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Right-of-Way Uniform Act Acquisition and Negotiation

www.fhwa.dot.gov/federal-aidessentials


When acquiring private property for project right-of-way, certain Federal regulations must be followed to ensure owners are paid 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:

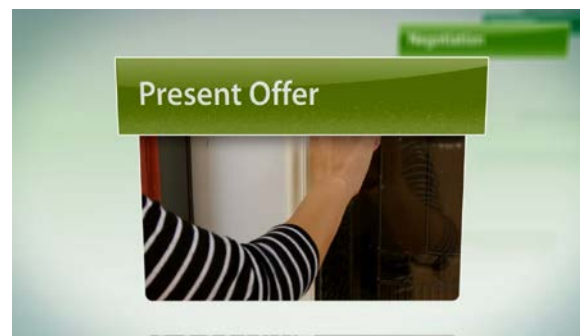
- The valuation of the property
- The presentation of the offer to acquire the property
- Relocation assistance and benefit



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

Let's see how an agency presents and negotiates a final offer and documents its compliance with the Uniform Act and applicable State and local laws.

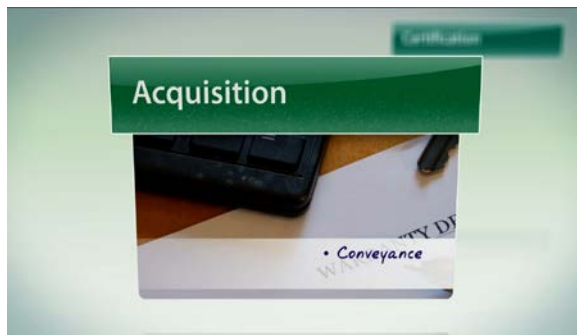
Agencies are encouraged to present their offer of just compensation promptly after the appraisal is completed, and, whenever possible, in person. The reason is to provide the owner all the information necessary to make an informed decision and enough time to consider the offer.



The owner may accept your agency's offer or present a counter offer based on material he or she believes is relevant to the valuation of the property, such as a comparable sale not included on the agency's appraisal report. If relevant, your agency must consider information presented by the owner.

After negotiations are complete, the owner transfers the property or property rights to your agency through a deed or other form of conveyance instrument.

If all attempts to negotiate an agreement fail, your agency might have to exercise the power of eminent domain. Eminent domain gives the government the power to condemn and take possession of private property needed for public purposes. Condemnation procedures vary from State to State, but normally before an agency can take possession of a property, it deposits in an escrow account an amount not less than the appraised fair market value.



Whether through conveyance or condemnation, the Federal Highway Administration considers the activity completed when your agency certifies that

- Physical and legal possession of the properties has been acquired in accordance with the Uniform Act and other applicable laws
- The properties are free and clear of any structures, businesses, or people
- Any displaced persons have been relocated

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 home, owned and occupied by the Garcias. The City of Lakeside has recently determined the purchase offer and relocation benefit.

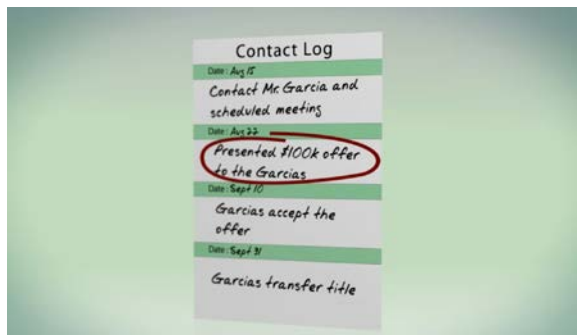
The agency negotiator calls the Garcias and schedules a time to present both the purchase and relocation offer in person. During the meeting, they discuss how the agency arrived at the figures and review the appraiser's report. The Garcias have two teenagers in high school and express their desire to purchase another house in the same school district.

The Garcias contact a real estate agent for information about the real estate market in their area. From what they learn about properties that have sold recently, the Garcias accept the purchase offer.

At the real estate closing, the agency pays the closing costs. The Garcias receive a purchase payment and transfer the title to the agency.

Acquisition is one of the most sensitive aspects of an agency's activities and your agency must conduct them in accordance with the Uniform Act and other Federal regulations. As seen in our example, documenting your agency's actions in a contact log is an important way of showing compliance with the regulations. A typical log includes:

- The purchase offer and the basis for the offer
- All phone calls and meetings with the landowner or other representatives
- Any counteroffers
- If applicable, reasons a settlement could not be reached



Your State department of transportation—or State 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 the right-of-way acquisition rules for Federal-aid projects.

Web Resources

- Detailed information and additional links for Federal-aid right-of-way program requirements
<http://www.fhwa.dot.gov/realestate/lpaguide/index.htm>
- A resource for FHWA programs and activities for various transportation improvement program professionals and right-of-way professionals
<http://www.fhwa.dot.gov/realestate/index.htm>
- Frequently asked question on 49 CFR Part 24, the Uniform Act
<http://www.fhwa.dot.gov/realestate/ua/uafags.htm>
- FHWA rules and procedures regarding right-of-way acquisition and property management on Federal-aid projects
http://www.access.gpo.gov/nara/cfr/waisidx_11/23cfr710_11.html
- U.S. DOT rules on procedures used to obtain right-of-way for federally assisted projects
<http://www.ecfr.gov/cgi/t/text/text-idx?c=ecfr&sid=3bdda26e1102fe42dd21611091c4a569&rqn=div5&view=text&node=49:1.0.1.1.18&idno=49>

The content of this document is not a substitute for information obtained from State departments of transportation, appropriate FHWA Division Offices, and applicable laws. Scenarios have been simplified for emphasis and do not necessarily reflect the actual range of requirements applicable to the scenario or this topic. This document was created under contract number DTFH61-11-D-00025 by the Federal Highway Administration, U.S. Department of Transportation, and is offered to the public to heighten and focus awareness of Federal-aid requirements within the local public agencies community and reinforces the importance of these necessary policies, procedures, and practices.

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