of properties.</p> <p><u>Section 24.101(b)(1)(ii) and (iii)—nexus.</u> The funding agency should review the acquisition records and consider the relevant facts for the properties acquired to determine if the intent of the acquisition was to incorporate the real property into, or in some other way support or otherwise advance, a Federal or federally assisted program or project. If the property was acquired by other means (e.g., local government acquisition via tax delinquency or exaction), documentation may be provided to show that the property was not acquired with the intent of including it in a Federal or federally assisted program or project. However, if at the time of acquisition, there is a nexus between the property's acquisition and a Federal or federally assisted program or project and if the intent was to acquire the property for a Federal or federally assisted program or project, the Uniform Act requirements must be followed to maintain</p>

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		<p><u>Federal eligibility. If the agency is certain that eminent domain authority will not be used for the intended project or program, then the limited requirements of voluntary acquisition would apply. The agency must also consider that acquiring the property and applying only the voluntary acquisition requirements would in most cases preclude the agency from later using eminent domain authority to acquire the property should voluntary acquisitions not result in an agreement to sell the property to the agency. (See also discussion in 24.101(b)(1)(i)(B) of this appendix.)</u></p> <p><u>Section 24.101(b)(1)(iii) Private entities who acquire property to create wetlands. Private entities who acquire property to create wetlands for wetland banking purposes cannot be required to comply with the Uniform Act if there is no planned or anticipated use by a Federal or federally assisted program or project. Establishment of such wetland banks, which may include a Federal or federally funded project or program among its future users, do not necessarily trigger application of the Uniform Act requirements.</u></p> <p><u>There is not one answer that fits all third-party (private entities) environment mitigation scenarios. These determinations are fact-based by nature. However, the key issue is whether the acquisition of property for wetlands is specifically for mitigation of impacts on Federal</u></p>

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		<p><u>or federally assisted programs or projects. When making a fact-based determination, the purpose of the wetland bank, the existence of any agency funding for the bank or commitment to use the bank, and whether the wetland bank restricts who may purchase mitigation credits from it, are among the factors to consider in determining applicability of Uniform Act requirements.</u></p> <p><u>If an agency provides Federal financial assistance for creating a wetland bank or has a prior agreement that the banked wetlands will be used to mitigate impacts on a specific Federal or federally assisted programs or projects, then the property acquisitions for the wetland bank must conform to Uniform Act requirements. If an agency contracts with a private third-party provider which does not use the power of eminent domain, the acquisition may qualify for treatment as a voluntary acquisition and only the limited requirements as set forth in § 24.101(b)(1) would apply.</u></p> <p><u>If the wetland bank proposal has received necessary permits and was established without any Federal funding participation prior to use of Federal funds for acquisition of wetland mitigation credits and was not planned to be used only for mitigation of impacts due to Federal and federally assisted projects and programs, the Uniform Act requirements do not apply. The actions which the wetland bank</u></p>

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		<u>developer took in carrying out their private activity can be viewed with regard to the Uniform Act in the same manner as other actions taken by private parties without the anticipated or actual benefit of Federal financial assistance.</u>
<b>24.101(c) Less-than-full-fee interest in real property.</b>		
<p>(1) The provisions of this subpart apply when acquiring fee title subject to retention of a life estate or a life use; to acquisition by leasing where the lease term, including option(s) for extension, is 50 years or more; and to the acquisition of permanent and/or temporary easements necessary for the project. However, the Agency may apply these regulations to any less-than-full-fee acquisition that, in its judgment, should be covered.</p> <p>(2) The provisions of this subpart do not apply to temporary easements or permits needed solely to perform work intended exclusively for the benefit of the property owner, which work may not be done if agreement cannot be reached.</p>	<p>(1) The provisions of this subpart apply when acquiring fee title subject to retention of a life estate or a life use; to acquisition by leasing where the lease term, including option(s) for extension, is 50 years or more; and, to the acquisition of permanent and/or temporary easements necessary for the project. However, the agency may apply the regulations <u>in this subpart</u> to any less-than-full-fee acquisition that, in its judgment, should be covered.</p> <p>(2) The provisions of this subpart do not apply to temporary easements or permits needed solely to perform work intended exclusively for the benefit of the property owner, which work may not be done if agreement cannot be reached.</p>	<p>This provision <u>Section 24.101(c)</u> provides a benchmark beyond which the requirements of the subpart clearly apply to leases.</p>
<b>24.101(d) Federally-assisted projects</b>		
For projects receiving Federal financial assistance, the provisions of §§ 24.102, 24.103, 24.104, and 24.105 apply to the greatest extent practicable under State law. (See § 24.4(a).)	For projects receiving Federal financial assistance, the provisions of §§ 24.102, 24.103, 24.104, and 24.105 apply to the greatest extent practicable under State law. (See § 24.4(a).)	
<b>24.102 Basic acquisition policies.</b>		

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<b>24.102(a) Expeditious acquisition.</b>		
The <del>Agency</del> shall make every reasonable effort to acquire the real property expeditiously by negotiation.	The <u>agency</u> shall make every reasonable effort to acquire the real property expeditiously by negotiation.	
<b>24.102(b) Notice to owner.</b>		
As soon as feasible, the <del>Agency</del> shall notify the owner in writing of the <del>Agency</del> 's interest in acquiring the real property and the basic protections provided to the owner by law and this part. (See § 24.203.)	As soon as feasible, the <u>agency</u> shall notify the owner in writing of the <u>agency</u> 's interest in acquiring the real property and the basic protections provided to the owner by law and this part. (See §§ 24.203 <u>and 24.5(d) and appendix A to this part, section 24.102(b).</u> )	<u>Section 24.102(b) Notice to owner. In the case of condominiums and other types of housing with common or community areas, notification should be given to the appropriate parties. The appropriate parties could be a condominium or homeowner's board, a designated representative, or all individual owners when common or community property is being acquired for the project.</u>
<b>24.102(c) Appraisal, waiver thereof, and invitation to owner.</b>		
<p>(1) Before the initiation of negotiations the real property to be acquired shall be appraised, except as provided in § 24.102 (c)(2), and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.</p> <p>(2) An appraisal is not required if:</p> <p>(i) The owner is donating the property and releases the <del>Agency</del> from its obligation to appraise the property; or</p>	<p>(1) Before the initiation of negotiations, the real property to be acquired shall be appraised, except as provided in <u>paragraph (c)(2) of this section</u>, and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.</p> <p>(2) An appraisal is not required if:</p> <p>(i) The owner is donating the property and releases the <u>agency</u> from its obligation to appraise the property; or</p>	<p><u>Section 24.102(c)(2) Appraisal, waiver thereof, and invitation to owner.</u> The purpose of the appraisal waiver provision is to provide <del>Agencies</del> <u>agencies</u> a technique to avoid the costs and time delay associated with appraisal requirements for <del>low-value, non-complex acquisitions.</del> <u>uncomplicated valuation problems</u></p>



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<p>(ii) The <del>Agency</del> determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at <del>\$10,000</del> or less, based on a review of available data.</p> <p>(A) When an appraisal is determined to be unnecessary, the <del>Agency</del> shall prepare a waiver valuation.</p>	<p>(ii) The <u>agency</u> determines that an appraisal is unnecessary because the valuation problem is uncomplicated and <u>has a low fair market value, and</u> the anticipated value of the proposed acquisition is estimated at <u>\$15,000</u> or less, based on a review of available data. <u>The agency representative making the determination to use the waiver valuation option must understand valuation principles, techniques, and use of appraisals in order to be able to determine whether the valuation of the proposed acquisition is uncomplicated and has a low fair market value. (See appendix A to this part, section 24.102(c)(2).)</u></p> <p>(A) When an appraisal is determined to be unnecessary, the <u>agency</u> shall prepare a waiver valuation.  <u>(1) Waiver valuations are not appraisals by definition in this part (See § 24.2). Persons preparing or reviewing a waiver valuation are precluded from complying with Standards Rules 1, 2, 3, and 4 of the “Uniform Standards of Professional Appraisal Practice,” as promulgated by</u></p>	<p><u>within the low fair market value limits established in this part. In most cases, uncomplicated valuation problems are considered to be those involving unimproved strips of land. Acquisitions involving improvements, damages, changes of highest and best use, or significant costs to cure are considered to be complicated and, as such, are beyond the application of waiver valuations as contemplated in this part.</u> The intent is that non-appraisers make the waiver valuations, freeing appraisers to do more sophisticated <del>complex</del> work.</p> <p>The <del>Agency employee</del> <u>agency representative</u> making the determination to use the <del>appraisal-waiver process</del> <u>valuation option</u> must have enough understanding of appraisal principles, <u>techniques, and use of appraisals</u> to be able to determine whether <del>or not</del> the proposed acquisition is <u>uncomplicated and within the low value and uncomplicated fair market value limits in this part.</u></p> <p>Waiver valuations are not appraisals as defined by the Uniform Act and <del>these regulations</del> <u>this part</u>; therefore, appraisal performance requirements or standards, regardless of their source, are not required for waiver valuations by this <del>rule</del> <u>part</u>. Since waiver valuations are not appraisals, neither is there a requirement for an appraisal review. <del>However,</del> <u>the Agency Agencies should put procedures in</u></p>

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<p>(B) The person performing the waiver valuation must have sufficient understanding of the local real estate market to be qualified to <del>make</del> the waiver valuation.</p> <p>(C) The Federal <del>Agency</del> funding the project may approve exceeding the <del>\$10,000</del> threshold, up to a <del>maximum</del> of \$25,000, if the <del>Agency</del> acquiring the real property offers the property owner the option of having the <del>Agency</del> appraise the property.</p>	<p><u>the Appraisal Standards Board of The Appraisal Foundation<sup>[1]</sup> (see appendix A to this part, sections 24.102(c) and 24.103(a).)</u></p> <p><u>(2) Because a waiver valuation is not an appraisal, a review of a waiver valuation is not required. However, some recipients may also be subject to State laws or agency requirements to review a waiver valuation.</u></p> <p>(B) The person performing the waiver valuation must have sufficient understanding of the local real estate market <u>in order</u> to be qualified to <u>perform</u> the waiver valuation.</p> <p>(C) The Federal <u>agency</u> funding the project may approve exceeding the <u>\$15,000</u> threshold, up to <u>an amount</u> of <u>\$35,000</u>, if the <u>agency</u> acquiring the real property offers the property owner the option of having the <u>agency</u> appraise the property.</p> <p><u>(D) If the agency determines that the proposed acquisition is uncomplicated and has a low fair market value, and if the agency</u></p>	<p><u>place to ensure that waiver valuations are accurate and that they are consistent with the unit values on the project as determined by appraisals and appraisal reviews. The agency</u> must have a reasonable basis for the waiver valuation and an <del>Agency</del> <u>agency</u> official must still establish an amount believed to be just compensation to offer the property owner(s) <u>(see § 24.102(d)).</u></p> <p>The definition of “appraisal” in the Uniform Act and <del>appraisal</del> <u>waiver valuation</u> provisions of the Uniform Act and <del>these regulations</del> <u>this part</u> are Federal law and public policy and should be considered as such when determining the impact of appraisal requirements levied by others.</p>

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	<p><u>acquiring the real property offers the property owner the option of having the agency appraise the property, the agency may request approval from the Federal funding agency to use a waiver valuation for properties with estimated values of more than \$35,000 and up to \$50,000. Approval for using a waiver valuation of more than \$35,000, but up to \$50,000 may only be requested on a project-by-project basis and the request for doing so shall be made in writing to the Federal funding agency setting forth the anticipated benefits of, and reasons for, raising the waiver valuation ceiling above \$35,000. Within 6 months of completion of acquisition activities a close-out report measuring cost/time benefits, condemnation rate, settlement rate, and any other relevant metric which the funding agency requires to adequately document both the administrative savings and accuracy and efficacy of the waiver valuations of more than \$35,000, but up to \$50,000 shall be submitted to the funding agency.</u></p>	

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<p>If the property owner elects to have the <del>Agency</del> appraise the property, the <del>Agency</del> shall obtain an appraisal and not use procedures described in <del>this paragraph</del>. (See appendix A , §24.102(c)(2).)</p>	<p><u>(E) Under paragraphs (c)(2)(ii)(C) and (D) of this section, if</u> the property owner elects to have the <u>agency</u> appraise the property, the <u>agency</u> <u>must</u> obtain an appraisal and <u>shall</u> not use <u>the waiver valuation</u> procedures described in <u>paragraphs (c)(2)(ii)(A) through (D) of this section</u>. (See appendix A <u>to this part, section</u> 24.102(c)(2).)</p>	
<b>24.102(d) Establishment and offer of just compensation.</b>		
<p>Before the initiation of negotiations, the <del>Agency</del> shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the fair market value of the property, taking into account the value of allowable damages or benefits to any remaining property. An <del>Agency</del> official must establish the amount believed to be just compensation. (See § 24.104.) Promptly thereafter, the <del>Agency</del> shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation. (See appendix A, §24.102(d).)</p>	<p>Before the initiation of negotiations, the <u>agency</u> shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal <u>or waiver valuation</u> of the fair market value of the property, taking into account the value of allowable damages or benefits to any remaining property. An <u>agency</u> official must establish the amount believed to be just compensation. (See § 24.104.) Promptly thereafter, the <u>agency</u> shall make a written offer to the owner <u>or the designated owner's representative</u> to acquire the property for the full amount believed to be just compensation. (See appendix A <u>to this part, section</u> 24.102(d).)</p>	<p><i>Section 24.102(d) Establishment of offer of just compensation.</i> The initial offer to the property owner may not be less than the amount of the <del>Agency</del> <u>agency's</u> approved appraisal, <u>or waiver valuation of the fair market value of the property</u> but may exceed that amount if the <del>Agency</del> <u>agency</u> determines that a greater amount reflects just compensation for the property.</p>
<b>24.102(e) Summary statement</b>		
<p>Along with the initial written purchase offer, the owner shall be given a written statement of</p>	<p>Along with the initial written purchase offer, the owner <u>or the designated owner's representative</u> shall be given a written</p>	

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<p>the basis for the offer of just compensation, which shall include:</p> <p>(1) A statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated.</p> <p>(2) A description and location identification of the real property and the interest in the real property to be acquired.</p> <p>(3) An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are included as part of the offer of just compensation. Where appropriate, the statement shall identify any other separately held ownership interest in the property, <i>e.g.</i>, a tenant-owned improvement, and indicate that such interest is not covered by this offer.</p>	<p>statement of the basis for the offer of just compensation, which shall include:</p> <p>(1) A statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated.</p> <p>(2) A description and location identification of the real property and the interest in the real property to be acquired.</p> <p>(3) An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are included as part of the offer of just compensation. Where appropriate, the statement shall identify any other separately held ownership interest in the property, <i>e.g.</i>, a tenant-owned improvement, and indicate that such interest is not covered by this offer.</p>	
<b>24.102(f) Basic negotiation procedures.</b>		
<p>The <del>Agency</del> shall make all reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation and explain its acquisition policies and procedures, including its payment</p>	<p>The <u>agency</u> shall make all reasonable efforts to contact the owner or the owner's <u>designated</u> representative and discuss its offer to purchase the property, including the basis for the offer of just compensation and explain its acquisition policies and procedures,</p>	<p><i>Section 24.102(f) Basic negotiation procedures.</i> An offer should be adequately presented to an owner, and the owner should be properly informed. Personal, face-to-face contact should take place, if feasible, but this</p>

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<p>of incidental expenses in accordance with § 24.106. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase. The <del>Agency</del> shall consider the owner's presentation. (See appendix A, §-24.102(f).)</p>	<p>including its payment of incidental expenses in accordance with § 24.106. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase. The <u>agency</u> shall consider the owner's <u>or the designated owner's representative's</u> presentation. (See appendix A <u>to this part, section</u> 24.102(f).)</p>	<p>section does not require such contact in all cases.</p> <p>This section also <del>provides</del> <u>requires</u> that the property owner be given a reasonable opportunity to consider the <del>Agency</del> <u>agency's</u> offer and to present relevant material to the <del>Agency</del> <u>agency</u>. In order to satisfy <del>this requirement, Agencies</del> <u>the requirement in § 24.102(f), agencies</u> must allow owners time for analysis, research and development, and compilation of a response, including perhaps getting an appraisal. The needed time can vary significantly, depending on the circumstances, but <del>thirty ( 30 )</del> days would seem to be the minimum time these actions can be reasonably expected to require. Regardless of project time pressures, property owners must be afforded this opportunity.</p> <p>In some jurisdictions, there is pressure to initiate formal eminent domain procedures at the earliest opportunity because completing the eminent domain process, including gaining possession of the needed real property, is very time consuming. <del>These provisions</del> <u>The provisions of § 24.102(f)</u> are not intended to restrict this practice, so long as it does not interfere with the reasonable time that must be provided for negotiations, described <del>above</del> <u>in § 24.102(f)</u>, and the <del>Agencies</del> <u>agencies</u> adhere to the Uniform Act ban on coercive action <u>Section</u></p>

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		<p><del>4651</del>(section 301(7) of the Uniform Act <u>and § 24.102(h))</u>.</p> <p>If the owner expresses intent to provide an appraisal report, <del>Agencies</del><u>agencies</u> are encouraged to provide the owner and/or <del>his/her</del><u>their</u> appraiser a copy of <del>Agency</del><u>agency</u> appraisal requirements and inform them that their appraisal should be based on those requirements.</p>
<b>24.102(g) Updating offer of just compensation.</b>		
<p>If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the <del>Agency</del> shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the <del>Agency</del> shall promptly reestablish just compensation and offer that amount to the owner in writing.</p>	<p>If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new <u>waiver valuation or</u> appraisal information, or if a significant delay has occurred since the time of the appraisal(s) <u>or waiver valuation</u> of the property, the <u>agency</u> shall have the appraisal(s) <u>or waiver valuation</u> updated or obtain a new appraisal(s) <u>or waiver valuation</u>. If the latest appraisal <u>or waiver valuation</u> information indicates that a change in the purchase offer is warranted, the <u>agency</u> shall promptly reestablish just compensation and offer that amount to the owner in writing.</p>	
<b>24.102(h) Coercive action.</b>		
<p>The <del>Agency</del> shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property.</p>	<p>The <u>agency</u> shall not advance the time of condemnation, or defer negotiations or condemnation, or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property.</p>	

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<b>24.102(i) Administrative settlement.</b>		
<p>The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized <del>Agency</del> official approves such administrative settlement as being reasonable, prudent, and in the public interest. When Federal funds pay for or participate in acquisition costs, a written justification shall be prepared, which states what available information, including trial risks, supports such a settlement. (See appendix A, § 24.102(i).)</p>	<p>The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized <u>agency</u> official approves such administrative settlement as being reasonable, prudent, and in the public interest. When Federal funds pay for or participate in acquisition costs, a written justification shall be prepared, which states what available information, including trial risks, supports such a settlement. (See appendix A <u>to this part, section</u> 24.102(i).)</p>	<p><i>Section 24.102(i) Administrative settlement.</i> This section provides guidance on administrative settlement as an alternative to judicial resolution of a difference of opinion on the value of a property, in order to avoid unnecessary litigation and congestion in the courts.</p> <p>All relevant facts and circumstances should be considered by an <del>Agency</del><u>agency</u> official delegated this authority. Appraisers, including review appraisers, <del>must</del><u>shall</u> not be <del>pressured</del><u>unduly influenced or coerced</u> to adjust their <del>an</del><u>an</u> estimate of value for the purpose of justifying such settlements (<u>see § 24. Such action would invalidate the appraisal process 102(n)(2)). Such actions are contrary to the requirements of this part and to the overarching goal of providing just compensation.</u></p>
<b>24.102(j) Payment before taking possession.</b>		
<p>Before requiring the owner to surrender possession of the real property, the <del>Agency</del> shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court, for the benefit of the owner, an amount not less than the <del>Agency's</del> approved appraisal of the fair market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances,</p>	<p>Before requiring the owner to surrender possession of the real property, the <u>agency</u> shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court, for the benefit of the owner, an amount not less than the <u>agency's</u> approved appraisal of the fair market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances,</p>	<p><i>Section 24.102(j) Payment before taking possession.</i> It is intended that a right-of-entry for construction purposes be obtained only in the exceptional case, such as an emergency project, when there is no time to make an appraisal and purchase offer and the property owner is agreeable to the process.</p>



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with the prior approval of the owner, the <del>Agency</del> may obtain a right-of-entry for construction purposes before making payment available to an owner. (See appendix A, § 24.102(j).)	with the prior approval of the owner <u>or the owner's designated representative</u> , the <u>agency</u> may obtain a right-of-entry for construction purposes before making payment available to an owner. (See appendix A <u>to this part, section 24.102(j).</u> )	
<b>24.102(k) Uneconomic remnant</b>		
If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the <del>Agency</del> shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project. (See § 24.2(a)(27).)	If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the <u>agency</u> shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project. (See § 24.2(a).)	
<b>24.102(l) Inverse condemnation.</b>		
If the <del>Agency</del> intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of the real property.	If the <u>agency</u> intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of the real property.	
<b>24.102(m) Fair rental.</b>		
If the <del>Agency</del> permits a former owner or tenant to occupy the real property after acquisition for a short term, or a period subject to termination by the <del>Agency</del> on short notice, the rent shall not exceed the fair market rent for such occupancy. (See appendix A, § 24.102(m).)	If the <u>agency</u> permits a former owner or tenant to occupy the real property after acquisition for a short term, or a period subject to termination by the <u>agency</u> on short notice, the rent shall not exceed the fair market rent for such occupancy. (See appendix A <u>to this part, section 24.102(m).</u> )	<i>Section 24.102(m) Fair rental.</i> Section <del>301.4651</del> (6) of the Uniform Act limits what an <del>Agency</del> <u>agency</u> may charge when a former owner or previous occupant of a property is permitted to rent the property for a short term or when occupancy is subject to termination by the <del>Agency</del> <u>agency</u> on short notice. Such rent may not exceed “the fair rental value of the property to a short-term occupier.” Generally,

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		the <del>Agency</del> <u>agency</u> 's right to terminate occupancy on short notice (whether or not the renter also has that right) supports the establishment of a lesser rental than might be found in a longer, fixed-term situation.
<p>(1) The appraiser, review appraiser or person performing the waiver valuation shall not have any interest, direct or indirect, in the real property being valued for the <del>Agency</del>. Compensation for <del>making</del> an appraisal or waiver valuation shall not be based on the <del>amount of the valuation estimate</del>.</p> <p>(2) No person shall attempt to unduly influence or coerce an appraiser, review appraiser, or waiver valuation preparer regarding any valuation <del>or other</del> aspect of an appraisal, review or waiver <del>valuation</del>. Persons functioning as negotiators may not supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work, except that, for a program or project receiving Federal financial assistance, the Federal funding <del>Agency</del> may waive this requirement if it determines it would create a hardship for the <del>Agency</del>.</p>	<p align="center"><b>24.102(n) Conflict of interest.</b></p> <p>(1) The appraiser, review appraiser, <u>or</u> person performing the waiver valuation shall not have any interest, direct or indirect, in the real property being valued for the <u>agency</u>. Compensation for <u>developing</u> an appraisal or waiver valuation shall not be based on the <u>reported opinion of value</u>.</p> <p>(2) No person shall attempt to unduly influence or coerce an appraiser, review appraiser, or waiver valuation preparer regarding any valuation aspect of an appraisal, <u>waiver valuation, or</u> review <u>of appraisals</u> or waiver <u>valuations</u>. Persons functioning as negotiators may not supervise or formally evaluate the performance of any appraiser, <u>waiver valuation preparer</u>, or review appraiser performing appraisal or appraisal review work, except that, for a program or project receiving Federal financial assistance, the Federal funding <u>agency</u> may waive this requirement if it determines it would create a hardship for the <u>agency</u>.</p>	<p align="center"><i>Section 24.102(n) Conflict of interest.</i> The overall objective is to minimize the risk of fraud, <u>waste, and abuse</u> while allowing <del>Agencies</del><u>agencies</u> to operate as efficiently as possible. There are three parts to <del>this the</del> provision <u>in § 24.102(n)</u>.</p> <p>The first provision is the prohibition against having any interest in the real property being valued by the appraiser (for an appraisal), the valuer (for a waiver <del>estimate</del><u>valuation</u>), or the review appraiser (for an appraisal review).}</p> <p>The second provision is that no person functioning as a negotiator for a project or program can supervise or formally evaluate the performance of any appraiser, <u>waiver valuation preparer</u>, or review appraiser performing appraisal, <u>waiver valuation</u>, or appraisal review work for that project or program. The intent of this provision is to ensure appraisal <u>and/or</u> <u>waiver</u> valuation independence and to prevent inappropriate influence. It is not intended to prevent <del>Agencies</del><u>agencies or recipients</u> from providing <del>appraisers</del><u>appraiser and/or</u> <u>waiver</u> valuers with appropriate project information <u>and-or</u> participating in determining the scope of</p>

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<p>(3) An appraiser, review appraiser, or waiver valuation preparer <del>making an appraisal, appraisal review or waiver valuation</del> may be authorized by the <del>Agency</del> to act as a negotiator for real property for which that person has <del>made</del> an appraisal, appraisal review or waiver valuation only if the offer to acquire the property is <del>\$10,000</del>, or less. (See appendix A, § 24.102(n).)</p>	<p>(3) An appraiser, review appraiser, or waiver valuation preparer may be authorized by the <u>agency</u> to act as a negotiator for <u>the acquisition of</u> real property for which that person has <u>performed</u> an appraisal, appraisal review or waiver valuation only if the offer to acquire the property is <u>\$15,000</u>, or less. <u>Agencies that wish to use this same authority to act as the negotiator on a valuation greater than \$15,000, and up to \$35,000, may not use a waiver valuation, and these acquisitions are subject to the following conditions:</u></p> <p><u>(i) For those acquisitions where the appraiser or review appraiser will also act as the negotiator, an appraisal must be performed in compliance with § 24.103 and reviewed in compliance with § 24.104;</u></p> <p><u>(ii) Agencies and recipients desiring to exercise this option must request approval in writing from the Federal funding agency;</u></p> <p><u>(iii) The requesting agency shall have a separate and distinct quality control process in place and set forth in the written procedures approved by the Federal funding agency; and</u></p> <p><u>(4) Agencies wishing to allow subrecipients to use conflict of interest waivers of more than \$15,000 must determine and</u></p>	<p>work for the appraisal or <u>waiver</u> valuation. For a program or project receiving Federal financial assistance, the Federal funding <del>Agency</del><u>agency</u> may waive this requirement if it would create a hardship for the <del>Agency</del><u>agency or recipient</u>. The intent is to accommodate Federal <del>financial</del> aid recipients that have a small staff where this provision would be unworkable.</p> <p>The third provision is to minimize situations where administrative costs exceed acquisition costs. Section 24.102(n) <del>also</del> provides that the same person may <del>prepare</del> <u>perform</u> a <u>waiver</u> valuation <del>estimate (including an or appraisal)</del> and negotiate that acquisition, if the <u>waiver</u> valuation <u>or appraisal</u> estimate amount is <del>\$10,000</del><u>\$15,000</u> or less. <del>However, it should be noted that this exception for properties valued at \$10,000 or less is not mandatory, e.g., Agencies</del> <u>Agencies or recipients</u> are not required to use those who <del>prepare</del> <u>perform</u> a waiver valuation or appraisal of <del>\$10,000</del><u>\$15,000</u> or less to negotiate the acquisition, <del>and, all</del> <u>All</u> appraisals must be reviewed in accordance with § 24.104. This includes appraisals of real property valued at <del>\$10,000</del><u>\$15,000</u>, or less.</p> <p><u>The third provision has been expanded to allow Federal funding agencies to permit use of a single agent for values of more than \$15,000, but less than \$35,000, but, as a safeguard, requires that an appraisal and appraisal review</u></p>

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	<p><u>document that the subrecipient has a separate and distinct quality control process in place which is set forth in written procedures approved by the agency or in an agency approved subrecipient's written procedures. (See appendix A to this part, section 24.102(n).) Agencies and recipients desiring to exercise this option must request approval in writing from the Federal funding agency.</u></p> <p><u>Footnotes - 24.102</u></p> <p><u><sup>[1]</sup> Uniform Standards of Professional Appraisal Practice (USPAP). Published by The Appraisal Foundation, a nonprofit educational organization. Copies may be ordered from The Appraisal Foundation.</u></p>	<p><u>be done if the waiver valuation preparer or the appraiser will also act as the negotiator. Agencies or recipients desiring to exercise this option must request approval in writing from the Federal funding agency. The requesting agency shall have a separate and distinct quality control process for implementing this authority in place and set forth in the written procedures approved by the Federal funding agency. Agencies and recipients may delegate this authority to a subrecipient to use their approved authority if the subrecipient has an agency or recipient approved oversight mechanism to assure proper use and review of the authority.</u></p>
24.103 Criteria for appraisals.		
		<p><i>Section 24.103 Criteria for Appraisals.</i> The term “requirements” is used throughout this section to avoid confusion with The Appraisal Foundation's Uniform Standards of Professional Appraisal Practice (USPAP) “standards.” Although this section discusses appraisal requirements, the definition of “appraisal” itself at § 24.2(a) <del>{3}</del> includes appraisal performance requirements that are an inherent part of this section.</p> <p>The term “Federal and federally assisted program or project” is used to better identify the type of appraisal practices that are to be</p>

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		referenced and to differentiate them from the private sector, especially mortgage lending, appraisal practice.
<b>24.103(a) Appraisal requirements.</b>		
<p>This section sets forth the requirements for real property acquisition appraisals for Federal and federally assisted programs. Appraisals are to be prepared according to <del>these requirements</del>, which are intended to be consistent with the Uniform Standards of Professional Appraisal Practice (USPAP).<sup>(1)</sup> (See appendix A, § 24.103(a).) The <del>Agency</del> may have appraisal requirements that supplement <del>these requirements</del>, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA).<sup>(1)(2)</sup></p> <p>(1) The <del>Agency</del> acquiring real property has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the</p>	<p>This section sets forth the requirements for real property acquisition appraisals for Federal and federally assisted programs. Appraisals are to be <b>performed</b> according to <b>this section</b>, which <b>is</b> intended to be consistent with the USPAP.<sup>(1)</sup> (See appendix A <b>to this part, section</b> 24.103(a).) The <b>agency</b> may have appraisal requirements that supplement <b>this section</b>, including, <b>and</b> to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA), <b>also commonly referred to as the “Yellow Book”</b>. <b>The USPAP is published by The Appraisal Foundation. The UASFLA is published by the Appraisal Foundation in partnership with the Department of Justice on behalf of the Interagency Land Acquisition Conference. The UASFLA is a compendium of Federal eminent domain appraisal law, both case and statute, regulations, and practices.</b><sup>(1)</sup> <b>Copies of the USPAP and the UASFLA may be ordered from The Appraisal Foundation in print and electronic forms.</b><sup>(2)</sup></p> <p>(1) The <b>agency</b> acquiring real property has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the</p>	<p><i>Section 24.103(a) Appraisal requirements.</i></p> <p>The first sentence instructs readers that requirements for appraisals for Federal and federally assisted programs or projects are located in <del>49 CFR this part 24</del>. These are the basic appraisal requirements for Federal and federally assisted programs or projects. However, <del>Agencies</del> <b>agencies</b> may enhance and expand on them, and there may be specific project or program legislation that references other appraisal requirements.</p> <p><del>These</del> <b>The</b> appraisal requirements <b>in § 24.103(a)</b> are necessarily designed to comply with the Uniform Act and other Federal eminent domain based appraisal requirements. They are also considered to be consistent with Standards Rules 1, 2, <b>3</b>, and <del>3-4</del> of the <del>2004 edition of the</del> USPAP. Consistency with USPAP has been a feature of these appraisal requirements since the beginning of USPAP. This “consistent” relationship was more formally recognized in <b>Office of Management and Budget (OMB) Bulletin 92-06</b>. While these requirements are considered consistent with USPAP, neither can supplant the other; their provisions are neither identical, nor interchangeable. Appraisals performed for</p>

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<p>appraisal problem. The scope of work and development of an appraisal under these requirements depends on the complexity of the appraisal problem.</p> <p>(2) The Agency has the responsibility to assure that the appraisals it obtains are relevant to its program needs, reflect established and commonly accepted Federal and federally assisted program appraisal practice, and as a minimum, complies with the definition of appraisal in § 24.2(a)(3) and the five following requirements: (See appendix A , §§ 24.103 and 24.103(a).)</p> <p>(i) An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including items identified as personal property, a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property. (See appendix A , § 24.103(a)(1).)</p> <p>(ii) All relevant and reliable approaches to value consistent with established Federal and federally assisted</p>	<p>appraisal problem. The scope of work and performance of an appraisal under this section depends on the complexity of the appraisal problem.</p> <p>(2) The agency has the responsibility to assure that the appraisals it obtains are relevant to its program needs, reflect established and commonly accepted Federal and federally assisted program appraisal practice, and at a minimum, comply with the definition of appraisal in § 24.2(a) and the requirements in paragraphs (a)(2)(i) through (v) of this section. (See appendix A to this part, sections 24.103 and Section 24.103(a).)</p> <p>(i) An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including items identified as personal property, a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property. (See appendix A to this part, section 24.103(a)(1).)</p> <p>(ii) All relevant and reliable approaches to value consistent with established Federal and federally assisted</p>	<p>Federal and federally assisted real property acquisition must follow the requirements in this regulation part. Compliance with any other appraisal requirements is not within the purview of this regulation part. An appraiser who is committed to working within the bounds of USPAP should recognize that compliance with both USPAP and these the requirements in this part may be achieved by using the Supplemental Standards Scope of Work Rule and the Jurisdictional Exception Rule of USPAP, where applicable.</p> <p>The term “scope of work” defines the general parameters of the appraisal. It reflects the needs of the Agency agency and the requirements of Federal and federally assisted program appraisal practice. It should be developed cooperatively by the assigned appraiser and an Agency agency official who is competent to both represent the Agency agency's needs and respect valid appraisal practice. The scope of work statement should include the purpose and/or function of the appraisal, a definition of the estate being appraised, and if whether it is fair market value, its applicable definition, and the assumptions and limiting conditions affecting the appraisal. It may include parameters for the data search and identification of the technology, including approaches to value, to be used to analyze the data. The scope of work should consider the</p>

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<p>program appraisal practices. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value <del>used</del> that is sufficient to support the appraiser's opinion of value. (See appendix A , §-24.103(a).)</p> <p>(iii) A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.</p> <p>(iv) A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate.</p> <p>(v) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.</p>	<p>program appraisal practices. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value <u>use</u> that is sufficient to support the appraiser's opinion of value. (See appendix A <u>to this part, section 24.103(a).</u>)</p> <p>(iii) A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.</p> <p>(iv) A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate.</p> <p>(v) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.</p>	<p>specific requirements in <del>49 CFR §</del> 24.103(a)(2)(i) through (v) and address them as appropriate.</p> <p><i>Section 24.103(a)(1).</i> The appraisal report should identify the items considered in the appraisal to be real property, as well as those identified as personal property.</p> <p><i>Section 24.103(a)(2).</i> All relevant and reliable approaches to value are to be used. However, where an <del>Agency</del> <u>agency</u> determines that the sales comparison approach will be adequate by itself and yield credible appraisal results because of the type of property being appraised and the availability of sales data, it may limit the appraisal assignment to the sales comparison approach. This should be reflected in the scope of work.</p>
<p><b>Footnotes - 24.103</b></p> <p><sup>[1]</sup> Uniform Standards of Professional Appraisal Practice (USPAP). Published by The Appraisal Foundation, a nonprofit educational organization. Copies may be ordered from The Appraisal Foundation at</p>	<p><b>Footnotes - 24.103</b></p> <p><sup>[1]</sup> <sup>[2]</sup> <sup>[1]</sup></p> <p><a href="http://www.justice.gov/file/408306/download">www.justice.gov/file/408306/download</a>.</p> <p><sup>[2]</sup></p> <p><a href="http://www.appraisalfoundation.org/imis/">http://www.appraisalfoundation.org/imis/</a></p>	

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<p>the following URL:  <a href="http://www.appraisalfoundation.org/html/USPAP2004/toc.htm">http://www.appraisalfoundation.org/html/USPAP2004/toc.htm</a>.</p> <p><sup>(2)</sup> The “Uniform Appraisal Standards for Federal Land Acquisitions” is published by the Interagency Land Acquisition Conference. It is a compendium of Federal eminent domain appraisal law, both case and statute, regulations and practices. It is available at <a href="http://www.usdoj.gov/enrd/landack/toc.htm">http://www.usdoj.gov/enrd/landack/toc.htm</a> or in soft cover format from the Appraisal Institute at <a href="http://www.appraisalinstitute.org/economy/publications/Default.asp">http://www.appraisalinstitute.org/economy/publications/Default.asp</a> and select “Legal/Regulatory” or call 888-570-4545.</p>	<p><a href="https://www.federalregister.gov/publications/TAF/Standards/Appraisal_Standards/TAF/Standards.aspx">TAF/Standards/Appraisal_Standards/TAF/Standards.aspx</a>.</p>	
24.103(b) Influence of the project on just compensation.		
<p>The appraiser shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner. (See appendix A , § 24.103(b).)</p>	<p>The appraiser shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner. (See appendix A <a href="#">to this part, section 24.103(b).</a>)</p>	<p><i>Section 24.103(b) Influence of the project on just compensation.</i> As used in this section, the term “project” means an undertaking which is planned, designed, and intended to operate as a unit.</p> <p>When the public is aware of the proposed project, project area property values may be affected. Therefore, property owners should not be penalized because of a decrease in value caused by the proposed project nor reap a</p>



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		windfall at public expense because of increased value created by the proposed project.
<b>24.103(c) Owner retention of improvements.</b>		
<p>If the owner of a real property improvement is permitted to retain it for removal from the project site, the amount to be offered for the interest in the real property to be acquired shall be <del>not</del> less than the difference between the amount determined to be just compensation for the owner's <del>entire</del> interest in the real property and the salvage value (defined at § 24.2(a)(24)) of the retained improvement.</p>	<p>If the owner of a real property improvement is permitted to retain it for removal from the project site, the amount to be offered for the interest in the real property to be acquired shall <b>not</b> be less than the difference between the amount determined to be just compensation for the owner's interest in the real property and the salvage value (defined at § 24.2(a)) of the retained improvement.</p>	
<b>24.103(d) Qualifications of appraisers and review appraisers.</b>		
<p>(1) The <del>Agency</del> shall establish criteria for determining the minimum qualifications and competency of appraisers and review appraisers. Qualifications shall be consistent with the scope of work for the assignment. The <del>Agency</del> shall review the experience, education, training, certification/licensing, designation(s) and other qualifications of appraisers, and review appraisers, and use only those determined by the <del>Agency</del> to be qualified. (See appendix A, §-24.103(d)(1).)</p> <p>(2) If the <del>Agency</del> uses a contract (fee) appraiser to perform the appraisal, such appraiser shall be State licensed or certified in accordance with title XI of the</p>	<p>(1) The <b>agency</b> shall establish criteria for determining the minimum qualifications and competency of appraisers and review appraisers. Qualifications shall be consistent with the scope of work for the assignment. The <b>agency</b> shall review the experience, education, training, certification/licensing, designation(s) and other qualifications of appraisers, and review appraisers, and use only those determined by the <b>agency</b> to be qualified. (See appendix A <b>to this part, section 24.103(d)(1).</b>)</p> <p>(2) If the <b>agency</b> uses a contract (fee) appraiser to perform the appraisal, such appraiser shall be State licensed or</p>	<p>The appraiser and review appraiser must each be qualified and competent to perform the appraisal and appraisal review assignments, respectively. Among other qualifications, State licensing or certification and professional society designations can help provide an indication of an appraiser's abilities.</p>

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Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 <i>et seq.</i> ).	certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 <i>et seq.</i> ).	
24.104 Review of appraisals.		
The <del>Agency</del> shall have an appraisal review process and, at a minimum:	The <u>agency</u> shall have an appraisal review process and, at a minimum:	<p><i>Section 24.104 Review of appraisals.</i> The term “review appraiser” is used rather than “reviewing appraiser,” to emphasize that “review appraiser” is a separate specialty and not just an appraiser who happens to be reviewing an appraisal. Federal <del>Agencies</del> <u>agencies</u> have long held the perspective that appraisal review is a unique skill that, while it certainly builds on appraisal skills, requires <del>more</del> <u>additional skills</u>. The review appraiser should possess both appraisal technical abilities and the ability to <del>be the two-way bridge between the Agency</del> <u>comprehend and communicate to the appraiser the agency's</u> real property valuation needs, <u>while recognizing</u> and <u>respecting</u> the <u>professional standards to which an</u> appraiser <u>is required to adhere</u>.</p> <p>Agency review appraisers typically perform a role <del>greater than in land acquisition project management in addition to</del> technical appraisal review. They are often involved in early project development <u>by assisting the agency with project cost estimates for alternative project scenarios, identifying particularly complicated valuation problems that may need additional valuation specialties.</u></p>

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		<p><u>In addition, they often provide the acquiring agency preliminary determinations about valuation problems, scope of work considerations, and types of appraisal reports necessary to complete a project.</u> Later they may be involved in devising the scope of work statements and participate in making appraisal assignments to fee and/or staff appraisers. They are also mentors and technical advisors, especially on <del>Agency</del> <u>agency</u> policy and requirements, to appraisers, both staff and fee. <del>Additionally</del> <u>In addition</u>, review appraisers are frequently technical advisors to other <del>Agency</del> <u>agency</u> officials.</p>
24.104(a)		
<p>A qualified review appraiser (see § 24.103(d)(1) and appendix A, § 24.104) shall examine the presentation and analysis of market information in all appraisals to <del>assure</del> that they meet the definition of appraisal found in <del>49 CFR 24.2(a)(3)</del>, appraisal requirements found in <del>49 CFR 24.103</del> and other applicable requirements, including, to the extent appropriate, the UASFLA, and support the appraiser's opinion of value. The level of review analysis depends on the complexity of the appraisal problem. As needed, the review appraiser shall, prior to acceptance, seek necessary corrections or revisions. The review appraiser shall identify each appraisal report as recommended (as the basis for the</p>	<p>A qualified review appraiser (see § 24.103(d)(1) and appendix A <u>to this part, section</u> 24.104) shall examine the presentation and analysis of market information in all appraisals to <u>ensure</u> that they meet the definition of appraisal found in <u>§ 24.2(a)</u>, appraisal requirements found in <u>§ 24.103</u>, and other applicable requirements (including, to the extent appropriate, the UASFLA), and support the appraiser's opinion of value. The level of review analysis depends on the complexity of the appraisal problem (<u>see § 24.103(a)(1) and appendix A, section 24.104(a)</u>). As needed, the review appraiser shall, prior to acceptance <u>of an appraisal report</u>, seek necessary corrections or revisions. The review appraiser shall identify each</p>	<p><del>Section 24.104(a). This paragraph</del> <u>Section 24.104(a)</u> states that the review appraiser is to review the appraiser's presentation and analysis of market information and that it is to be reviewed against § 24.103 and other applicable requirements, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition. The appraisal review is to be a technical review by an appropriately qualified review appraiser. The qualifications of the review appraiser and the level of explanation of the basis for the review appraiser's recommended (or approved) value depend on the complexity of the appraisal problem. If the initial appraisal submitted for review is not acceptable, the</p>

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<p>establishment of the amount believed to be just compensation), accepted (meets all requirements, but not selected as recommended or approved), or not accepted. If authorized by the <del>Agency</del> to do so, the staff review appraiser shall also approve the appraisal (as the basis for the establishment of the amount believed to be just compensation), and, if also authorized to do so, develop and report the amount believed to be just compensation. (See appendix A, §24.104(a).)</p>	<p>appraisal report as recommended (as the basis for the establishment of the amount believed to be just compensation), accepted (meets all requirements, but not selected as recommended or approved), or not accepted. If authorized by the <u>agency</u> to do so, the staff review appraiser shall also approve the appraisal (as the basis for the establishment of the amount believed to be just compensation), and, if also authorized to do so, develop and report the amount believed to be just compensation. (See appendix A <u>to this part, section</u> 24.104(a).)</p>	<p>review appraiser is to communicate and work with the appraiser to the greatest extent possible to facilitate the appraiser's <del>development</del> <u>performance</u> of an acceptable appraisal.</p> <p>In doing this, the review appraiser is to remain in an advisory role, not directing the appraisal, and retaining objectivity and options for the appraisal review itself.</p> <p>If the <del>Agency</del> <u>agency</u> intends that the staff review appraiser approve the appraisal (as the basis for the establishment of the amount believed to be just compensation) <del>or</del> establish the amount the <del>Agency</del> <u>agency</u> believes is just compensation, she/he must be specifically authorized by the <del>Agency</del> <u>agency</u> to do so. If the review appraiser is not specifically authorized to approve the appraisal (as the basis for the establishment of the amount believed to be just compensation), or establish the amount believed to be just compensation, that authority remains with another <del>Agency</del> <u>agency</u> official.</p>
24.104(b)		
<p>If the review appraiser is unable to recommend (or approve) an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined by the <del>acquiring Agency</del> that it is not practical to obtain an additional appraisal, the review appraiser may, as part of the review, present</p>	<p>If the review appraiser is unable to recommend (or approve) an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined by the <u>agency</u> that it is not practical to obtain an additional appraisal, the review appraiser may, as part of the review, present and analyze</p>	<p><i>Section 24.104(b).</i> In <del>developing</del> <u>performing and reporting</u> an independent approved or recommended value, the review appraiser may reference any acceptable resource, including acceptable parts of any appraisal, including an otherwise unacceptable appraisal. When a review appraiser <del>develops</del></p>

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<p>and analyze market information in conformance with § 24.103 to support a recommended (or approved) value. (See appendix A, §-24.104(b).)</p>	<p>market information in conformance with § 24.103 to support a recommended (or approved) value. (See appendix A <a href="#">to this part, section 24.104(b).</a>)</p>	<p><a href="#">performs their review assignment and reports</a> an independent value <a href="#">different from the conclusions in the appraisal being reviewed</a>, while retaining the appraisal review, that independent value also becomes the approved appraisal of the fair market value for Uniform Act <del>Section 301</del><a href="#">section 4651</a>(3) purposes. It is within <del>Agency</del><a href="#">agency</a> discretion to decide whether a second review is needed if the first review appraiser establishes a value different from that in the appraisal report or reports on the property.</p>
24.104(c)		
<p>The review appraiser shall prepare a written report that identifies the appraisal reports reviewed and documents the findings and conclusions arrived at during the review of the appraisal(s). Any damages or benefits to any remaining property shall be identified in the review appraiser's report. The review appraiser shall also prepare a signed certification that states the parameters of the review. The certification shall state the approved value, and, if the review appraiser is authorized to do so, the amount believed to be just compensation for the acquisition. (See appendix A, §-24.104(c).)</p>	<p>The review appraiser shall prepare a written report that identifies the appraisal reports reviewed and documents the findings and conclusions arrived at during the review of the appraisal(s). Any damages or benefits to any remaining property shall be identified in the review appraiser's report. The review appraiser shall also prepare a signed certification that states the parameters of the review. The certification shall state the approved value and, if the review appraiser is authorized to do so, the amount believed to be just compensation for the acquisition. (See appendix A <a href="#">to this part, section 24.104(c).</a>)</p>	<p><i>Section 24.104(c).</i> Before acceptance of an appraisal, the review appraiser must <del>determine</del> <a href="#">create a review report that documents the reviewer's determination that the</a> appraiser's documentation, including valuation data and analysis of that data, demonstrates the soundness of the appraiser's opinion of value. For the purposes of this part, an acceptable appraisal is any appraisal that, on its own, meets the requirements of § 24.103. An approved appraisal is the one acceptable appraisal that is determined to best fulfill the requirement to be the basis for the amount believed to be just compensation. Recognizing that appraisal is not an exact science, there may be more than one acceptable appraisal of a property, but for the purposes of this part,</p>

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		<p>there can be only one approved appraisal. <a href="#">See § 24.102(d).</a></p> <p>At the <del>Agency</del><a href="#">agency</a>'s discretion, for a low value property requiring only a simple appraisal <del>process</del><a href="#">solution</a>, the review appraiser's recommendation (or approval), endorsing the appraiser's report, may be determined to satisfy the requirement for the review appraiser's signed report and certification.</p>
<b>24.105 Acquisition of tenant-owned improvements.</b>		
<b>24.105(a) Acquisition of improvements.</b>		
When acquiring any interest in real property, the <del>Agency</del> shall offer to acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired, which it requires to be removed or which it determines will be adversely affected by the use to which such real property will be put. This shall include any improvement <del>of</del> a tenant-owner who has the right or obligation to remove the improvement at the expiration of the lease term.	When acquiring any interest in real property, the <a href="#">agency</a> shall offer to acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired, which it requires to be removed or which it determines will be adversely affected by the use to which such real property will be put. This shall include any improvement <a href="#">owned by</a> a tenant-owner who has the right or obligation to remove the improvement at the expiration of the lease term.	
<b>24.105(b) Improvements considered to be real property.</b>		
Any building, structure, or other improvement, which would be considered <del>to be</del> real property if owned by the owner of the real property on which it is located, shall be considered to be real property for purposes of this subpart.	Any building, structure, or other improvement, which would be considered real property if owned by the owner of the real property on which it is located, shall be considered to be real property for purposes of this subpart.	

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<b>24.105(c) Appraisal and Establishment <del>Establishment</del> <u>establishment</u> of Just Compensation <del>just compensation</del> for a Tenant-Owned Improvement <u>tenant-owned improvement</u>.</b>		
Just compensation for a tenant-owned improvement is the amount which the improvement contributes to the fair market value of the whole property, or its salvage value, whichever is greater. (Salvage value is defined at § 24.2(a) <del>(23)</del> .)	Just compensation for a tenant-owned improvement is the amount which the improvement contributes to the fair market value of the whole property, or its salvage value, whichever is greater. (Salvage value is defined at § 24.2(a).)	
<b>24.105(d) Special conditions for tenant-owned improvements.</b>		
No payment shall be made to a tenant-owner for any real property improvement unless: (1) The tenant-owner, in consideration for the payment, assigns, transfers, and releases to the <del>Agency</del> all of the tenant-owner's right, title, and interest in the improvement; (2) The owner of the real property on which the improvement is located disclaims all interest in the improvement; and (3) The payment does not result in the duplication of any compensation otherwise authorized by law.	No payment shall be made to a tenant-owner for any real property improvement unless: (1) The tenant-owner, in consideration for the payment, assigns, transfers, and releases to the <u>agency</u> all of the tenant-owner's right, title, and interest in the improvement;  (2) The owner of the real property on which the improvement is located disclaims all interest in the improvement; and (3) The payment does not result in the duplication of any compensation otherwise authorized by law.	
<b>24.105(e) Alternative compensation.</b>		
Nothing in this subpart shall be construed to deprive the tenant-owner of any right to reject payment under this subpart and to obtain payment for such property interests in accordance with other applicable law.	Nothing in this subpart shall be construed to deprive the tenant-owner of any right to reject payment under this subpart and to obtain payment for such property interests in accordance with other applicable law.	
<b>24.106 Expenses incidental to transfer of title to the <del>Agency</del> <u>agency</u>.</b>		

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<b>24.106(a)</b>		
<p>The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:</p> <p>(1) Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the <del>Agency</del>. However, the <del>Agency</del> is not required to pay costs solely required to perfect the owner's title to the real property;</p> <p>(2) Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and</p> <p>(3) The pro rata portion of any prepaid real property taxes which are allocable to the period after the <del>Agency</del> obtains title to the property or effective possession of it, whichever is earlier.</p>	<p>The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:</p> <p>(1) Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the <u>agency</u>. However, the <u>agency</u> is not required to pay costs solely required to perfect the owner's title to the real property;</p> <p>(2) Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and</p> <p>(3) The pro rata portion of any prepaid real property taxes which are allocable to the period after the <u>agency</u> obtains title to the property or effective possession of it, whichever is earlier.</p>	<p><i>Section 24.106(b)(g). Expenses incidental to transfer of title to the agency.</i> Generally, the <del>Agency</del><u>agency</u> is able to pay such incidental costs directly and, where feasible, is required to do so. In order to prevent the property owner from making unnecessary out-of-pocket expenditures and to avoid duplication of expenses, the property owner should be informed early in the acquisition process of the <del>Agency</del><u>agency</u>'s intent to make such arrangements. Such expenses must be reasonable and necessary.</p>
<b>24.106(b)</b>		
<p>Whenever feasible, the <del>Agency</del> shall pay these costs directly to the billing agent so that the owner will not have to pay such costs and then seek reimbursement from the <del>Agency</del>.</p>	<p>Whenever feasible, the <u>agency</u> shall pay these costs directly to the billing agent so that the owner will not have to pay such costs and then seek reimbursement from the <u>agency</u>.</p>	
<b>24.107 Certain litigation expenses.</b>		
<p>The owner of the real property shall be reimbursed for any reasonable expenses,</p>	<p>The owner of the real property shall be reimbursed for any reasonable expenses,</p>	



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including reasonable attorney, appraisal, and engineering fees, which the owner actually incurred because of a condemnation proceeding, if:	including reasonable attorney, appraisal, and engineering fees, which the owner actually incurred because of a condemnation proceeding, if:	
<b>24.107(a)</b>		
The final judgment of the court is that the <del>Agency</del> cannot acquire the real property by condemnation;	The final judgment of the court is that the <u>agency</u> cannot acquire the real property by condemnation;	
<b>24.107(b)</b>		
The condemnation proceeding is abandoned by the <del>Agency</del> other than under an agreed-upon settlement; or	The condemnation proceeding is abandoned by the <u>agency</u> other than under an agreed-upon settlement; or	
<b>24.107(c)</b>		
The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the <del>Agency</del> effects a settlement of such proceeding.	The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the <u>agency</u> effects a settlement of such proceeding.	
<b>24.108 Donations.</b>		
An owner whose real property is being acquired may, after being fully informed by the <del>Agency</del> of the right to receive just compensation for such property, donate such property or any part thereof, any interest therein, or any compensation paid therefore, to the <del>Agency</del> as such owner shall determine. The <del>Agency</del> is responsible for ensuring that an appraisal of the real property is obtained unless the owner releases the <del>Agency</del> from such obligation, except as provided in § 24.102(c)(2).	An owner whose real property is being acquired may, after being fully informed by the <u>agency</u> of the right to receive just compensation for such property, donate such property or any part thereof, any interest therein, or any compensation paid therefore, to the <u>agency</u> as such owner shall determine. The <u>agency</u> is responsible for ensuring that an appraisal of the real property is obtained unless the owner releases the <u>agency</u> from such obligation, except as provided in § 24.102(c)(2).	