

Side-by-side comparison of 23 CFR 710 Subpart A—General

Old Rule	Updated (New) Rule
<p>§ 710.101 Purpose.</p> <p>The primary purpose of the requirements in this part is to ensure the prudent use of Federal funds under title 23 of the United States Code in the acquisition, management, and disposal of real property. In addition to the requirements of this part, other real property related provisions apply and are found at 49 CFR part 24.</p>	<p>§ 710.101 Purpose.</p> <p>The primary purpose of the requirements in this part is to ensure the prudent use of Federal funds under title 23, United States Code, in the acquisition, management, and disposal of real property. In addition to the requirements of this part, other real property related provisions apply and are found at 49 CFR part 24.</p>
<p>§ 710.103 Applicability.</p> <p>This part applies whenever Federal assistance under title 23 of the United States Code is used. The part applies to programs administered by the Federal Highway Administration. Where Federal funds are transferred to other Federal agencies to administer, those agencies' procedures may be utilized. Additional guidance is available electronically at the FHWA Real Estate services website: www.fhwa.dot.gov/realestate/index.htm</p>	<p>§ 710.103 Applicability.</p> <p>(a) This part applies whenever title 23, United States Code, grant funding is used, including when grant funds are expended or participate in project costs incurred by the State or other Title 23 grantee. This part applies to programs and projects administered by the Federal Highway Administration (FHWA) and, unless otherwise stated in this part, to all property purchased with title 23 grant funds or incorporated into a project carried out with grant funding provided under title 23, except property for which the title is vested in the United States upon project completion. Grantees are accountable to FHWA for complying with, and are responsible for ensuring their subgrantees, contractors, and other project partners comply with applicable Federal laws, including this part.</p> <p>(b) The parties responsible for ROW and real estate activities, and for compliance with applicable Federal requirements, can vary by the nature of the responsibility or the underlying activity. Throughout this part, the FHWA identifies the parties subject to a particular provision through the use of terms of reference defined as set forth in § 710.105. It is important to refer to those definitions, such as “State Department of Transportation (SDOT),” “grantee,” “subgrantee,” “State agency” and “acquiring agency,” when applying the provisions in this part.</p> <p>(c) Where title 23 funds are transferred to other Federal agencies to administer, those agencies' ROW and real estate procedures may be utilized. Additional guidance is available electronically at the FHWA Real Estate Services Web site: www.fhwa.dot.gov/realestate/index.htm.</p>
<p>§ 710.105 Definitions.</p> <p>(a) Terms defined in 49 CFR part 24, and 23 CFR part 1 have the same meaning where used in this part, except as modified in this section.</p> <p>(b) The following terms where used in this part have the following meaning:</p> <p>Access rights means the right of ingress to and egress from a property that abuts a street or highway.</p>	<p>§ 710.105 Definitions.</p> <p>(a) Terms defined in 23 U.S.C. 101(a) and 49 CFR part 24 have the same meaning where used in this part, except as modified in this section.</p> <p>(b) The following terms where used in this part have the following meaning:</p> <p><i>Access rights</i> means the right of ingress to and egress from a property to a public way.</p>

<p>Acquiring agency means a State agency, other entity, or person acquiring real property for title 23 of the United States Code purposes.</p>	<p><i>Acquiring agency</i> means a State agency, other entity, or person acquiring real property for title 23, United States Code, purposes. When an acquiring agency acquires real property interests that will be incorporated into a project eligible for title 23 grant funds, the acquiring agency must comply with Federal real estate and ROW requirements applicable to the grant.</p>
<p>Acquisition means activities to obtain an interest in, and possession of, real property.</p>	<p><i>Acquisition</i> means activities to obtain an interest in, and possession of, real property.</p>
<p>Air rights means real property interests defined by agreement, and conveyed by deed, lease, or permit for the use of airspace. Airspace means that space located above and/or below a highway or other transportation facility's established grade line, lying within the horizontal limits of the approved right-of-way or project boundaries.</p>	<p><i>(See definition "Real Property or Real Property Interest")</i></p>
<p>Damages means the loss in value attributable to remainder property due to severance or consequential damages, as limited by State law, that arise when only part of an owner's property is acquired.</p>	<p><i>Damages</i> means the loss in the value attributable to remainder property due to the severance or consequential damages, as limited by State law, that arise when only part of an owner's real property is acquired.</p>
<p>Disposal means the sale of real property or rights therein, including access or air rights, when no longer needed for highway right-of-way or other uses eligible for funding under title 23 of the United States Code.</p>	<p><i>Disposal</i> means the transfer by sale or other conveyance of permanent rights in excess real property, when the real property interest is not currently or in the foreseeable future needed for highway ROW or other uses eligible for funding under title 23 of the United States Code. A disposal must meet the requirements contained in § 710.403(b) of this part. The term "disposal" includes actions by a grantee, or its subgrantees, in the nature of relinquishment, abandonment, vacation, discontinuance, and disclaimer of real property or any rights therein.</p>
<p>Donation means the voluntary transfer of privately owned real property for the benefit of a public transportation project without compensation or with compensation at less than fair market value.</p>	<p><i>Donation</i> means the voluntary transfer of privately owned real property, by a property owner who has been informed in writing by the acquiring agency of rights and benefits available to owners under the Uniform Act and this section, for the benefit of a public transportation project without compensation or with compensation at less than fair market value.</p>
<p>Early acquisition means acquisition of real property by State or local governments in advance of Federal authorization or agreement.</p>	<p><i>Early acquisition</i> means acquisition of real property interests by an acquiring agency prior to completion of the environmental review process for a proposed transportation project, as provided under 23 CFR 710.501 and 23 U.S.C. 108.</p>
	<p><i>Early Acquisition Project</i> means a project for the acquisition of real property interests prior to the completion of the environmental review process for the transportation project into which the acquired property will be incorporated, as authorized under 23 U.S.C. 108 and implemented under § 710.501 of this part. It may consist of the acquisition of real property interests in a specific parcel, a portion of a transportation corridor, or an entire transportation corridor.</p>
<p>Easement means an interest in real property that conveys a</p>	<p><i>Easement</i> means an interest in real property that conveys a right to use or</p>

right to use a portion of an owner's property or a portion of an owner's rights in the property.	control a portion of an owner's property or a portion of an owner's rights in the property either temporarily or permanently.
NHS means the National Highway System as defined in 23 U.S.C. 103(b).	
Oversight agreement means the project approval and agreement concluded between the State and the FHWA to outline which projects will be monitored at the plans, specifications, and estimate stage by FHWA as required by 23 U.S.C. 106(c)(3).	<i>(See definition "Stewardship/Oversight Agreement")</i>
	<i>Excess real property</i> means a real property interest not needed currently or in the foreseeable future for transportation purposes or other uses eligible for funding under title 23, United States Code.
	<i>Federal-aid project</i> means a project funded in whole or in part under, or requiring an FHWA approval pursuant to provisions in, chapter 1 of title 23, United States Code.
	<i>Federally assisted</i> means a project or program that receives grant funds under title 23, United States Code.
	<i>Grantee</i> means the party that is the direct recipient of title 23 funds and is accountable to FHWA for the use of the funds and for compliance with applicable Federal requirements.
	<i>Mitigation property</i> means real property interests acquired to mitigate for impacts of a project eligible for funding under title 23.
	<i>Option</i> means the purchase of a right to acquire real property within an agreed-to period of time for an agreed-to amount of compensation or through an agreed-to method by which compensation will be calculated.
	<i>Person</i> means any individual, family, partnership, corporation, or association.
	<i>Real Estate Acquisition Management Plan (RAMP)</i> means a written document that details how a non-State department of transportation grantee, subgrantee, or design-build contractor will administer the title 23 ROW and real estate requirements for its project or program of projects. The document must be approved by the SDOT, or by the funding agency in the case of a non-SDOT grantee, before any acquisition work may begin. It must lay out in detail how the acquisition and relocation assistance programs will be accomplished and any anticipated issues that may arise during the process. If relocations are reasonably expected as part of the title 23 project or program, the Real Estate Acquisition Management Plan (RAMP) must address relocation assistance and related procedures.
Real property means land and any improvements thereto, including but not limited to, fee interests, easements, air or access rights, and the rights to control use, leasehold, and leased fee	<i>Real property or real property interest</i> means any interest in land and any improvements thereto, including fee and less-than-fee interests such as: temporary and permanent easements, air or access rights, access control, options, and other contractual

interests.	rights to acquire an interest in land, rights to control use or development, leases, and licenses, and any other similar action to acquire or preserve ROW for a transportation facility. As used in this part, the terms “real property” and “real property interest” are synonymous unless otherwise specified.
Relinquishment means the conveyance of a portion of a highway right-of-way or facility by a State highway department to another government agency for continued transportation use. (See 23 CFR part 620, subpart B.)	<i>Relinquishment</i> means the conveyance of a portion of a highway ROW or facility by a grantee under title 23, United States Code, or its subgrantee, to another government agency for continued transportation use. (See § 620, subpart B.)
Right-of-way means real property and rights therein used for the construction, operation, or maintenance of a transportation or related facility funded under title 23 of the United States Code.	<i>Right-of-way (ROW)</i> means real property and rights therein obtained for the construction, operation, maintenance, or mitigation of a transportation or related facility funded under title 23, United States Code.
	<i>ROW manual</i> means an operations manual that establishes a grantee’s acquisition, valuation, relocation, and property management and disposal requirements and procedures, and has been approved in accordance with 23 CFR 710.201(c).
	<i>ROW use agreement</i> means real property interests, defined by an agreement, as evidenced by instruments such as a lease, license, or permit, for use of real property interests for non-highway purposes where the use is in the public interest, consistent with the continued operation, maintenance, and safety of the facility, and such use will not impair the highway or interfere with the free and safe flow of traffic (see also 23 CFR 1.23). These rights may be granted only for a specified period of time because the real property interest may be needed in the future for highway purposes or other purposes eligible for funding under title 23.
Settlement means the result of negotiations based on fair market value in which the amount of just compensation is agreed upon for the purchase of real property or an interest therein. This term includes the following: (1) An administrative settlement is a settlement reached prior to filing a condemnation proceeding based on value related evidence, administrative consideration, or other factors approved by an authorized agency official. (2) A legal settlement is a settlement reached by a responsible State legal representative after filing a condemnation proceeding, including stipulated settlements approved by the court in which the condemnation action had been filed. (3) A court settlement or court award is any decision by a court that follows a contested trial or hearing before a jury, commission, judge, or other legal entity having the authority to establish the amount of compensation for a taking under the laws of eminent domain.	<i>Settlement</i> means the result of negotiations based on fair market value in which the amount of just compensation is agreed upon for the purchase of real property or an interest therein. This term includes the following: (1) An <i>administrative settlement</i> is a settlement reached prior to filing a condemnation proceeding based on value related evidence, administrative consideration, or other factors approved by an authorized agency official. (2) A <i>legal settlement</i> is a settlement reached by an authorized legal representative or a responsible official of the acquiring agency who has the legal power vested in him by State law, after filing a condemnation proceeding, including agreements resulting from mediation and stipulated settlements approved by the court in which the condemnation action had been filed. (3) A <i>court settlement or court award</i> is any decision by a court that follows a contested trial or hearing before a jury, commission, judge, or other legal entity having the authority to establish the amount of just compensation for a taking under the laws of eminent domain.
State agency means a department, agency, or instrumentality	<i>State agency</i> means: a department, agency, or instrumentality of a State or of a

of a State or of a political subdivision of a State; any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States; or any person who has the authority to acquire property by eminent domain, for public purposes, under State law.	political subdivision of a State; any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States; or any person who has the authority to acquire property by eminent domain, for public purposes, under State law.
State transportation department (STD) means the State highway department, transportation department, or other State transportation agency or commission to which title 23 of the United States Code funds are apportioned.	<i>State department of transportation (SDOT)</i> means the State highway department, transportation department, or other State transportation agency or commission to which title 23, United States Code, funds are apportioned.
	<i>Stewardship/Oversight Agreement</i> means the written agreement between the SDOT and FHWA that defines the respective roles and responsibilities of FHWA and the State for carrying out certain project review, approval, and oversight responsibilities under title 23, including those activities specified by 23 U.S.C. 106(c)(3).
	<i>Subgrantee</i> means a government agency or legal entity that enters into an agreement with a grantee to carry out part or all of the activity funded by title 23 grant funds. A subgrantee is accountable to the grantee for the use of the funds and for compliance with applicable Federal requirements.
	<i>Temporary development restriction</i> means the purchase of a right to temporarily control or restrict development or redevelopment of real property. This right is for an agreed to time period, defines specifically what is restricted or controlled, and is for an agreed to amount of compensation.
	<i>Transportation project</i> means any highway project, public transportation capital project, multimodal project, or other project that requires the approval of the Secretary. As used in this part, the term “transportation project” does not include an Early Acquisition Project as defined in this section.
Uneconomic remnant means a remainder property which the acquiring agency has determined has little or no utility or value to the owner.	<i>Uneconomic remnant</i> means a remainder property which the acquiring agency has determined has little or no utility or value to the owner.
Uniform Act means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646, 84 Stat. 1894), and the implementing regulations at 49 CFR part 24.	<i>Uniform Act</i> means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Public Law 91-646, 84 Stat. 1894; primarily codified in 42 U.S.C. 4601 et seq.), and the implementing regulations at 49 CFR part 24.