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Right-of-Way Uniform Act Valuation

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In acquiring property for project right-of-way, the property's fair market value must be determined as the basis for just compensation



One of the fundamental rules when acquiring private property for public purposes—according to the U.S. Constitution—is that the owner be paid just compensation.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, or The Uniform Act, defines how public agencies must proceed when acquiring the right-of-way for a Federal-aid project. The act addresses:

- The valuation of the property
- The presentation of the offer to acquire the property
- Relocation assistance and benefit

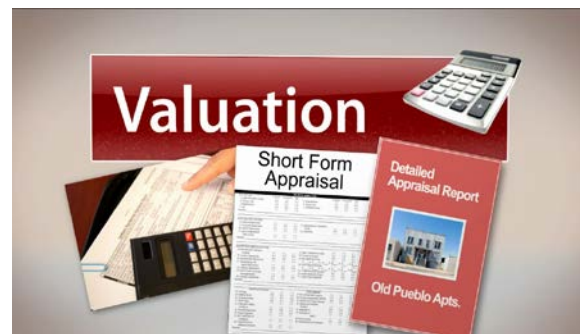


Your agency must follow the rules of the Uniform Act to avoid delaying the project or losing Federal funding.

Typically, acquiring agencies use a written appraisal to estimate a property's fair market value. Depending on the property or property rights acquired, there are several different appraisal formats.

For example, the Short Form Appraisal is used to assess the value of a single-family residence when there are no complicating circumstances.

An additional appraisal format, such as Detailed Appraisals, is used for high-value properties or complex acquisitions.

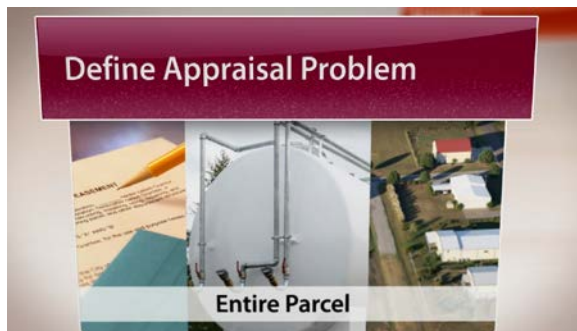


Federal regulations allow an agency to waive an appraisal under certain circumstances. For example, when the acquisition is uncomplicated and the anticipated fair market value is \$10,000 or less.

Let's review how an agency uses an appraisal to determine just compensation and the various roles and responsibilities in that process.

The first step in the appraisal process is to define the appraisal problem and select the most appropriate appraisal format for each parcel. Your agency will want to ask questions to help clarify the rights you are acquiring. For example:

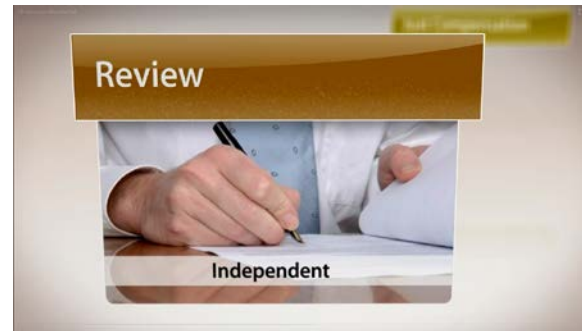
- Will you require temporary construction easements, permanent easements, or ownership of the land or land rights?
- Does the project require the acquisition of an entire property, known as a parcel, or just a part of it?
- Do you anticipate damages?
- Will you acquire trade fixtures or equipment as real property?



Once you define the appraisal problem, a qualified, independent, and impartial appraiser can start to develop a property appraisal.

The appraiser contacts the property owner and offers the owner the opportunity to participate in the inspection. Afterward, the appraiser develops the appraisal report using an accepted industry approach—such as sales comparisons, income or cost approach.

All appraisals must be independently reviewed for fairness and consistency by a second appraiser to ensure that they meet all the standards specified in the regulations.



Once the agency accepts the appraisal, its representation of fair market value becomes the basis for just compensation. It is your agency's responsibility to determine what it believes is just compensation, but it must equal or exceed fair market value.

Now, let's see how these steps work in practice.

Our example involves the widening of a one-mile stretch of a city street. The project will affect several different properties, one of which is a single-family residence owned and occupied by the Garcia family.

While defining the appraisal problem, the agency realizes it needs to acquire the entire parcel, which includes the family residence. Because the property is too valuable to qualify for a waiver, the agency determines the Short Form Appraisal is most appropriate and uses an appraiser who is experienced in these assignments.

The appraiser contacts the Garcias and schedules an inspection date. In his appraisal he relies on the sales approach to determine the value of the property and compiles comparable properties. The prices of comparable properties, observations and photos taken during the inspection, and other supporting information are used to support his opinion on the home's fair market value.



The agency then assigns a second appraiser to review the appraisal. The review appraiser makes no recommendations for revisions or corrections and agrees with the findings.

The agency accepts the appraisal and uses it as the base for establishing just compensation. As we have just seen, it's your agency's responsibility to accurately define the appraisal problem and ensure an appraisal is completed and independently reviewed. Your agency must be especially sensitive to procedures related to separation of duties between the appraiser and the review appraiser.



Your State department of transportation—the DOT— provides guidance through its right-of-way procedures manual and is responsible for the oversight of your agency's program.

The staff in the State DOT right-of-way office can assist your agency with following property appraisal rules for Federal-aid projects and may provide a list of qualified appraisers.

Web Resources

- FHWA guidance and additional links for Federal-aid right-of-way program requirements
<http://www.fhwa.dot.gov/realestate/lpaguide/index.htm>
- L A resource for property owners and occupants, transportation professionals, and highway right-of-way professionals
<http://www.fhwa.dot.gov/realestate/index.htm>
- Frequently asked question on the Uniform Act
<http://www.fhwa.dot.gov/realestate/ua/uafaqs.htm>
- FHWA rules and procedures for Federal-aid right-of-way acquisition and property management.
http://www.access.gpo.gov/nara/cfr/waisidx_11/23cfr710_11.html
- U.S. DOT rules for the procedures used to obtain right-of-way on Federal-aid projects
<http://www.ecfr.gov/cgi/t/text/text-idx?c=ecfr&sid=3bdda26e1102fe42dd21611091c4a569&rgn=div5&view=text&node=49:1.0.1.1.18&idno=49>

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This companion resource is the script content for the video production of the same name.