

49 CFR 24 Subpart B		
Old Rule	New Rule Text	New Rule Appendix A
		<b>Federal Agencies may find that, for 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, may be synonymous.</b>
24.101 Applicability of acquisition requirements		
<del>Sec. 24.101 Applicability of acquisition requirements.</del>	<b>24.101(a) Direct Federal program or project</b>	
<p>(a) <del>General.</del>—The requirements of this subpart apply to any acquisition of real property for a Federal program or project, <del>and to programs and projects where there is Federal financial assistance in any part of project costs except for:</del></p> <p><del>—(1) Voluntary transactions that meet all of the following conditions:</del></p>	<p>24.101(a) <i>Direct Federal program or project</i></p> <p>(1) The requirements of this subpart apply to any acquisition of real property for a <b>direct</b> Federal program or project, <b>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).)</b></p> <p>(2) <b>If a Federal Agency (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, (see §§ 24.2(a)(9)(ii)(E) or (H)), 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)).</b></p>	<p><i>Section 24.101(a) Direct Federal program or project</i></p> <p><b>All 49 CFR Part 24 Subpart B (real property acquisition) requirements apply to all direct acquisitions for Federal programs and projects by Federal Agencies, except for acquisitions undertaken by the Tennessee Valley Authority or the Rural Utilities Service. There are no exceptions for “voluntary transactions.”</b></p>
	<b>24.101(b) Programs and projects receiving federal financial assistance</b>	
	<p>(b) <i>Programs and projects receiving federal financial assistance</i> 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 <b>except for the acquisitions described in paragraphs (b)(1) through (5) of this section. The relocation assistance provisions in this part are applicable to any tenants that must move 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).)</b></p>	
	<p>(1) <b>The requirements of Subpart B do not apply to acquisitions that meet all of the following conditions in paragraphs (b)(1)(i) through (iv):</b></p>	

(i) 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 geographic area on this basis, all owners are to be treated similarly.

(ii) 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.

(iii) The Agency will not acquire the property ~~in the event~~ negotiations fail to result in an amicable agreement, and the owner is so informed in writing.

(iv) The Agency will inform the owner of what it believes to be the ~~fair~~ market value of the property.

(2) Acquisitions for programs or projects undertaken by an Agency or person that receives Federal financial assistance but does not have authority to acquire property by eminent domain, provided that such Agency or person shall:

(i) Prior to making an offer for the property, clearly advise the owner that it is unable to acquire the property ~~in the event~~ negotiations fail to result in an amicable agreement; and

(ii) Inform the owner of what it believes to be the ~~fair~~ market value of the property.

(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.

(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.

(5) Acquisition for a program or project ~~which is undertaken by, or~~ receives Federal financial assistance from, the Tennessee Valley Authority or the Rural Electrification Administration.

(i) 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).)**

(ii) 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.

(iii) The Agency will not acquire the property **because** negotiations fail to result in an amicable agreement, and the owner is so informed in writing.

(iv) 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).)**

(2) Acquisitions for programs or projects undertaken by an Agency or person that receives Federal financial assistance but does not have authority to acquire property by eminent domain, provided that such Agency or person shall:

(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

(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).)**

(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.

(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.

(5) Acquisition for a program or project that receives Federal financial assistance from the Tennessee Valley Authority or the Rural **Utilities Service**.

**Section 24.101(b)(1)(i).** The term “general geographic area” is used to clarify that the “geographic area” is not to be construed to be a small, limited area.

**Sections 24.101(b)(1)(iv) and (2)(ii).** These sections provide that, for programs and projects receiving Federal financial assistance described in §§ 24.101(b)(1) and (2), Agencies are to inform the owner(s) in writing of the Agency's estimate of the market value for the property to be acquired.

**While this part does not require an appraisal for these transactions, Agencies may still decide that an appraisal is necessary to support their determination of the market value of these properties, and, in any event, Agencies must have some reasonable basis for their determination of market value. In addition, some of the concepts inherent in Federal Program appraisal practice are appropriate for these estimates. It would be appropriate for Agencies to adhere to project influence restrictions, as well as guard against discredited “public interest value” valuation concepts. After an Agency has established an amount it believes to be the market value of the property and has notified the owner of this amount in writing, an Agency 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 regulations, it would be entirely appropriate for Agencies to apply the administrative settlement concept and procedures in § 24.102(i) to negotiate amounts that exceed the original estimate of market value. Agencies shall not take any coercive action in order to reach agreement on the price to be paid for the property.**

<p>24.101(b) <i>Less-than-full-fee interest in real property.</i></p>	<p><b>24.101(c) Less-than-full-fee interest in real property</b></p>	
<p><del>(b) Less-than-full-fee interest in real property. In addition to fee simple title, 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 easements. (See appendix A of this part, Sec. 24.101(b).)</del></p>	<p>(c) <i>Less-than-full-fee interest in real property</i>  <b>(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 <b>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.</b></b>  <b>(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.</b></p>	<p><i>Section 24.101(c)</i> This provision provides a benchmark beyond which the requirements of the subpart clearly apply to leases.</p>
<p><b>24.101(d) Federally-assisted projects</b></p>		
<p><del>(e) Federally-assisted projects. 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).)</del></p> <p>[54 FR 8928, Mar. 2, 1989; 54 FR 24712, June 9, 1989; 58 FR 26072, Apr. 30, 1993]</p>	<p><b>(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).)</p>	
<p><b>24.102 Basic acquisition policies</b></p>		
<p><b>24.102(a) Expeditious acquisition</b></p>		
<p>(a) <i>Expeditious acquisition.</i> The Agency shall make every reasonable effort to acquire the real property expeditiously by negotiation.</p>	<p>(a) <i>Expeditious acquisition.</i> The Agency shall make every reasonable effort to acquire the real property expeditiously by negotiation.</p>	
<p><b>24.102(b) Notice to owner</b></p>		
<p><del>(b) Notice to owner. As soon as feasible, the owner shall be notified of the Agency's interest in acquiring the real property and the basic protections, including the agency's obligation to secure an appraisal, provided to the owner by law and this part. (See also § 24.203.)</del></p>	<p>(b) <i>Notice to owner.</i> As soon as feasible, the Agency <b>shall notify the owner in writing</b> of the Agency's interest in acquiring the real property and the basic protections provided to the owner by law and this part. (See § 24.203.)</p>	
<p><b>24.102(c) Appraisal, waiver thereof, and invitation to owner</b></p>		
<p>(c) <i>Appraisal, waiver thereof, and invitation to owner.</i>  <b>(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.</b>  <b>(2) An appraisal is not required if the owner is</b></p>	<p>(c) <i>Appraisal, waiver thereof, and invitation to owner.</i>  <b>(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.</b>  <b>(2) An appraisal is not required if:</b></p>	<p><b><i>Section 24.102(c)(2) Appraisal, waiver thereof, and</i></b></p>

<p>donating the property and releases the Agency from <del>this</del> obligation, or the Agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the <del>fair market</del> value is estimated at \$2,500 or less, based on a review of available data.</p>	<p>(i) The owner is donating the property and releases the Agency from <b>its</b> obligation to appraise the property; or</p> <p>(ii) The Agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the <b>anticipated value of the proposed acquisition</b> is estimated at \$10,000 or less, based on a review of available data.</p> <p>(A) <b>When an appraisal is determined to be unnecessary, the Agency shall prepare a waiver valuation.</b></p> <p>(B) <b>The person performing the waiver valuation must have sufficient understanding of the local real estate market to be qualified to make the waiver valuation.</b></p> <p>(C) <b>The Federal Agency funding the project may approve exceeding the \$10,000 threshold, up to a maximum of \$25,000, if the Agency acquiring the real property offers the property owner the option of having the Agency appraise the property. If the property owner elects to have the Agency appraise the property, the Agency shall obtain an appraisal and not use procedures described in this paragraph. (See appendix A, § 24.102(c)(2).)</b></p>	<p><b>invitation to owner. The purpose of the appraisal waiver provision is to provide Agencies a technique to avoid the costs and time delay associated with appraisal requirements for low-value, non-complex acquisitions. The intent is that non-appraisers make the waiver valuations, freeing appraisers to do more sophisticated work.</b></p> <p><b>The Agency employee making the determination to use the appraisal waiver process must have enough understanding of appraisal principles to be able to determine whether or not the proposed acquisition is low value and uncomplicated.</b></p> <p><b>Waiver valuations are not appraisals as defined by the Uniform Act and these regulations; therefore, appraisal performance requirements or standards, regardless of their source, are not required for waiver valuations by this rule. Since waiver valuations are not appraisals, neither is there a requirement for an appraisal review. However, the Agency must have a reasonable basis for the waiver valuation and an Agency official must still establish an amount believed to be just compensation to offer the property owner(s).</b></p> <p><b>The definition of “appraisal” in the Uniform Act and appraisal waiver provisions of the Uniform Act and these regulations are Federal law and public policy and should be considered as such when determining the impact of appraisal requirements levied by others.</b></p>
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**24.102(d) Establishment and offer of just compensation**

<p>(d) <i>Establishment and offer of just compensation.</i> Before the initiation of negotiations, the Agency 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 <del>fair</del> market value of the property, taking into account the value of allowable damages or benefits to any remaining property. (See <del>also</del> § 24.104.) Promptly thereafter, the Agency shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation</p>	<p>(d) <i>Establishment and offer of just compensation.</i> Before the initiation of negotiations, the Agency 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 market value of the property, taking into account the value of allowable damages or benefits to any remaining property. <b>An Agency official must establish the amount believed to be just compensation.</b> (See § 24.104.) Promptly thereafter, the Agency 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><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 Agency's approved appraisal, but may exceed that amount if the Agency determines that a greater amount reflects just compensation for the property.</p>
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**24.102(e) Summary statement**

<p>(e) <i>Summary statement.</i> Along with the initial written purchase offer, the owner shall be given a written 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 <del>considered to be</del> part of the real property for which the offer of just compensation is made. Where appropriate, the statement shall identify any separately held ownership interest in the property, e.g., a tenant-owned improvement, and indicate that such interest is not covered by the offer.</p>	<p>(e) <i>Summary statement.</i> Along with the initial written purchase offer, the owner shall be given a written 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 <b>included as</b> part of the offer of just compensation. Where appropriate, the statement shall identify any <b>other</b> separately held ownership interest in the property, e.g., a tenant-owned improvement, and indicate that such interest is not covered by <b>this</b> offer.</p>	
<p><b>24.102(f) Basic negotiation procedures</b></p>		
<p>(f) <i>Basic negotiation procedures.</i> The Agency shall make 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 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 Agency shall consider the owner's presentation.</p>	<p>(f) <i>Basic negotiation procedures.</i> The Agency shall make <b>all</b> 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 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 Agency shall consider the owner's presentation. (See <b>appendix A, § 24.102(f).</b>)</p>	<p><i>Section 24.102(f) Basic negotiation procedures. 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 section does not require such contact in all cases.</i></p> <p><b>This section also provides that the property owner be given a reasonable opportunity to consider the Agency's offer and to present relevant material to the Agency. In order to satisfy this requirement, Agencies 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 thirty (30) 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.</b></p> <p><b>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. These provisions are not intended to restrict this practice, so</b></p>

		<p>long as it does not interfere with the reasonable time that must be provided for negotiations, described above, and the Agencies adhere to the Uniform Act ban on coercive action (section 301(7) of the Uniform Act).</p> <p>If the owner expresses intent to provide an appraisal report, Agencies are encouraged to provide the owner and/or his/her appraiser a copy of Agency 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>(g) <i>Updating offer of just compensation.</i> 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 Agency 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 Agency shall promptly reestablish just compensation and offer that amount to the owner in writing.</p>	<p>(g) <i>Updating offer of just compensation.</i> 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 Agency 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 Agency shall promptly reestablish just compensation and offer that amount to the owner in writing.</p>	
<b>24.102(h) Coercive action</b>		
<p>(h) <i>Coercive action.</i> The Agency 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>(h) <i>Coercive action.</i> The Agency 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>	
<b>24.102(i) Administrative settlement</b>		
<p>(i) <i>Administrative settlement.</i> 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 Agency 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 <del>indicates that available information (e.g., appraisals, recent court awards, estimated trial costs, or valuation problems)</del> supports such a settlement.</p>	<p>(i) <i>Administrative settlement.</i> 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 Agency 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 <b>states what</b> available information, <b>including trial risks</b>, supports such a settlement. (See appendix A, § 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 Agency official delegated this authority. Appraisers, including review appraisers, must not be pressured to adjust their estimate of value for the purpose of justifying such settlements. Such action would invalidate the appraisal process.</p>
<b>24.102(j) Payment before taking possession</b>		
<p>(j) <i>Payment before taking possession.</i> Before requiring the owner to surrender possession of the real property, the Agency shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the</p>	<p>(j) <i>Payment before taking possession.</i> Before requiring the owner to surrender possession of the real property, the Agency shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the</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</p>

<p>court, for the benefit of the owner, an amount not less than the Agency's 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, with the prior approval of the owner, the Agency may obtain a right-of-entry for construction purposes before making payment available to an owner.</p>	<p>court, for the benefit of the owner, an amount not less than the Agency's approved appraisal of the market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the Agency may obtain a right-of-entry for construction purposes before making payment available to an owner. (See appendix A, § 24.102(j).)</p>	<p>appraisal and purchase offer and the property owner is agreeable to the process.</p>
<p><b>24.102(k) Uneconomic remnant</b></p>		
<p>(k) <i>Uneconomic remnant.</i> If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the Agency shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project. (See § 24.2.)</p>	<p>(k) <i>Uneconomic remnant.</i> If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the Agency shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project. (See § 24.2(a)(27).)</p>	
<p><b>24.102(l) Inverse condemnation</b></p>		
<p>(l) <i>Inverse condemnation.</i> If the Agency 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.</p>	<p>(l) <i>Inverse condemnation.</i> If the Agency 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.</p>	
<p><b>24.102(m) Fair rental</b></p>		
<p>(m) <i>Fair rental.</i> If the Agency 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 Agency on short notice, the rent shall not exceed the fair market rent for such occupancy.</p>	<p>(m) <i>Fair rental.</i> If the Agency 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 Agency on short notice, the rent shall not exceed the fair market rent for such occupancy. (See appendix A, § 24.102(m).)</p>	<p><i>Section 24.102(m) Fair rental.</i> Section 301(6) of the Uniform Act limits what an Agency 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 Agency on short notice. Such rent may not exceed "the fair rental value of the property to a short-term occupier." Generally, the Agency'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>
<p><b>24.102(n) Conflict of interest</b></p>		
<p>Quoted from former 24.103(e) <i>Conflict of interest</i>, for easy reference:  <del>No appraiser or review appraiser shall have any interest, direct or indirect, in the real property being appraised for the Agency that would in any way conflict with the preparation or review of the appraisal.</del>          Compensation for making an appraisal shall not be based on the amount of the valuation. <del>No appraiser shall act as a negotiator for real property which that person has appraised, except that the Agency may permit the same person to both appraise and negotiate an acquisition</del></p>	<p>(n) <i>Conflict of interest.</i>  <b>(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 Agency. Compensation for making an appraisal or waiver valuation shall not be based on the amount of the valuation estimate.</b>  <b>(2) No person shall attempt to unduly influence or coerce an appraiser, review appraiser, or waiver valuation preparer regarding any valuation or other aspect of an appraisal, review or waiver valuation.</b></p>	<p><i>Section 24.102(n) Conflict of interest.</i> <b>The overall objective is to minimize the risk of fraud while allowing Agencies to operate as efficiently as possible. There are three parts to this provision.</b>  <b>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 estimate) or the review appraiser (for an appraisal review.)</b>  <b>The second provision is that no person functioning as a negotiator for a project or program can supervise</b></p>

<p>where the value of the acquisition is \$2,500, or less.</p>	<p>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 Agency may waive this requirement if it determines it would create a hardship for the Agency.</p> <p>(3) An appraiser, review appraiser, or waiver valuation preparer making an appraisal, appraisal review or waiver valuation may be authorized by the Agency to act as a negotiator for real property for which that person has made an appraisal, appraisal review or waiver valuation only if the offer to acquire the property is \$10,000, or less. (See appendix A, § 24.102(n).)</p>	<p>or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work for that project or program. The intent of this provision is to ensure appraisal/valuation independence and to prevent inappropriate influence. It is not intended to prevent Agencies from providing appraisers/valuers with appropriate project information and participating in determining the scope of work for the appraisal or valuation. For a program or project receiving Federal financial assistance, the Federal funding Agency may waive this requirement if it would create a hardship for the Agency. The intent is to accommodate Federal-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) also provides that the same person may prepare a valuation estimate (including an appraisal) and negotiate that acquisition, if the valuation estimate amount is \$10,000 or less. However, it should be noted that this exception for properties valued at \$10,000 or less is not mandatory, e.g., Agencies are not required to use those who prepare a waiver valuation or appraisal of \$10,000 or less to negotiate the acquisition, and, all appraisals must be reviewed in accordance with § 24.104. This includes appraisals of real property valued at \$10,000 or less.</p>
<p><b>24.103 Criteria for appraisals.</b></p>		
		<p>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)(3) 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 referenced and to differentiate them from the private sector, especially mortgage lending, appraisal practice.</p>
<p><b>24.103(a) Standards of appraisal</b></p>	<p><b>24.103(a) Appraisal requirements</b></p>	



~~(a) *Standards of appraisal.* The format and level of documentation for an appraisal depend on the complexity of the appraisal problem. The Agency shall develop minimum standards for appraisals consistent with established and commonly accepted appraisal practice for those acquisitions which, by virtue of their low value or simplicity, do not require the in-depth analysis and presentation necessary in a detailed appraisal. A detailed appraisal shall be prepared for all other acquisitions. A detailed appraisal shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition. An appraisal must contain sufficient documentation, including valuation data and the appraiser's analysis of that data, to support his or her opinion of value. At a minimum, a detailed appraisal shall contain the following items:~~

~~(1) The purpose and/or the function of the appraisal, a definition of the estate being appraised, and a statement of the assumptions and limiting conditions affecting the appraisal.~~

~~(2) 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), 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~~

**(a) *Appraisal requirements.* This section sets forth the requirements for real property acquisition appraisals for Federal and federally-assisted programs. Appraisals are to be prepared according to these requirements, 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 Agency may have appraisal requirements that supplement these requirements, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA)<sup>2</sup>.**

**(1) The Agency acquiring real property has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the appraisal problem. The scope of work and development of an appraisal under these requirements depends on the complexity of the appraisal problem.**

**(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).)**

**(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**

***Section 24.103(a) Appraisal requirements.* The first sentence instructs readers that requirements for appraisals for Federal and federally-assisted programs or projects are located in 49 CFR part 24. These are the basic appraisal requirements for Federal and federally-assisted programs or projects. However, Agencies may enhance and expand on them, and there may be specific project or program legislation that references other appraisal requirements.**

**These appraisal requirements 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, and 3 of the 2004 edition of the 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 OMB Bulletin 92-06. While these requirements are considered consistent with USPAP, neither can supplant the other; their provisions are neither identical, nor interchangeable. Appraisals performed for Federal and federally-assisted real property acquisition must follow the requirements in this regulation. Compliance with any other appraisal requirements is not the purview of this regulation. An appraiser who is committed to working within the bounds of USPAP should recognize that compliance with both USPAP and these requirements may be achieved by using the Supplemental Standards Rule and the Jurisdictional Exception Rule of USPAP, where applicable.**

**The term “scope of work” defines the general parameters of the appraisal. It reflects the needs of the Agency and the requirements of Federal and federally-assisted program appraisal practice. It should be developed cooperatively by the assigned appraiser and an Agency official who is competent to**

<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 the following URL: <http://www.appraisalfoundation.org/html/USPAP2004/toc.htm>.

<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 <http://www.usdoj.gov/enrd/land-ack/toc.htm> or in soft cover format from the Appraisal Institute at <http://www.appraisalinstitute.org/ecom/publications/Default.asp> and select “Legal/Regulatory” or call 888-570-4545.

<p>property.</p> <p><del>(3)</del> All relevant and reliable approaches to value consistent with <del>commonly accepted professional appraisal practices. When sufficient market sales data are available to reliably support the fair market value for the specific appraisal problem encountered, the Agency, at its discretion, may require only the market approach.</del> If more than one approach is utilized, there shall be an analysis and reconciliation of approaches to value that are sufficient to support the appraiser's opinion of value.</p> <p>(4) 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><del>(5)</del> 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>(6) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.</p>	<p>best use, and at least a 5-year sales history of the property. <b>(See appendix A, § 24.103(a)(1).)</b></p> <p>(ii) All relevant and reliable approaches to value consistent with <b>established Federal and federally-assisted program</b> appraisal practices. If <b>the appraiser uses</b> more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value. <b>(See appendix A, § 24.103(a).)</b></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><b>both represent the 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 it is 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 specific requirements in 49 CFR 24.103(a)(1) through (5) and address them as appropriate.</b></p> <p><b>Section 24.103(a)(1). The appraisal report should identify the items considered in the appraisal to be real property, as well as those identified as personal property.</b></p> <p><b>Section 24.103(a)(2). All relevant and reliable approaches to value are to be used. However, where an Agency 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.</b></p>
<p><b>24.103(b) Influence of the project on just compensation</b></p>		
<p><del>(b) Influence of the project on just compensation. To the extent permitted by applicable law, 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.</del></p>	<p>(b) <i>Influence of the project on just compensation.</i> The appraiser shall disregard any decrease or increase in the 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. <b>(See appendix A, § 24.103(b).)</b></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><b>When the public is aware</b> of the proposed project, <b>project area</b> property values may be affected. <b>Therefore,</b> property owners should not be penalized because of a decrease in value caused by the proposed project nor reap a windfall at public expense because of increased value created by the proposed project.</p>
<p><b>24.103(c) Owner retention of improvements</b></p>		
<p>(c) <i>Owner retention of improvements.</i> 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 not less than the difference between the amount determined to be just compensation for the owner's entire interest in the real property and the salvage value (defined at § 24.2) of the retained improvement.</p>	<p>(c) <i>Owner retention of improvements.</i> 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 not less than the difference between the amount determined to be just compensation for the owner's entire interest in the real property and the salvage value (defined at § 24.2(a)(24)) of the retained improvement.</p>	

**24.103(d) Qualifications of appraisers and review appraisers**

<p>(d) <i>Qualifications of appraisers.</i> (1) The Agency shall establish criteria for determining the minimum qualifications of appraisers. <del>Appraiser</del> qualifications shall be consistent with the level of difficulty of the appraisal assignment. The Agency shall review the experience, education, training, and other qualifications of appraisers, <del>including</del> review appraisers, and <del>utilize</del> only those determined to be qualified.</p> <p>(2) If the appraisal assignment requires the preparation of a detailed appraisal pursuant to Sec. 24.103(a), and the Agency uses a contract (fee) appraiser to perform the appraisal, such appraiser shall be certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 et seq).</p>	<p>(d) <i>Qualifications of appraisers and review appraisers.</i>                  (1) The Agency shall establish criteria for determining the minimum qualifications <b>and competency</b> of appraisers <b>and review appraisers</b>. Qualifications shall be consistent with the <b>scope of work</b> for the assignment. The Agency shall review the experience, education, training, <b>certification/licensing, designation(s)</b> and other qualifications of appraisers, <b>and review appraisers</b>, and <b>use</b> only those determined <b>by the Agency</b> to be qualified. (See appendix A, § 24.103(d)(1).)                  (2) If the Agency uses a contract (fee) appraiser to perform the appraisal, such appraiser shall be <b>State licensed or</b> certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 <u>et seq.</u>).</p>	<p><b>Section 24.103(d)(1). 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.</b></p>
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**24.103(e) Conflict of interest**

{see 24.102(n)}

<p>(e) <i>Conflict of interest.</i> No appraiser or review appraiser shall have any interest, direct or indirect, in the real property being appraised for the Agency that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal shall not be based on the amount of the valuation. No appraiser shall act as a negotiator for real property which that person has appraised, except that the Agency may permit the same person to both appraise and negotiate an acquisition where the value of the acquisition is \$2,500, or less.</p>		
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**24.104 Review of appraisals**

<p>The Agency shall have an appraisal review process and, at a minimum:</p>	<p>The Agency shall have an appraisal review process and, at a minimum:</p>	<p><i>Section 24.104 Review of appraisals. 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 Agencies have long held the perspective that appraisal review is a unique skill that, while it certainly builds on appraisal skills, requires more. The review appraiser should possess both appraisal technical abilities and the ability to be the two-way bridge between the Agency's real property valuation needs and the appraiser.</i>  <b>Agency review appraisers typically perform a role</b></p>
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		<p>greater than technical appraisal review. They are often involved in early project development. 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 Agency policy and requirements, to appraisers, both staff and fee. Additionally, review appraisers are frequently technical advisors to other Agency officials.</p>
<b>24.104(a)</b>		
<p>(a) A qualified reviewing appraiser shall examine all appraisals to assure that they meet applicable appraisal requirements and shall, prior to acceptance, seek necessary corrections or revisions.</p>	<p>(a) 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 assure that they meet the definition of appraisal found in 49 CFR 24.2(a)(3), appraisal requirements found in 49 CFR 24.103 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 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 Agency 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><i>Section 24.104(a).</i> This paragraph 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 review appraiser is to communicate and work with the appraiser to the greatest extent possible to facilitate the appraiser's development 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 Agency intends that the staff review appraiser approve the appraisal (as the basis for the establishment of the amount believed to be just compensation), or establish the amount the Agency believes is just compensation, she/he must be specifically authorized by the Agency 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 Agency official.</p>
<b>24.104(b)</b>		

<p>(b) If the reviewing appraiser is unable to <del>approve or recommend approval</del> of an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined that it is not practical to obtain an additional appraisal, the reviewing appraiser may <del>develop appraisal documentation in accordance with § 24.103 to support an approved or recommended value.</del></p>	<p>(b) If the review appraiser is unable to <b>recommend (or approve)</b> an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined <b>by the acquiring Agency</b> that it is not practical to obtain an additional appraisal, the review appraiser may, <b>as part of the review, present and analyze market information in conformance with § 24.103 to support a recommended (or approved) value.</b> (See appendix A, § 24.104(b).)</p>	<p><b>Section 24.104(b). In developing 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 develops an independent value, while retaining the appraisal review, that independent value also becomes the approved appraisal of the fair market value for Uniform Act Section 301(3) purposes. It is within Agency 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.</b></p>
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**24.104(c)**

<p>(c) The review appraiser's <del>certification of the recommended or approved value of the property shall be set forth in a signed statement which identifies the appraisal reports reviewed and explains the basis for such recommendation or approval.</del> Any damages or benefits to any remaining property shall <del>also be identified in the statement.</del></p>	<p>(c) The review appraiser <b>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).</b> Any damages or benefits to any remaining property shall be identified in the <b>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.</b> (See appendix A, § 24.104(c).)</p>	<p><b>Section 24.104(c). Before acceptance of an appraisal, the review appraiser must determine that the 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, there can be only one approved appraisal.</b>  <b>At the Agency's discretion, for a low value property requiring only a simple appraisal process, 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.</b></p>
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**24.105 Acquisition of tenant-owned improvements**

**24.105(a) Acquisition of improvements**

<p>(a) <i>Acquisition of improvements.</i> When acquiring any interest in real property, the Agency 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 of a tenant-owner who has the right or</p>	<p>(a) <i>Acquisition of improvements.</i> When acquiring any interest in real property, the Agency 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 of a tenant-owner who has the right or</p>	
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obligation to remove the improvement at the expiration of the lease term.	obligation to remove the improvement at the expiration of the lease term.	
<b>24.105(b) Improvements considered to be real property</b>		
(b) <i>Improvements considered to be real property.</i> Any building, structure, or other improvement, which would be considered to be 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.	(b) <i>Improvements considered to be real property.</i> Any building, structure, or other improvement, which would be considered to be 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.	
<b>24.105(c) Appraisal and Establishment of Just Compensation for a Tenant-Owned Improvement</b>		
(c) <i>Appraisal and establishment of just compensation for tenant-owned improvements.</i> 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.)	(c) <i>Appraisal and Establishment of Just Compensation for a Tenant-Owned Improvement.</i> Just compensation for a tenant-owned improvement is the amount which the improvement contributes to the market value of the whole property, or its salvage value, whichever is greater. (Salvage value is defined at § 24.2(a)(23).)	
<b>24.105(d) Special conditions for tenant-owned improvements</b>		
(d) <i>Special conditions.</i> 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 Agency all of the tenant-owner's right, title, and interest in the improvement; <del>and</del> (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.	(d) <i>Special conditions for tenant-owned improvements.</i> 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 Agency 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>		
(e) <i>Alternative compensation.</i> 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.	(e) <i>Alternative compensation.</i> 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 Agency</b>		
(a) The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for: (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 Agency. However, the Agency is not required to pay costs solely	(a) The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for: (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 Agency. However, the Agency is not required to pay costs solely	

<p>required to perfect the owner's title to the real property; <del>and</del></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 Agency obtains title to the property or effective possession of it, whichever is earlier.</p>	<p>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 Agency obtains title to the property or effective possession of it, whichever is earlier.</p>	
<p>(b) Whenever feasible, the Agency shall pay these costs directly so that the owner will not have to pay such costs and then seek reimbursement from the Agency.</p>	<p>(b) Whenever feasible, the Agency shall pay these costs directly <b>to the billing agent</b> so that the owner will not have to pay such costs and then seek reimbursement from the Agency.</p>	<p><i>Section 24.106(b). Expenses incidental to transfer of title to the agency.</i></p> <p>Generally, the Agency 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 Agency's intent to make such arrangements. Such expenses must be reasonable and necessary.</p>
<p><b>24.107 Certain litigation expenses</b></p>		
<p>The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal, and engineering fees, which the owner actually incurred because of a condemnation proceeding, if:</p> <p>(a) The final judgment of the court is that the Agency cannot acquire the real property by condemnation; <del>or</del></p> <p>(b) The condemnation proceeding is abandoned by the Agency other than under an agreed-upon settlement; or</p> <p>(c) The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the Agency effects a settlement of such proceeding.</p>	<p>The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal, and engineering fees, which the owner actually incurred because of a condemnation proceeding, if:</p> <p>(a) The final judgment of the court is that the Agency cannot acquire the real property by condemnation;</p> <p>(b) The condemnation proceeding is abandoned by the Agency other than under an agreed-upon settlement; or</p> <p>(c) The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the Agency effects a settlement of such proceeding.</p>	
<p><b>24.108 Donations</b></p>		
<p>An owner whose real property is being acquired may, after being fully informed by the Agency of the right to receive just compensation for such property, donate such property or any part thereof, any interest therein, or any compensation paid therefor, to the Agency as such owner shall determine. The Agency is responsible for <del>assuring</del> that an appraisal of the real property is obtained unless the owner releases the Agency from such obligation, except as provided in Sec. 24.102(c)(2).</p>	<p>An owner whose real property is being acquired may, after being fully informed by the Agency of the right to receive just compensation for such property, donate such property or any part thereof, any interest therein, or any compensation paid therefor, to the Agency as such owner shall determine. The Agency is responsible for <b>ensuring</b> that an appraisal of the real property is obtained unless the owner releases the Agency from such obligation, except as provided in § 24.102(c)(2).</p>	