



U.S. Department of Transportation
Federal Highway Administration

49 CFR Part 24 2024 Final Rule

Acquisition and Negotiation Sections Update

June 2024

Disclaimer

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Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) Webinar

- Submit questions in the Zoom Q&A box at the bottom of the screen. Presenters will respond to questions at the end of the webinar
- Contact Federal Highway Administration's (FHWA) Office of Real Estate Services (HEPR) with any further questions about the Uniform Act at UniformAct@dot.gov



Acquisition Topics

- Definitions: “Agency”, “Recipient” and “Subrecipient”
- 49 CFR §24.9 Recordkeeping and reports
- 49 CFR §24.11 Adjustments of limits and payments
- Tenant eligibility date for voluntary acquisitions
- Offers to “Owner’s or Tenant’s designated representative”



Acquisition Topics (continued)

- Flexibilities for notice requirements and electronic signatures
- 49 CFR §24.101 Applicability of acquisition requirements
- 49 CFR §24.102(f) Minimum Negotiation Period
- 49 CFR §24.102(n) Conflict of interest provisions



§24.2(a) Definitions

2005

The term *Agency* means the Federal Agency, State, State Agency, or person that acquires real property or displaces a person.

The 2005 regulation had separate definitions for “Acquiring Agency” and “Displacing Agency”



§24.2(a) Definitions

2024

The term *Agency* means **any entity utilizing** Federal **funds** or **Federal financial Assistance for a project or program** that acquires real property or displaces a person. [Emphasis added]

Final rule removed separate definitions for “Acquiring Agency” and “Displacing Agency”



§24.2(a) Definitions

Added a new definition for “Recipient”

The term *recipient* means a non-Federal entity that receives a Federal award directly from a Federal Agency to carry out an activity under a Federal program. **The recipient is accountable to the Federal funding Agency for the use of the funds and for compliance with applicable Federal requirements.** The term recipient does not include subrecipients. [Emphasis added]

§24.2(a) Definitions

Added a new definition for “Subrecipient”

Subrecipient. The term subrecipient means a government Agency or legal entity that enters into an agreement with a recipient to carry out part or all of the activity funded by Federal program grant funds. A subrecipient is accountable to the recipient for the use of the funds and for compliance with applicable Federal requirements.

§24.9 Recordkeeping and reports

Annual Federal Agency report:

- Describes the prior years real property acquisitions, displacements, and related activities
- Report period: October 1 through September 30 (Federal fiscal year)
- Due no later than November 15th of each year

§24.9 Recordkeeping and reports

2005

(c) *Reports.* The Agency shall submit a report of its real property acquisition and displacement activities under this part **if required** by the Federal Agency funding the project. A report will not be required more frequently than **every 3 years**, or as the Uniform Act provides, unless the Federal funding Agency shows good cause. **The report shall be prepared and submitted using the format contained in appendix B of this part.** [Emphasis added]

§24.9 Recordkeeping and reports

2024

(c) *Reports.* **Each Federal agency** that has programs or projects requiring the acquisition of real property or causing a displacement from real property subject to the provisions of the Uniform Act **shall provide** to the Lead Agency an **annual summary report** by November 15 that describes the real property acquisitions, displacements, and related activities conducted by the Federal agency for the prior calendar year. (**See appendix A** to this part, section 24.9(c).) [Emphasis added]

§24.11 Adjustments of limits and payments

49 CFR 24.11 – Adjustments of limits and payments

(a) The Lead Agency may adjust certain valuation limits and maximum relocation benefits payments

(b) The head of the Lead Agency will evaluate whether the cost of living, inflation, or other factors indicate that these limits and payments should be adjusted to meet the policy objectives of the Uniform Act

§24.11 Adjustments of limits and payments

49 CFR 24.11 – Limits and payments that may be adjusted

- Waiver valuation limits (see §24.102(c)(2)(ii))
- Conflict of interest valuation limits (see § 24.102(n)(3))
- Limits for certain moving and related expenses:
 - Application fees or credit reports for residential tenants (see §24.301(g)(7))
 - Move cost finding of \$5,000 or less (see §24.301(d)(2)(iii))
 - Search expenses not to exceed \$5,000 (see §24.301(g)(7))

§24.11 Adjustments of limits and payments

49 CFR 24.11 – Limits and payments that may be adjusted

- Homeowner replacement housing payments (see § 24.401 and § 24.502)
- Tenant replacement housing payment (see § 24.402 and § 24.503)
- Reestablishment expenses – nonresidential moves (see § 24.304)
- Fixed payment for nonresidential moving expenses (see § 24.305)

§24.11 Adjustments of limits and payments

49 CFR 24.11 – Adjustments of limits and payments

- Consumer Price Index for All Urban Consumers (CPI-U)
- If adjustments are determined to be necessary, the head of the Lead Agency will publish the new maximum benefit limits eligible for Federal participation in the Federal Register

§24.2(a) Definitions: Initiation of negotiations

Clarified eligibility date for tenants for voluntary acquisitions:

In the case of permanent relocation of a **tenant** as a result of a **voluntary acquisition** of real property described in §24.101(b)(1), the tenant is not eligible for relocation assistance under this part, **until there is a binding written agreement** between the Agency and the owner **that obligates the Agency, without further election**, to purchase the real property. (See Appendix A of this part, *Section 24.2(a)*). [Emphasis added]

§24.2(a) Definitions: Initiation of negotiations

What is considered a “binding written agreement”?

Agreements such as options to purchase and conditional purchase and sale agreements are not considered a binding agreement within the meaning of this regulation **unless such agreements satisfy the requirements of the Federal Agency providing the Federal financial assistance or until all conditions to the Agency’s obligation to purchase the real property have been satisfied.** [Emphasis added]

§24.2(a) Initiation of Negotiations, Tenants(iv)

Tenant eligibility established with a binding written agreement

Appendix 24.2(a) Initiation of Negotiations, Tenants (iv)

Binding written agreements

- Option to purchase is not a binding agreement (in most cases)
- Options generally do not obligate the Agency
- Property owner agrees to sell certain property rights
- Agency agrees, without further election, to make the purchase
- Purchase is for specified consideration
- Must be a legally enforceable document

§24.2(a) Owner's or tenant's designated representative

Added a new definition for “Owner's or tenant's designated representative”

Owner's or tenant's designated representative means a representative designated by a property owner or tenant to receive all required notifications and documents from the agency. The owner or tenant must provide the agency a written notification which states that they are designating a representative, provide that person's name and contact information and what if any notices or information, the representative is not authorized to receive.

§24.2(a) Owner's or tenant's designated representative

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§24.102(d) Establishment and offer of just compensation. Promptly thereafter [establishing the amount believed to be just compensation], the Agency shall **make a written offer to the owner** to acquire the property for the full amount believed to be just compensation. [Emphasis added]

§24.2(a) Owner's or tenant's designated representative

2024

§24.102(d) Establishment and offer of just compensation. Promptly thereafter [establishing the amount believed to be just compensation], the Agency shall make a written offer to the owner or **the designated owner's representative** to acquire the property for the full amount believed to be just compensation. (Emphasis added)

Offers to owner's designated representatives

Appendix B, 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. [Emphasis added]

§24.2(a) Owner's or tenant's designated representative

Property owner or tenant may designate a representative:

- May cover all (or only some) required notifications and documents
- Owner or tenant must provide the **written** notification
- Must provide person's name and contact information
- Must provide what (if any) notices or information the representative is not authorized to receive
- Should stipulate in writing specifically what the representative is authorized to do

§24.5 Manner of notices and electronic signatures

2005

§24.5(a) Each notice that the Agency is required to provide to a property owner or occupant under this part, except the notice described at § 24.102(b), shall be personally served or sent by certified or registered first-class mail, return receipt requested.

§24.5 Manner of notices and electronic signatures

2024

§24.5(a) Each notice that the Agency is required to provide to a property owner or occupant under this part, except the notice described at § 24.102(b), shall be personally served or sent by certified or registered first-class mail, return receipt requested **(or by companies other than the United States Postal Service that provide the same function as certified mail with return receipts)** and documented in Agency files. [Emphasis added]



§24.5 Manner of notices and electronic signatures

2024

§24.5(a) (continued...) A **Federal funding Agency may approve a process** to permit the **displaced person to elect** to receive required notices by electronic delivery in lieu of the use of certified or registered first-class mail, return receipt requested, or personally served notices, when an Agency demonstrates a means to document receipt of such notices by the property owner or occupant. [Emphasis added]

§24.5 Manner of notices and electronic signatures

2024

§24.5(b) An Agency requesting use of electronic delivery of notices must include the following safeguards:

1. Process must inform owners/occupants of notice options
2. Process must document and record delivery (with date **and** timestamp)
3. Process must link the unaltered document to the signature
4. Certification that process is consistent with State and Federal laws

§24.5 Manner of notices and electronic signatures

2024

§24.5(a) (continued...) A Federal funding Agency may approve a process to permit the use of electronic signature which meet the requirements of §24.5(e).

1. Process must document and record delivery (with date **and** timestamp)
2. Process must link the unaltered document to the signature
3. Certification that process is consistent with State and Federal laws

§24.5 Manner of notices and electronic signatures

See Appendix A, Section 24.5 Manner of notices and electronic signatures for additional information.

- Owners or occupants **must voluntarily elect** electronic methods
- Should be **supplement** (not substitute) for face-to-face meetings
- Agencies to accommodate an owner's or occupant's preferences
- Demonstrate document security and signature verification
- Procedures must be consistent with State and Federal laws
- Federal funding Agency to approve procedures **prior to use**
- Agencies must determine and document instances when electronic delivery or electronic signature are appropriate [Emphasis added]



Section 24.102(b) Notice to owner

Section 24.102(b) Notice to owner is **not changed**.

Reminder: this notice is **excluded** from the §24.5 requirements, so Agencies have more flexibility with how this notice is delivered.

Appendix A, Section 24.102(b) Notice to owner. In the case of condominiums and other types of housing with common or community areas, notification should be given to the appropriate parties:

- Condominium or homeowner's board
- Designated representative
- All individual owners

§24.101(a) - Applicability of acquisition requirements

(a) Direct Federal program or project.

- (2) 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 **or the owner's designated representative** shall be so informed in writing. Owners of such properties are not displaced persons, **and as such,** are not entitled to relocation assistance benefits. However, tenants on such properties may be eligible for relocation assistance benefits. (See § 24.2(a).) [Emphasis added]

§24.101(b) - Applicability of acquisition requirements

Simplified requirements for federally assisted “voluntary acquisitions” meeting exceptions in Section 24.202(b)(1) through (3):

- 1) When the Agency will not use the power of eminent domain (and other conditions are met)
- 2) Acquisition by a cooperative where the member has agreed to provide needed property
- 3) Acquisition with assistance from the Tennessee Valley Authority or the Rural Utilities Service

§24.101(b) - Applicability of acquisition requirements

- (1) The Agency will not use the power of eminent domain to acquire the property, and the following conditions are met:
 - i. No later than the time of the offer the Agency informs the owner of the property or the owner's designated representative in writing of the following:
 - A. The Agency will not acquire the property if negotiations fail to result in an amicable agreement; and
 - B. The Agency's **estimate of fair market value** for the property to be acquired. (See Appendix A of this part, *Sections 24.101(b)(1)(i) and 24.101(b)(1)(i)(B).*) [Emphasis added]

§24.101(b) - Applicability of acquisition requirements

§24.101(b)(1) The Agency will not use the power of eminent domain to acquire the property, and the following conditions are met
(continued)

(ii) Where an Agency wishes to purchase more than one property within a general geographic area on this basis, all owners are to be treated similarly. (See Appendix A of this part, *Section 24.101(b)(1)*)

§24.101(b) - Applicability of acquisition requirements

§24.101(b)(1) The Agency will not use the power of eminent domain to acquire the property, and the following conditions are met (continued)

(iii) The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area must be acquired within specific time limits. (See Appendix A of this part, *Section 24.101(b)(1)(iii).*)

Applicability of acquisition requirements - Nexus and Intent

Appendix A, Section 24.101(b)(1)(ii) and (iii) - nexus.

“The funding Agency should review the acquisition records and consider the relevant facts for the properties acquired to determine if the **intent of the acquisition** was to incorporate the real property into, or in some other way support or otherwise advance, a Federal or federally assisted program or project. ” [Emphasis added]

“FHWA does not believe that a property for sale on the open market ...would automatically make this property subject to the voluntary acquisition provisions” (See preamble to final rule)



§24.101(b)(1)(iii) Private entities and wetland banking

Establishment of wetland banks, which may include a Federal or federally funded project or program among its future users, does not necessarily trigger application of the Uniform Act requirements.

Determinations are fact-based by nature.

Relevant facts for determining Uniform Act applicability include:

- Is there a planned or anticipated use by a Federal or federally assisted program or project
- What is the purpose of wetland bank
- Does wetland bank restrict who may purchase mitigation credits

Section 24.102(f) Basic Negotiation Procedures:

Section 24.102(f) Basic Negotiation Procedures; Appendix A, Minimum Negotiation Period:

- Property owner must be given a reasonable opportunity to consider the Agency's offer and to present relevant material to the Agency
- Agencies must allow owners time for analysis, research and development, and compilation of a response, including perhaps getting an appraisal

Section 24.102(f) Basic Negotiation Procedures:

Section 24.102(f) Basic Negotiation Procedures; Appendix A,
Minimum Negotiation Period:

- Needed time can vary significantly, depending on the circumstances
- 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
- Agencies must adhere to the ban on coercive action (see Section 4651(7) of the Uniform Act and § 24.102(h) of the regulation).

[Emphasis added]

§24.102(n) Conflict of Interest

2005

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**. [Emphasis added]

§24.102(n) Conflict of Interest

2024

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 **developing** an appraisal or waiver valuation shall not be based on the **reported opinion** of value. [Emphasis added]

§24.102(n) Conflict of Interest

2005

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.
[Emphasis added]

§24.102(n) Conflict of Interest

2024

2) No person shall attempt to unduly influence or coerce an appraiser, review appraiser, or waiver valuation preparer regarding any valuation aspect of an appraisal, **waiver valuation, or** review **of appraisals** or waiver valuationss. [Emphasis added]

§24.102(n) Conflict of Interest

2005

2) Continued...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.

§24.102(n) Conflict of Interest

2024

2) Continued...Persons functioning as negotiators may not supervise or formally evaluate the performance of any appraiser, **waiver valuation preparer**, 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. (Emphasis added)

§24.102(n) Conflict of Interest

2005

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 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. [Emphasis added]

§24.102(n) Conflict of Interest

2024

3) An appraiser, review appraiser, or waiver valuation preparer may be authorized by the Agency to act as a negotiator for the acquisition of real property for which that person has **performed** an appraisal, appraisal review or waiver valuation only if the offer to acquire the property is **\$15,000**, or less. [Emphasis added]

§24.102(n) Conflict of Interest

2024

3) Agencies that wish to use this same authority to act as the negotiator on a valuation **greater than \$15,000, and up to \$35,000** may not use a waiver valuation, and these acquisitions are subject to the following conditions:

- An appraisal must be performed and reviewed
- Agency must request Federal funding Agency approval in writing
- Agency shall have a separate and distinct quality control process

[Emphasis added]

§24.102(n) Conflict of Interest

(4) Agencies wishing to allow subrecipients to use conflict of interest waivers of more than \$15,000 must determine and document that the **subrecipient has a separate and distinct quality control process in place** which is set forth in **written procedures** approved by the Agency or in an Agency approved subrecipient's written procedures. (See Appendix A of this part, *Section 24.102(n)*.) Agencies and recipients desiring to exercise this option must request **approval in writing from the Federal funding Agency**. [Emphasis added]

Question & Answer

Submit all questions to the Q&A box at the bottom of the screen



Thank You!

Please contact HEPR at:

UniformAct@dot.gov

www.fhwa.dot.gov/real_estate

