



Local Program Real Estate Manual
(LP RE Manual)

Supplement to the Real Estate Program Manual
(REPM)

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PURPOSE

This *Local Program Real Estate Manual (LP RE Manual)* is a supplement of the Wisconsin Department of Transportation (WisDOT) *Real Estate Program Manual (REPM)*. They describe the processes, documentation, and approvals needed to get WisDOT and/or Federal Highway Administration (FHWA) funds. They are a compilation of information from many sources and are to be used as a reference. They are not intended to be comprehensive. Both manuals must be followed in their entirety.

This manual assists Wisconsin Local Public Agencies (LPAs) in securing local road project funding. Use it as a guide to right of way (ROW) acquisition. Key differences and points are highlighted between the state program and the local program.

This manual is a living document; hence, it will be revised periodically. The official version of this manual is the online/electronic publication. Access is available via the WisDOT Local Program real estate website.

The LPA is responsible to ensure that all state and federal procedures and laws are followed. Any questions should be directed to the Local Program Real Estate Manager (LPREM) or the regional Local program Real Estate Project Manager (LPREPM).

REFERENCES

State statute references:

- [Table of Contents](#)
- [Chapter 32](#) Eminent Domain
- [Chapter 60](#) Towns
- [Chapter 61](#) Villages
- [Chapter 62](#) Cities
- [Chapter 66](#) General Municipality Law
- [Chapter 70](#) Taxation
- [Chapter 77](#) Real Estate Transfers Fees; Managed Forest; Croplands; etc.
- [Chapter 82](#) Town Highways
- [Chapter 83](#) County Highways
- [Chapter 84](#) State Trunk Highways; Federal Aid
- [Chapter 85](#) Replacement Lands
- [Chapter 86](#) Miscellaneous Highways
- [Chapter 88](#) Drainage
- [Chapter 91](#) Farmland Preservation
- [Chapter 244](#) Uniform Power of Attorney for Finances and Property
- [Chapter 703](#) Condominiums
- [Chapter 706](#) Conveyances of Real Property, Recording, Titles
- [Chapter 751](#) Supreme court
- [Chapter 752](#) Court of appeals
- [Chapter 753](#) Circuit courts
- [Chapter 755](#) Municipal court
- [Chapter 840](#) Real Property Actions; General Provisions
- [Chapter 846](#) Real Estate Foreclosure
- [Chapter 847](#) Misc. Real Estate Actions
- [Chapter 893](#) Limitations...for Claims Against Governmental Units
- [Chapter 985](#) Publications of legal notices; Public Newspapers; Fees

Administrative Code

- [Trans 201](#) Control of Outdoor Advertising
- [Chapter Adm 92](#) Relocation Assistance

Federal Law/Code

- [Title 23 Highways](#) Part 710 Right of Way and Real Estate
- [49 CFR Part 24](#) Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally - Assisted Programs

WisDOT Resources

- [Facilities Development Manual \(FDM\)](#)
- [Real Estate Program Manual \(REPM\)](#)
- [Local Program Real Estate Information Website](#)
- [LPA Real Estate Toolbox](#)
- [Real Estate Automated Data System \(READS\)](#)
- [WisDOT Main Real Estate Information Page](#)
- [WisDOT Resource Page](#)
- [Highway Projects and Your Property](#)

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- [Utility Coordination Guide \(UC\)](#)
- [Construction and Materials Manual \(CMM\)](#)
- [Highway Maintenance Manual \(HMM\)](#)

Rights Brochures

- [DOA Relocation Assistance \(wi.gov\)](#)

FHWA Resources

- [Project Development Guide](#) All FHWA Aspects for Project Management
- [Acquisition of Real Property – Acquisition Website](#)
- [Federal-aid Essentials for Local Public Agencies \(short YouTube videos\)](#)
- [Real Estate - FHWA \(dot.gov\)](#)
- [Training - Real Estate - FHWA \(dot.gov\)](#)

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Acronyms

BTS	Bureau of Technical Services
BTS-RE	Bureau of Technical Services-Real Estate (central office)
CFR	Code of Federal Regulations
CP	Construction permit
DOA	Department of Administration
DSR	Design Study Report
DTIM	Division of Transportation Investment Management
DTSD	Division of Transportation System Development
FDM	Facilities Development Manual
FEE	Fee purchase
FHWA	Federal Highway Administration
JO	Jurisdictional Offer
LP RE Manual	<i>Local Program Real Estate Manual</i>
LPA	Local Public Agency
LPPM	Local Program Project Manager
LPREM	Local Program Real Estate Manager
LPREPM	Local Program Real Estate Project Manager
NPPR	Nominal Payment Parcel Report
PCA	Project Cost Allocation
PLE	Permanent Limited Easement
PS&E	Plans, Specifications and Estimates
RE	Real Estate
READS	Real Estate Data System
REPM	<i>Real Estate Program Manual</i>
RFP	Request for Proposal
ROW	Right of Way
SMA	State Municipal Agreement
TLE	Temporary Limited Easement
TPP	Transportation Project Plat
USPAP	<i>Uniform Standards of Professional Appraisal Practice</i>
WisDOT	Wisconsin Department of Transportation

CHAPTER 1.0 - PROJECT DEVELOPMENT

WisDOT DTIM administers the LPA program. The DTSD regional team delivers the project management and oversight activities. A regional DTSD Local Program Real Estate Project Manager (LPREPM) helps coordinate and manage all ROW related activities.



Caution! Do not start the acquisition process until receiving and documenting the following approvals in the project files:

- Design Study Report
- Right of Way Plat or Construction Plan
- Relocation Plan (if required)
- Relocation Order
- Acquisition Capability Statement/Real Estate Contracts
- Real Estate Funding Approval (when state and/or federal aid is in ROW)

Exception: For advanced acquisitions, Refer to Section 1.5 Early and Advanced Acquisitions.

1.1 NOTIFICATION PROCEDURES

References

LP REM 3.17
REPM Chp 3 – Right of
Way Certification
Process
23 CFR 710.105

The LPA must initiate and maintain communications on all right of way projects with the WisDOT LPREPM. Construction projects LET under the State's letting program must conform to ROW certification. Transportation projects with ANY federal funding (in ROW, design, construction, etc.) must have ROW certification per federal regulations.

- Access rights
- Construction permits
- Encroachments
- Fee purchase

Right of way includes (but is not limited to):

- Highway easements
- Permanent limited easements
- Temporary limited easements
- Utilities

1.2 UTILITY AND RAILROAD COORDINATION

References

REPM Chp 3 – Special
Property Owners
Utility Coordination
Guide
FDM Chp 17
FDM Chp 21
Wis Stats 84.295
Wis Stats 84.05
Wis Stats 84.065
23 CFR Part 140
23 CFR 645-646
23 CFR 710.203

Federal regulations include alternative processes for the acquisition of utility and railroad land interests/rights. These acquisitions are managed under different processes than the acquisition of highway ROW. The LPA must be aware of the differences in the procedures depending on the source of funding. The funding source (federal, state, or local) determines what actions must be taken to coordinate the clearing of utility land interests/rights.

Utility interests and railroad parcels should be acquired before the Plans, Specifications and Estimates (PS&E) date. The coordination of utility interests and railroad parcels should begin early in the design process. For questions, contact the Local Program Project Manager (LPPM).

1.3 ENCROACHMENTS

References

FDM 12-1-20
REPM Chp 3 –
Encroachments
23 CFR 1.23
23 CFR 710.403

An encroachment is any unauthorized object or improvement located partially or wholly within the right-of-way. This includes, but is not limited to:

- buildings
- signs
- fences
- other objects
- any unpermitted uses:
 - parking lots
 - driveways
 - etc.

Typically, encroachments are not allowed within local highway improvement projects. Encroachments should not be created by the purchase of new highway ROW for a project.

1.4 HAZARDOUS WASTE AND ASBESTOS ABATEMENT

References

REPM Chp 9 –
Contamination Guide
FDM Chp 21
CMM 130
49 CFR 24.2

Investigations for the presence of hazardous waste within the project limits are executed as part of the design process. Since cleanup of these sites can be extremely costly, the first defense is to avoid contaminated sites if possible. Situations will arise where the purchase of a contaminated site cannot be avoided. Contact the LPPM for specific instructions.

1.5 EARLY AND ADVANCED ACQUISITIONS

References

REPM Chp 3 – Early
and Advanced
Acquisitions
23 CFR 710.501
23 CFR 710.503

Only under unusual circumstances, may parcels be acquired early or in advance of normal procedures. These acquisitions require approval of WisDOT BTS-RE (Bureau of Technical Services-Real Estate [central office]) or FHWA depending on the funding source.

1.6 RELOCATION

References

REPM Chp 5
Wis Stats 32.25
49 CFR 24

WisDOT relocation oversight is required when state/federal funding is used anywhere in a project (design, real estate, construction, etc.). WisDOT relocation oversight will be charged to the project number. The time needed for oversight is dependent on the quality of documentation submitted by the LPA and the complexity of the relocation. Detailed relocation policy, process, and procedures are found in the REPM. The

following coordination is required for all LPA projects with relocation:

- Add verbiage to the SMA (if not already included) stating that WisDOT relocation oversight will be used.
- Organize a Relocation Start-up Meeting. Include LPA staff, relocation specialist, LPPM, designer, LPREPM, BTS relocation staff, etc.
- Coordinate and plan a monthly Relocation Update Meeting. Include LPA staff, relocation specialist, LPPM, and LPREPM
- LPA relocation specialist submits Acquisition Stage Relocation Plan (Refer to REPM Chapter 5)

1.7 - PROJECT STAFFING / ACQUISITION CAPABILITY STATEMENT

1.7.1 Separation of Function Requirement

References

REPM Chp 3 – Negotiation Requirements
49 CFR 24.102(n)

Whenever state/federal funds are in any part of the project, the LPA must comply with the separation of function requirements. This requires the appraiser, the review appraiser, and the negotiator to be three different persons.

For example:

- Appraiser cannot negotiate the parcel
- Negotiator cannot appraise the parcel
- Review appraiser cannot appraise the parcel
- etc.

These provisions apply whether the individual is an employee of the acquiring agency or is a consultant on a fee-for-services basis.

Refer to REPM Chapter 3 Negotiation Requirements for damages greater than \$10,000.



Caution! If negotiations on the nominal parcel fail, the appraisal of the parcel done by any fee appraiser must be done by a Wisconsin licensed or certified appraiser.

1.7.2 Exception From “Separation of Function” Requirement

References

REPM Chp 3 – Negotiation Requirements
49 CFR 24.102(n)(3)

Only in non-complex situations with damages under \$10,000, may the appraiser, at the LPREPM's discretion, also serve as the negotiator during the parcel acquisition process.

The review of that appraisal must still follow the state's standard review procedures and cannot be reviewed by the same person that appraised the parcel. In the nominal payment process (damages under \$10,000), the same agent who prepared the Project Data Book and parcel estimates may present the offers to the property owners.

In the waiver process, the agent may turn the negotiation call into an appraisal inspection, but ONLY when the estimated damages are under \$10,000. Consultant negotiators may appraise only if they are a state licensed or certified appraiser. They must follow the procedures set by WisDOT designed to adhere to state and federal conflict of interest rules. Otherwise, the dual roles of appraiser and negotiator are not allowed.

1.7.3 Minimum Qualifications for ROW Personnel

References

23 CFR 710.201

All individuals performing ROW acquisition functions on federal aid projects must be qualified and competent. This applies whether the individuals are employees of the LPA or fee consultants. WisDOT BTS-RE established minimum standards applicable to state/federal funded highway projects. They are described below.

WisDOT maintains a list of approved LPA staff and consultants for appraisal, review appraisal, negotiation, and relocation assistance programs. The lists are available on the WisDOT LPA Real Estate website.

NOTE TO APPLICANTS (LPA staff and consultants):

The statewide Local Program Real Estate Manager (LPREM) and the regional LPREPMs review all requests and approve or deny them. If denied, an explanation will be sent via email. If approved, an email will be sent with an LPA Approved Staff/Consultant Acknowledgement form. This form must be signed, dated, and returned before the applicant's name will be added to the appropriate list.



Caution! Individuals are approved for handling ROW functions, not LPAs, companies, or firms.

1.7.3.1 Consultant Appraisers / Staff Appraisers

References

**REPM Chp 3 – Appraiser &
Review Appraiser
Qualifications**
REPM Chp 2 – Addendum A
49 CFR 24.103

The LPA may choose any appraiser on the approved list. If they are not currently on the approved list, they must submit an Appraiser/Review Appraiser Application found on the WisDOT Local Program RE website to the LPREM or LPREPM.

All individuals completing eminent domain appraisals must meet the following criteria and the criteria found in REPM Chapter 2 Appraiser and Review Appraiser Qualifications

and Addendum A to Chapter 2:

- Consultant appraisers must have an active Wisconsin Certified Residential Appraiser or Certified General Appraiser credential. LPA staff are exempt from the certification requirements. Certified General Appraisers are permitted to appraise any type of property with no limitation on transaction value. Certified residential appraisers may conduct appraisals of 1-to-4 family residential real estate without regard to transaction value and commercial real estate having a transaction value of not more than \$500,000.
- LPA staff appraisers must follow and complete the necessary coursework and experience as defined in Addendum A to Chapter 2 of the REPM for the complexity of the assigned appraisals. Individuals will be approved on a complexity basis and must inform the LPREM as they complete the series. This will then be noted in the approved list.
- Be familiar with and follow the Federal regulations (especially the Uniform Act) and Wisconsin State statutes that pertain to appraisal work.
- Follow the Real Estate Program Manual (REPM) Chapter 2 Appraisal.

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- Follow the LP RE Manual Section 2 Appraisal.
- Have completed the National Uniform Standards of Professional Appraisal Practice (USPAP) Course, 15-hour course.
- Have completed the National Highway Institute Training “Foundations of Federal-Aid Highway Program Appraisals” or equivalent course.
- Have completed 24 eminent domain ROW appraisals over at least 3 projects (preferably in Wisconsin).
- Work in collaboration and cooperation with the agency.
- Meet deadlines.
- Understand and adhere to WisDOT prescribed appraisal formats.
- Use the WisDOT Real Estate Automated Data System (READS). If unfamiliar with READS, the appraiser must contact the LPREM for training options.
- Agree to follow the Uniform Standards of Professional Appraisal Practice (USPAP) and agree to only accept assignments they have both the knowledge and the experience for, or they must confer with another qualified appraiser for guidance.

If applying with less than the prescribed amount of practical appraisal experience, the individual must have a mentor or co-worker who is already on the approved LPA appraiser roster. The LPREM or LPREPM will confirm with mentor/co-worker that they will review and sign all necessary documentation.

Note: A probation period is required for all appraisers unless they are on the current WisDOT Real Estate Master Contract List. The probation period will require completion of 10 Local Program eminent domain ROW appraisals and must include at least 2 complex assignments. Once these files are submitted and reviewed, the applicant will be added to the approved list.

1.7.3.2 Consultant Review Appraisers / Staff Review Appraisers

References

REPM Chp 3 – Appraiser & Review Appraiser Qualifications
REPM Chp 2 – Addendum A 49 CFR 24.103

A review appraiser is a separate specialty and not just an appraiser who happens to be reviewing an appraisal. Federal and state agencies (WisDOT) have long held that appraisal review is a unique skill that, while it certainly builds on appraisal skills, requires more. The review appraiser should have appraisal technical abilities and the ability to be the bridge between the agency’s real property valuation needs and the appraiser.

When there are only local funds in the ROW, the LPA may choose to have a qualified staff member review and approve appraisals. A consultant review appraiser may also be used. The consultant must be on the approved list. If there are Federal/State funds in the ROW, WisDOT will assign a WisDOT Review Appraiser to the project. The LPA should work with the LPREPM in this case or if there are questions.

If an individual conducting the appraisal reviews is not on the approved list, they must submit a Review Appraiser Application found on the WisDOT Local Program RE website and submit to the LPREM.

All individuals acting as the review appraiser (including LPA staff) must meet all the appraiser criteria (listed above) criteria found in REPM Chapter 2 Appraiser and Review Appraiser Qualifications, Addendum A of Chapter 2, AND:

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- Be on the approved WisDOT Local Program appraiser roster.
- LPA staff review appraisers must follow and complete the necessary coursework and experience as defined in Addendum A to Chapter 2 of the REPM. Individuals will be approved on a complexity basis and must inform the LPREPM as they complete the series. This will then be noted in the approved list. Additionally:
 - Addendum A (I-IV) must be met to review appraisals under \$10,000 in damages.
 - Addendum A (I-V) must be met to review appraisals \$10,000 or more in damages or complex in nature.
- Follow the Real Estate Program Manual (REPM) 2.6 Appraisal Review.
- Have completed 12 eminent domain ROW appraisal reviews over at least 2 projects (preferably in Wisconsin).
- Ability to logically analyze appraiser's approach to value and recognize deficiencies in reports.
- Knowledge of condemnation proceedings.
- Ensure that factual data, assumptions, and techniques within each appraisal are reasonable and sufficient to support the appraiser's conclusion.
- Ensure that the appraisal report meets all applicable state and federal requirements.
- Provide an assessment of the work product of appraisers.

If applying with less than the prescribed amount of practical appraisal review experience, the individual must have a mentor or co-worker who is already on the approved LPA review appraiser roster. The LPREPM or LPREPM will confirm with mentor/co-worker that they will review and sign all necessary documentation.

Where the LPA elects to review appraisals in-house, qualified staff are exempt from the license/certification requirements.

NOTE: A probation period is required for all review appraisers unless they are on the current WisDOT Real Estate Master Contract List. The probation period will require completion of 10 Local Program eminent domain ROW appraisal reviews and must include at least 2 complex assignments. Once these files are submitted and reviewed, the applicant will be added to the approved list.

1.7.3.3 Acquisition Agents (Negotiators)

References

23 CFR 710.201

The LPA may choose to acquire ROW on its own project or may contract with an acquisition agent (negotiator) on the approved negotiator list. If the agent is not currently on the approved list, they must submit a Negotiator Application, found on the

WisDOT Local Program RE website, to the LPREPM or LPREPM.

Agents are expected to be experts in eminent domain acquisition in Wisconsin. They must be able to provide the LPA with guidance and accurate documentation. They must be familiar with pertinent federal regulations, state statutes, WisDOT policies, procedures, and requirements regarding the acquisition process particularly the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act).

All individuals acting as acquisition agents must meet the following criteria:

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- Be familiar with and follow the Federal regulations (especially the Uniform Act) and Wisconsin State statutes that pertain to ROW acquisition.
- Follow the Real Estate Program Manual (REPM).
- Follow the LP RE Manual.
- Have completed the following WisDOT developed online training modules. To gain access to the training system, contact the LPREM.
 - Overview of Plats and Plans.
 - Overview of Property Titles.
 - The Rights of Landowners Under Wisconsin's Eminent Domain Law.
 - The Federal Uniform Act.
 - The Real Estate Acquisition Policies and Uniform Relocation Act.
 - Overview of the Appraisal Process.
- Completed 24 eminent domain ROW acquisitions over at least 3 projects
- Along with having practical experience acquiring ROW on transportation projects with eminent domain power, the agent must possess knowledge, skills, and abilities in such areas as:
 - Eminent domain process
 - Reading ROW plats/TPPs
 - Basic relocation assistance requirements
 - Construction plans and cross-sections
 - Title reports
 - Legal descriptions
 - Conveyance and file documents
 - Document preparation and processing
 - Work in collaboration and cooperation with agency
 - Meet deadlines
 - Properly document and complete project and parcel files
 - Understand and Adhere to WisDOT prescribed forms
 - Willingness and ability to work with diverse groups of individuals

If applying with less than the prescribed amount of practical negotiation experience, the applicant must have an approved mentor or co-worker who is already on the approved LPA negotiator roster. The LPREM or LPREPM will confirm with mentor/co-worker that they will review and sign all necessary documentation.

NOTE: A probation period is required for all acquisition agents unless they are on the current WisDOT Real Estate Master Contract List. The probation period will require completion of 10 Local Program eminent domain ROW acquisitions and must include at least 2 complex assignments. Once these files are submitted and reviewed, the applicant will be added to the approved list.

1.7.3.4 Relocation Assistance Specialists

References

23 CFR 710.201

The LPA may choose to conduct relocation assistance on its own project or use a consultant relocation specialist on the approved relocation specialist list. If the chosen relocation specialist is not currently on the approved list, then they must submit a Relocation Specialist Application which can be found on the WisDOT Local Program RE website and submit to the LPREM.

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Relocation specialists must be up to date on all processes, procedures and requirements found in this manual as well as the REPM. When state/federal funds are used ANYWHERE in a project, additional requirements are triggered. The LPREPM is available for any questions, however the relocation specialist should be experienced enough to conduct the relocation assistance independently. Best practice is to hire an experienced relocation specialist from the approved list.

Individuals conducting relocation activities are expected to be experts in eminent domain acquisition, relocation practices and procedures. They are expected to provide the LPA with guidance and accurate documentation. They must be familiar with pertinent federal regulations, state statutes and WisDOT policies. Chapter 5 of the REPM houses the policies regarding the relocation process particularly the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act).

All individuals acting as the relocation specialist (including LPA staff) must meet all the acquisition agent criteria AND:

- Be on the approved WisDOT Local Program acquisition agent roster.
- Be familiar with and follow the Federal regulations (especially the Uniform Act) and Wisconsin State statutes that pertain to ROW relocation.
- Follow the Real Estate Program Manual (REPM) Chapter 5 Relocation.
- Follow the LP RE Manual Section 5 Relocation.
- Relocation assistance experience on projects with eminent domain authority.
- Completed 12 eminent domain relocations over at least 3 projects.
- Work in collaboration and cooperation with the agency.
- Meet deadlines.
- Use the WisDOT Real Estate Automated Data System (READS). If unfamiliar with READS, the appraiser must contact the LPREPM for training options.

If applying with less than the prescribed amount of practical relocation experience, the applicant must have an approved mentor or co-worker who is already on the approved LPA relocation specialist roster. The LPREM or LPREPM will confirm with mentor/co-worker that they will review and sign all necessary documentation.

NOTE: A probation period is required for all relocation specialists unless they are on the current WisDOT Real Estate Master Contract List. The probation period will require completion of 5 Local Program relocations and must include at least 1 business relocation. Once these files are submitted and reviewed, the applicant will be added to the approved list.

1.8 ACQUISITION CAPABILITY STATEMENT

The LPA must complete an Acquisition Capability Statement (ACS) form (unnumbered) for every project. To qualify for consideration as a fee appraiser, fee review appraiser, fee negotiator, or relocation specialist, the individual must be on the list of approved individuals for the type of ROW work sought. The LPA must send the completed ACS to the LPREPM for review and approval. Any proposed change to the ACS after approval requires an addendum or revision to the form.



Caution! The LPA should not sign any contract(s) until after the Acquisition Capability Statement and contract(s) are approved by the LPREPM.

1.9 CONTRACTS

References

FDM Chp 8
49 CFR 18.36

If state/federal funds are involved in ROW, the LPREPM must review and approve contracts for ROW consultant services. No work may begin under any of these contracts before obtaining WisDOT approval.

1.9.1 Contract Forms Required

References

Wis Stats 16.70
Wis Stats 84

When state/federal funding is used for the acquisition of the ROW, the use of WisDOT standard contract language and contract forms is required.

1.9.2 State and/or Federal Funding in ROW Acquisition Bidding Requirements

References

FDM 8-5
23 CFR 172
49 CFR 18.36

LPA's must follow the open and competitive bidding procedures whenever there is state/federal funding in the ROW. Work Credits applied to construction from associated ROW acquisitions are considered the same as if using state/federal funding in ROW. Depending on the amount of the contract, LPA's will follow one of the two following processes.

Small purchase procedure (contracts \$200,000 or less): The LPA must contact a minimum of three (3) qualified vendors and given them an objective set of criteria such as:

- description of the project,
- project completion date,
- number of parcels
- complexity of acquisitions
- etc.

Vendors include a price proposal as a component of their response. The LPA must then base its selection on the responses. The LPA must document the following information:

- firms contacted,
- firm responses,
- selected firm,
- rationale for selection,
- names of the selection committee.

Vendors can give verbal responses. Written responses may be requested but are not required.

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Formal procurement procedure (contracts greater than \$200,000): These contracts must use a formal solicitation/advertisement process. This may be accomplished through local or state newspapers, or through a roster of eligible consultants. A Request for Proposal (RFP) is typically used. Interested consultants respond with the requested information. A selection committee reviews the responses and then selects the consultant most qualified to perform work. Price is a component of the RFP and is used in conjunction with other qualifications to determine the selection. Documentation must include the rationale for the selection and names of the selection committee.

NOTE: If there are state/federal funds in any part of the project, the LPA must comply with the Uniform Act as it relates to all other aspects of the acquisition. The LPA is responsible for selecting qualified consultants who have the skills and knowledge necessary to understand and apply the Uniform Act.

1.10 CONTINUING EDUCATION/EXPERTISE

References

23 CFR 710.201

The LPA Sponsor chooses its consultants from WisDOT's Statewide Lists of Approved LPA Fee Appraisal Consultants and Approved Fee Negotiation and/or Relocation Consultants. All consultants on this list are expected to be the experts in their field. This includes being up to date on all the process, procedures, and requirements listed in both this manual and in the REPM. Approved LPA staff who conduct ROW activities are also expected to participate in continuing education and to maintain expertise.

Periodically, WisDOT will offer real estate related seminars, webinars, and trainings free of charge. Approved Local Program real estate consultants and LPA staff must RSVP to invitations to these events. WisDOT takes attendance at all events and attendees are cross referenced with the approved lists. (If a consultant or LPA staff person cannot make an offered event, they must still RSVP with the reason for not attending.)

1.11 LPA STAFF / CONSULTANT PERFORMANCE

References

23 CFR 710.201

Approved LPA staff and consultants are expected to be up to date on all procedures and practices. The acquisition or relocation agent, whether LPA staff or a consultant, must provide expert guidance to the LPA and know all the federal and state regulations and laws. They must be familiar with both this manual and the REPM.

Proper documentation is paramount in the local program. The agent should know what type of documentation is required. The LPREPM is available to discuss any concerns and answer questions, however they should not be relied upon for quality control.

Note: The official forms and documents are found in READS (some Local Program specific forms or letters are only on the LPA real estate website). The forms are subject to change without notice and, therefore, should always be downloaded from READS.

1.11.1 LPA Staff / Consultant Evaluation

References

FDM 8-25-2
49 CFR 18.36

The regional LPREPM will evaluate all individuals performing ROW activities on a project upon completion of Certification 1 status. WisDOT will share all evaluations with the LPA and consultant (if applicable). The forms are found on the LPA real estate website.

The evaluation will be used as a tool in verifying that the consultants/LPA staff are adequately performing by:

- Meeting deadlines, especially PS&E deadline
- Guiding LPA Sponsors throughout the project
- Knowing the process, procedures, and requirements as listed in manuals (REPM, FDM, LP RE Manual, etc.)
- Submitting correct documentation in a timely manner

1.11.2 Unsatisfactory Performance by an LPA Staff / Consultant

References

Wis Stats 16.70

The LPREM or LPREPM will contact the consultant/LPA staff for inadequate performance and will make improvement suggestions. Continued unsatisfactory performance will result in removal from the approved list until corrective measures (to be determined) are made.

1.12 PRELIMINARY ROW ACTIVITIES

By this phase in the acquisition process, the environmental document and Design Study Report should be approved.



Caution! Section 86.255, Wis. Stats. prohibits use of state segregated transportation funds collected and distributed in accordance with s. 20.395(3), Wis. Stats. for the purchase of any interest in real estate beyond one quarter mile from the edge of the project's right of way line. This prohibition may extend to any state or federal funded LPA ROW project.

1.12.1 State and Federal Aid Cost Estimate

References

REPM Chp 1 – Real Estate Cost Estimating
REPM Chp 2 – The Eminent Domain Appraisal Process
Wis Stats 16.50 23
CFR 710.303
NEPA

When an LPA uses state/federal funds in the ROW, a cost estimate must be prepared by a qualified individual. The LPA must submit it to the LPREPM before executing and filing the Relocation Order. The cost estimate provides justification upon which the requested funding is set aside (encumbered) for the project. The Project Scoping Spreadsheet (unnumbered) must be completed.

If federal funding is in ROW, no costs incurred will be eligible for reimbursement under the real estate ID until funding has been encumbered.

Once the LPA has submitted the cost estimate, the LPREPM will process the Project Cost Allocation (PCA) form (RE1532) in READS. Preparation of the relocation plan and cost estimate is reimbursable as a design cost.

1.12.2 Relocation Order/TPP/ROW Plats

Wisconsin statutes provide the authority and procedures for all LPAs to acquire ROW in the following chapters: Cities, Chapter 62.22; Counties, Chapters 83.07 and 83.08; Villages, Chapters 61.34(3), (3m) and 61.36; and, Townships, Chapters 60.50 and 82.12. In each instance, whichever unit of government is the acquiring agency, condemnation for real estate interests needed for the ROW projects proceeds under s. 32.05, Wis. Stats. Refer to REPM Chapter 1 Right of Way Plats and Relocation Order.



Caution! Wisconsin statutes require the Relocation Order and plat to be approved prior to any real estate negotiations. S. 32.05(1), Wis Stats

When there is RELOCATION - The LPA cannot approve the Relocation Order until WisDOT reviews and approves the Acquisition Stage Relocation Plan. Refer to REPM Chapter 5 Acquisition Stage Relocation Plan.

NOTE: The LPREPM will NOT review real estate information on right of way plats. The LPA is responsible for providing an accurate plat/TPP. The LPA should be sure to have a quality control process for its right of way platting activities. When there is state/federal funding in ROW, the plat/TPP must be reviewed by the regional plat coordinator.

1.12.3 Real Estate Start-Up Meeting

References

REPM Chp 2 – Start-Up Meeting

The LPA (assisted by the LPREPM) must conduct a Real Estate Start-Up Meeting with all parties involved in the acquisition phase. This meeting typically takes place in person; however, the LPA and LPREPM may arrange for other means if applicable. When state/ federal funds are involved in ROW, the LPREPM will require participation of a WisDOT review appraiser. Parcels that qualify for nominal payment procedures and those parcels requiring relocation assistance should also be identified at this meeting. A sample Meeting Agenda is on the LPA Real Estate Forms website. The following topics will be reviewed and discussed at the meeting:

- Time schedules
- Personnel assignments
- Reason for the project
- Number and type of real estate parcels
- Appraisal parcels and report formats
- Number of utility Release of Rights
- Relocation parcels
- Complex or priority parcels including billboards, state/county/municipality owned, contamination/hazmat concerns, railroad, etc.
- Roles and responsibilities of LPA, consultant, WisDOT
- Required offering price approval process
- Plat/TPP
- Title work and updates
- ROW staking dates
- READS usage
- Minimum payment amount
- Statement to Construction Engineer
- Certified Survey Maps / Plats of Survey

- Partial release of mortgage / risk assessment & owner acknowledgement
- Quality control
- Documentation
- Certification 1 procedures and requirements
- Fixture determinations
- Remnant parcels
- Relocation assistance
- Reimbursement procedures

1.12.4 Appraisal Scoping Meeting

References

**REPM Chp 2 – Appraisal
Scoping Meeting
49 CFR 24.103(a)(1)**

Before beginning appraisal work, the LPA must schedule and hold an appraisal scoping meeting. The appraisal scoping meeting may be conducted at the end of the real estate startup meeting or later but must be held before appraisal work commences. This meeting is not intended to be a project meeting, but rather an appraisal team meeting. Appraisal

issues will be discussed but values must not be discussed. It could be a violation of public trust and seen as the client directing values to the appraisers.

The Appraisal Scoping Meeting is intended to discuss in detail the valuation issues and appraisal complexity of individual parcels.

This meeting will coordinate local staff, appraisers, acquisition agents, consultants, and review appraisers in developing a plan for the appraisal and review of the parcels on a project. The meeting participants include (staff/consultants):

- Regional RE project manager or lead worker (this person is responsible for scheduling the meeting)
- Appraiser(s), either staff appraisers, consultant appraisers, or both
- Review appraiser(s) (regional or statewide)

Topics to be discussed include:

- Priority appraisals
- Consistency:
 - Appraised or assessed improvement valuation method
 - Among property types
 - Between review appraisers
 - Rounding
- Dates
 - Plat completion/Relocation Order
 - Sales study completion
 - Staking
 - Appraisal completion
- Temporary Limited Easement (TLE) timeframe
- Review Appraisal Scoping Checklist
- Report formats
- Yellow Book
- Comparable sale inspection / verification
- Appraisal inspection requirements/coordination

- Value impacts:
 - Title issues
 - Railroad parcels
 - Government/Tribal owned parcels
 - Trail parcels
 - Scenic easements
 - Contaminated parcels
 - On premise signs
 - Billboards
 - Grade change
 - Utilities
 - Historical projects
 - Existing access controls
 - Is there existing ROW? (how handled?)
 - Driveway grades
 - Severance
 - Zoning conformance
 - Access (acquisition/police power)
 - Others as applicable
- Uneconomic remnants
- Handling unique issues
- Coordinating third party estimates
- Coordinating inspections for relocation parcels
- FF&E appraisal

1.12.5 Minimum Payment

References

**REPM Chp 2 – Project
Wide Minimum Payment
49 CFR 24.102(d)**

The LPREPM and the LPA acting together can establish a minimum payment on a per parcel basis of up to \$500 for fee and easement acquisitions, unless authorized by the LPREM. Project files must document the basis for establishing the minimum parcel payment.

1.13 CLEAR TITLE

References

**REPM Chp 3 – Conveyance
of Documents
23 CFR 710.305(b)**

When accepting state/federal funds for ANY aspect of a transportation project (real estate/right of way, design, construction, etc.), the LPA commits to following all state and federal requirements. One such requirement is that adequate real property interests are acquired. Federal regulations state that property acquired for the project must be adequate for construction, operation, and maintenance, as well as for the protection of the facility and the traveling public and clear title is required.

A party of interest is considered any party who has a legal property right in the described property. To obtain clear title, all parties must convey their interest in the acquisition area. This is achieved by negotiated settlement and having all parties sign a conveyance document or by naming all parties on the Award of Damages (RE1584).

The Dictionary of Real Estate Appraisal 6th Edition, published by the Appraisal Institute, defines property rights (interests) as: An enforceable, legal claim to the title of or interest in property. Property rights other than ownership that must be cleared include, but are not limited to:

- Mortgages
- Easements
- Life estates
- Land contracts
- Homestead
- Leasehold
- Revision
- License Agreements

1.13.1 Partial Release of Mortgages

References

**REPM Chp 3 –
Condemnation
Wis Stats 32.13**

A partial release of mortgage (or lien release) must be obtained on all acquisitions, except for temporary limited easements (TLE). The policy applies regardless of the complexity or dollar amount. Obtaining clear title benefits the property owner and protects the resulting highway facility and the traveling public. The LPA may also wish to obtain subordination agreements

from all lien holders.

At times, securing a partial release of mortgage is not viable because either the mortgage/lien holder will not cooperate; the fees are cost prohibitive; or, the timing does not meet the project schedule. When obtaining a partial release is not practical, a jurisdictional offer (JO) is the preferred alternative. The negotiator agent must follow the appropriate steps needed to acquire the property via the eminent domain process.

WARNING TO MUNICIPALITY: Securing clear title to lands encumbered by mortgages or liens protects the right of way.

If a landowner/borrower falls behind on their mortgage payments, the lender may start a mortgage foreclosure action, which may lead to the sale of the property at sheriff's sale. Any part of the property previously conveyed to the LPA for highway purposes would be "cut off" during the subsequent sheriff's sale, leaving the sheriff sale purchaser with unencumbered title to the whole property. Therefore, the LPA's conveyance gets nullified, by operation of law, as though it never occurred.

Failing to secure mortgage or lien releases (or subordinations) allows the lender to enforce its legal right to bring an action for possession by declaring a breach of the mortgage's "due-on-sale; due on transfer" clause. When the landowner sells or conveys a portion of the land secured by a mortgage without first obtaining the lender's consent, the conveyance permits the lender to accelerate the borrower's debt and bring a foreclosure action. A successful foreclosure action leaves the sheriff sale purchaser in possession of the property, free and clear of any earlier conveyance to the LPA. In either scenario, the LPA's interest in the highway is threatened, and the highway itself is left subject to the superior legal rights of others.

NOTE: The LPA should have the matter of clear title as an agenda item for the start-up meeting. The LPA should have obtained a copy of the titles for the proposed parcels from the designers or order copies themselves. The title search should not be more than six months old and should go back at least 60 years.

The LPA should notify any potential negotiation consultants that obtaining partial releases of mortgages, subordination agreements, or required condemnation should be considered when bidding on its project(s).

1.13.1.1 Risk Assessment

****The following process applies only when NO state/federal funds are in right of way.**

When the parcel acquisition is nominal (non-complex with damages of less than \$25,000), the LPA may choose to acquire the property without clearing all the mortgage/liens on the property. This, however, is contrary to WisDOT policy. The LPA will risk having to re-acquire the parcel if the mortgage company becomes aware that a portion of the property owner's land was sold without its consent. The LPA must be willing to risk delaying the project until all such matters are resolved.

If the LPA opts not to clear all mortgages/liens on a property, they must conduct a project and parcel risk assessment.

- Project assessment
 - Document why partial releases of mortgage will not be obtained. Example: cost, program or construction needs or time constraints. This information must be saved in the project file.
- Parcel assessment (needed for each parcel where a release will not be obtained).
 - Document factors such as: land type, fair market value, property size, total acquisition amount, acquisition type, and damages; use Nominal Payment Parcel - Waiver of Appraisal Recommendation and Approval (RE1897).
 - Inspect and document the title and mortgage information to ensure that the mortgage is in good standing and not in jeopardy of foreclosure.
 - Document a statement explaining why a partial release of mortgage will not be obtained for the specific parcel (difficulty in processing a release due to time, cost, effort, or experience with the lien holder/financial institution).
 - Documentation must be included in each parcel file.

NOTE: WisDOT will NOT sign a Certificate of Right of Way with a Certification Status #1 if the project and parcel files do not contain proof that an assessment was completed for each parcel where a partial release was not obtained. The project and parcel(s) assessments should be included in the Cert. 1 documentation to be reviewed by the LPREPM. If WisDOT determines the documentation or assessments are inadequate or insufficient, the LPA will be subject to corrective actions and possible funding revocation.

1.13.1.2 Property Owner Acknowledgement

At the initiation of negotiations, the negotiator must provide every property owner a Property Owner Partial Release of Mortgage Acknowledgement form (LPA1549) when a partial release of mortgage will not be obtained. The negotiator must note in the parcel diary when and how this was issued to the owner(s). Best practice is to always meet with the owner(s) in person, but this is especially important when explaining something as complex as clear title, partial release of mortgages, and mortgage terms. The form (LPA1549) explains what a partial release of mortgage is, why it is important, and the risks to the property owner if one is not obtained. The signed document **MUST** be included in the parcel file and is a required document for Cert. 1 sign-off.

- **Property Owner Partial Release of Mortgage Acknowledgement**
 - The Property Owner Partial Release of Mortgage Acknowledgement form (LPA1549) assists the negotiator in explaining clear title, a partial release of mortgage and the risks to the property owner if a partial release is not obtained. It includes a property owner partial release of mortgage acknowledgement page for the owner(s) to sign.
 - If the property owner(s) disagrees with the LPA forgoing a partial release, the LPA or its consultant must attempt to obtain one. All contacts with the mortgage company must be documented.
 - If the LPA determines partial release costs are excessive (based upon the LPA's established limit) or if project timelines prevent obtaining a partial release, the LPA must acquire the property via the condemnation process. All parties of interest must be named on the check and submitted to the clerk of courts for disbursement.



Caution! If state or federal funds are utilized in ROW, ALL property titles must be cleared. WisDOT will NOT grant any exceptions. If this is not possible via agreement, the LPA must acquire ROW via the condemnation process.

1.14 SPECIAL ASSESSMENTS

References

Wis Stats 66.073
Hildebrand v. Menasha,
2011 WI App 83

Projects using state/federal funds, except sidewalks, are likely general improvements that benefit the public at large and for which special assessments cannot be levied. LPAs desiring to levy special assessments to offset or assist in funding ROW projects should seek legal advice.

1.15 RECORDS MANAGEMENT

References

Wis Stats 16.61
Wis Stats 16.97
Wis Stats 19.31-19.39
Wis Stats 32.27

1.15.1 Project File Contents

References

23 CFR 710.201

The project file shall (at a minimum), include copies of the following:

- State/Municipal Project Agreement(s)
- Relocation Plan (if applicable)
- Design Study Report approval letter
- ROW plat and/or construction plan sheets
- Recorded/Filed Relocation Order (RE1708)
- Acquisition Capability Statement (unnumbered)
- Sales Study or Expanded Sales Study, or comparable sale information
- Approved Nominal Payment Parcel Report (RE1889)
- Certification of LPA Right of Way Acquisition (RE3028)
- Cost Estimate (must be uploaded to READS if state/federal funding in ROW)
- Appraisal Scoping Spreadsheet (unnumbered)
- Consultant contracts, invoices and copies of checks used for payment (if applicable)
- Partial Release Project Risk Assessment (if applicable)
- Project level correspondence
- Project level diaries

NOTE: All above documents must be uploaded into READS project log. However, the official documentation must remain with the LPA per its record keeping practices.

1.15.2 Parcel File Contents

Each individual parcel folder within the project shall include (at a minimum) the following essential items (executed and signed):

- Title report
- Documentation that the property owner was provided *The Rights of Landowners Under Wisconsin Eminent Domain Law* Brochure
- Appraisal(s), signed Nominal Payment Parcel - Waiver of Appraisal Recommendation and Approval (RE1897) or signed Donation Waiver of Appraisal Recommendation and Approval (RE1896)
- Appraisal Review Report (RE2128)
- Offering Price Report and Submittal (RE1894)
- Offering Price Letter (dated)
- Negotiation Diary (RE2058)
- Photographs of the land and items being acquired.
- Agreement for Purchase and Sale of Real Estate (RE1895 or RE1618), if applicable
- Alternate Offers to Purchase Offering Price for Required Acquisition (RE1975), if applicable
- Administrative Revision (RE1592) with supporting justification and approval
- Statement to Construction Engineer (RE1528), including commitments made to property owners
- Disposition of Real Estate Taxes (RE1616)
- Real Estate Transactions Closing Statement (RE1617)
- Paid tax bill, if applicable

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- Check copies and/or evidence of payment (w/letter and notes made in Negotiation Diary)
- Recorded conveyances and mortgage releases or Risk Assessments with property owner acknowledgement documents (unnumbered – paper from LP RE website)
- Condemnation documents - Jurisdictional Offer (RE1786), Notice of Lis Pendens (RE1547), Award of Damages (RE1584)
- All relocation related documents
- W-9 and 1099s
- Litigation Report and Case Summary (RE1651) and related documentation, showing approvals
- Certified mail receipts
- Additional Parcel Cost documentation and check, if applicable
- Incidental Cost documentation and checks, if applicable
- Owner's Appraisal, copies of check used for payment, invoice

1.15.3 Records Retention

References

Wis Stats 32.27

The LPA must maintain adequate records of its ROW activities as detailed above to show compliance with all the requirements of this manual. The LPA must maintain these records at a centralized location. Normally, all pertinent project records must be retained by the LPA for five years. If the project is delayed or litigation is involved, records must be maintained for five years or more after the project is closed.

CHAPTER 2.0 - APPRAISAL PROCESS

2.1 APPRAISAL DEVELOPMENT AND REPORTING

References

REPM Chp 2
Wis Stats 32.05 (2)(A)
Wis Stats 32.09
49 CFR 24.103

The selected appraiser must be on WisDOT's approved appraiser list. REPM Chapter 2 must be followed. It includes detailed information on appraisal field work, process, development and reporting requirements, and policy.

2.2 UNECONOMIC REMNANTS

References

REPM Chp 2 –
Alternate Offers
REPM Chp 3 –
Alternate Offers
Wis Stats 32.05(3M)
49 CFR 24.102(k)

A remnant is any portion of a property that remains after a partial acquisition. It becomes "uneconomic" when it's size, shape or condition has substantially impaired economic viability or will be of little value to the owner after the acquisition. Examples: loss or difficulty of access, changed highest and best use, remoteness, any other reason that will burden owner with responsibilities or expenses not commensurate with the value of retaining the remnant.

The indication of a possible uneconomic remnant comes from the findings of the appraisal report. The appraisal indicates the after value of the remaining property. The agency will determine if the remainder is an uneconomic remnant based on the after value.

Use the Alternate Offers to Purchase Offering Price for Required Acquisition form (RE1975) to detail an offer made to the property owner to acquire uneconomic remnants not needed for highway construction.

NOTE: To avoid the need for many approvals by multiple agencies, the LPA is strongly advised to apply only local funds to the acquisition of any remnant parcels that may be later sold.



Caution! LPA must offer to acquire all uneconomic remnants per s. 32.05(3m), Wis. Stats.

2.3 APPRAISAL REVIEW

References

REPM Chp 2 –
Appraisal Review
Guidelines
49 CFR 24.104(a)
49 CFR 24 103(d)(1)

The LPA must hire a consultant for appraisal review or use one of their qualified staff. Appraisal review is a vital component of the eminent domain process. The appraisal review is a federal requirement. Federal code requires the review appraiser prepare a written appraisal review report (RE2128). Appraisal review assures compliance with State and Federal law, program policies and procedures and the Uniform Standards of Professional Appraisal Practice. Any appraisal report presented

to the owner must be accurate and error-free. The appraisal review is the final point in the appraisal process to ensure the report is credible and the damages within the report are supported.

The appraisal review:

- Is the final quality control for an appraisal report
- Can reduce the potential for litigation
- Ensures that the appraisal is a reliable report that meets the needs of the agency
- Assists less experienced appraisers with problem solving
- Ensures that all compensable damages are considered, and non-compensable items are excluded

It is an opportunity to double check that the appraiser has considered all compensable items under State Statute 32.09. The review appraiser must remain in an advisory role, not directing the appraisal, and retain objectivity. The appraisal review is the agency's last opportunity to ensure that the appraisal report, which will be used to establish an offer of just compensation, is based upon sound methodology and that the appraiser's findings are well supported.

Federal code requires a qualified review appraiser. Reviewing appraisals takes a certain amount of appraisal knowledge and experience. The review appraiser needs to be competent to review the assignment at hand. The term review appraiser is used, rather than reviewing appraiser, to emphasize that review appraiser is a separate specialty. It is not just an appraiser who happens to be reviewing an appraisal. Federal and state agencies (WisDOT) have long held that appraisal review is a unique skill that, while it builds on appraisal skills, requires more. The review appraiser should have appraisal technical abilities and the ability to be the bridge between the agency's real property valuation needs and the appraiser. The complexity of the appraisal problem indicates the qualifications needed by the review appraiser and the degree of explanation required to support the review appraiser's conclusions.

2.3.1 Appraisal Review with State or Federal Funds

When state/federal funds are used in ROW, the review appraiser must be a WisDOT review appraiser. The responsibility for appraisal review and offering price approval has been split between the regions and BTS-RE (statewide review appraisers). The review and approval of non-complex appraisals with damages of \$10,000 or less has been delegated to regional review appraisers. The review and approval of all complex appraisals, and non-complex appraisals where damages are greater than \$10,000 has been delegated to BTS-RE review appraisers.

2.3.2 Appraisal Review with Only Local Funds

The LPA must have an appraisal review process in place for in-house approved offering prices. The review appraiser must either be a qualified member of the LPA staff or a qualified consultant able to review the appraisal. The review appraiser must conclude that the appraisal report meets all requirements and should, prior to approval, obtain any required corrections or revisions. The review appraiser must prepare an Appraisal Review Report (RE2128). It indicates the extent of the review process and documents the appraisal review results.

2.4 OFFERING PRICE APPROVAL PROCESS

References

**REPM Chp 2 – Offering
Price Report and Submittal**
49 CFR 24.102
23 CFR 710.201

The review appraiser, acting as a designated agency employee, must complete an Offering Price Report and Submittal form (RE1894). They will approve the amount believed to be just compensation in this form. As part of the form, the reviewer must sign a statement that says, "Having completed my analysis of the appraisal(s) submitted, and in consideration of all supporting material included, it is my

opinion that the amount of just compensation is:". The amount being approved is just compensation, which must not be confused with or be referred to as market value. The approved offering price cannot be less than the approved appraisal amount.

2.4.1 Offering Price Approval Process with State or Federal Funds

The WisDOT review appraiser will approve:

- An Offering Price Report and Submittal (RE1894) indicating the approval of the amount of compensation to be offered to the property owner. After the WisDOT review appraiser approves the offering price, it must then be reviewed and approved by an authorized employee of the LPA.

Before beginning negotiations with a property owner, the WisDOT review appraiser must approve all offering prices for those parcels requiring an appraisal.

2.4.2 Offering Price Approval Process with only local funds

The LPA review appraiser and an authorized employee of the LPA must approve:

- An Offering Price Report and Submittal (RE 1894) indicating the approval of the amount of compensation to be offered to the property owner. After the review appraiser approves the offering price, it must then be reviewed and approved by an authorized employee of the LPA.

Before the initiation of negotiations, both the review appraiser and an authorized employee of the LPA approve the offering price in writing.

Upon final OFFERING PRICE approval, the LPA is eligible to initiate negotiations with the property owner.



Caution! Before formal initiation of negotiations, there can be no discussions with the property owner regarding compensation or value of the project's impacts to the property.

2.5 SALES STUDY

References

REPM Chp 2 – Sales Study
Wis Stats 32.09
49 CFR 24.102

The Sales Study is the basis for the waiver of appraisals offers. When state/federal funds are used in the ROW, a WisDOT review appraiser or WisDOT real estate supervisor must approve the sales study before negotiations with the property owners begin.

When only local funds are used in the ROW, the review appraiser must approve the sales study before negotiations with the property owners begin.

2.6 NOMINAL PAYMENT PARCEL REPORT (NPPR) AND APPROVAL

References

**REPM Chp 2 –
Preparation of Waiver
Valuations
49 CFR 24.102**

The Nominal Payment Parcel Report (RE1889) reports the amount of compensation based on the Expanded Sales Study.

When state/ federal funds are used in ROW, a WisDOT review appraiser or a WisDOT real estate supervisor must approve the NPPR. After WisDOT approval, the LPA must then review and approve the NPPR.



Caution! Assessed value may NOT be used to determine fair market value.

NOTE: The LPREPM has the discretion to allow approval of both to be done by the LPA when there are no state/federal funds in the ROW.

2.7 - WAIVER VALUATION PARCELS (\$25,000 OR LESS)

References

**REPM Chp 2 – Waiver
Valuations
49 CFR 24.102**

When the estimate of damages is less than \$25,000 and the acquisition is non-complex, the FHWA has granted a limited departure from the standard appraisal process. This is referred to as the waiver valuation process under federal regulations.

The owner's right to receive an appraisal of the damages to the property must be explained. If the owner chooses, they may waive their right to the appraisal. No coercion or coercive tactics may ever be used to obtain an owner's signature! If at any time the owner requests an appraisal, one must be prepared. If at the second negotiation visit an agreement with the owner is not reached, an appraisal should be prepared.

The negotiator may complete the appraisal if they are:

- a qualified member of the LPA staff or;
- a consultant appraiser who holds an active certified residential or certified general credential in Wisconsin.

In either case, the individual must be on WisDOT's approved list. The negotiator/appraiser must ask the owner to accompany them on an appraisal inspection. A Short Format Appraisal should be prepared. If the appraisal problem is determined to be complex, management for the LPA must be notified and a Standard Abbreviated or Standard Before and After appraisal report must be prepared.



Caution! The dual role of negotiator and appraiser may only occur if the parcel damages are less than \$10,000. If the parcel damages are \$10,000 or greater, the negotiator and appraiser **must** be two separate individuals. Refer to Section 1.7.1

CHAPTER 3.0 - NEGOTIATION PROCESS

References

**REPM Chp 3 –
Negotiation Procedures
Wis Stats 32.05 (2a)
49 CFR 24.102**

The LPA may initiate negotiations with the affected property owner after approval of:

- Expanded Sales Study,
- Nominal Payment Parcel Report (RE1889),
- Appraisals,
- Offering Price Report and Submittal (RE1894).

The initiation of negotiations is the point when the offering price letter and a copy of the appraisal or Nominal Payment Parcel - Waiver of Appraisal Recommendation and Approval (RE1897) are presented to the property owner. Best practice is to meet with the property owner in person.



Caution! Before the formal initiation of negotiations, LPA cannot discuss compensation or value with property owner.

Once the property owner has received the brochure, *the Rights of Landowners Under Wisconsin Eminent Domain Law*, the LPA is required to discuss the following with the property owners:

- Acquisition policies and procedures (if eminent domain is prohibited on the project or a portion of the project this must be explained, preferably in person).
- Terms of the offer to purchase,
- The property or interests required
- The basis on which offer of just compensation is made.

3.1 BROCHURE REQUIREMENT

References

**REPM Chp 3 –
Condemnation Limitations
Wis Stats 32.05 (2a)
Wis Stats 32.26 (6)
49 CFR 24.102 (b)**

Before presenting the offer, the LPA must provide the owner with the brochure entitled, *The Rights of Landowners Under Wisconsin Eminent Domain Law*. It is provided online by the Wisconsin Department of Administration. The brochure delivery date must be noted in the Negotiation Diary (RE2058).

NOTE: When eminent domain is prohibited, a statement explaining that it will not be used must be included in the introduction letter. The eminent domain brochure DOES NOT need to be sent out in this instance.

3.2 NEGOTIATION DIARY

References

**Wis Stats 32.05
23 CFR 710.201(f)
49 CFR Part 24**

The negotiator must maintain a Negotiation Diary (RE2058). All entries must be sufficient to describe the entire story of the negotiations. It is important to summarize each discussion and record it promptly after meeting with the owner. Each entry must clearly indicate the who, what, when, where and why. Any counteroffers and all justification for settlements above the initial

offer must be documented. Upon conclusion of the negotiations, the negotiator must sign the Negotiation Diary. Entries should state such things as:

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- contacts made or attempted,
- persons present during discussions,
- information given to the owner,
- compensation discussions,
- property owner concerns.

3.3 INITIATION OF NEGOTIATIONS

References

Wis Stats 32.05 (2a)
23 CFR 710.305
49 CFR 24.102

The initiation of negotiations is when the written offer to purchase, including the allocated amount of just compensation, is delivered to the property owner. If the offer is made in person, it is the date of physical presentation. If the offer is mailed, it is the date of the mailing as postmarked. At the initiation of negotiations, the property owner must be given (at a minimum):

- Initiations of negotiations letter, generated from READS
- Copies of all appraisals or waivers made on parcel
- Appraisal Guidelines and Agreement (RE1003), if appraised
- Copies of project's R/W plat showing owner's affected property, highlighted
- Proposed Agreement for Purchase and Sale of Real Estate
- Legal description
- Map showing all property affected by project
- Names of at least ten or more neighboring property owners to whom offers will be made
- Conveyance Document, if in person or requested
- Statement to the Construction Engineer
- W-9, if needed
- *The Rights of Landowners Under Wisconsin Eminent Domain Law* Brochure
- Authorization for Partial Release, if needed
- Negotiator's contact information
- Quit Claim deeds for other parties of interest

3.4 UNECONOMIC REMNANTS

References

REPM Chp 2 – Alternate Offers
REPM Chp 3 – Alternate Offers
Wis Stats 32.05(3M)
49 CFR 24.102(k)

A remnant is any portion of a property that remains after a partial acquisition. It becomes "uneconomic" when it's size, shape or condition has substantially impaired economic viability or will be of little value to the owner after the acquisition. Examples: loss or difficulty of access, changed highest and best use, remoteness, any other reason that will burden owner with responsibilities or expenses not commensurate with the value of retaining the remnant.

The acquisition agent should be alert to uneconomic remnants not identified by the appraiser or review appraiser. Even if the agency acquires the needed ROW by Award of Damages, that owner has the right to ask that the uneconomic remnant be purchased. However, the owner must state in writing that they choose to have the uneconomic remnant acquired through condemnation.



Caution! LPA must offer to acquire all uneconomic remnants

3.5 DONATIONS

References

**REPM Chp 3 –
Donations
Wis Stats 84.09
23 CFR 710.505
49 CFR 24.102 (c)(2)
49 CFR 24.108**

An owner may donate all or part of the required real property interest. The donation cannot be accepted until the owner is given the brochure, The Rights of Landowners Under Wisconsin Eminent Domain Law, and has been fully advised of their right to receive just compensation based on an appraisal. The offer must be in writing and include that the owner has the right to an appraisal and just compensation. The owner must sign a Donation - Waiver of Appraisal Recommendation and Approval (RE1896). The offer and conversations about donation must be

well documented in the Negotiation Diary (RE2058). The parcel file should include comparable sales indicating the land value.

No coercive action regarding a donation is acceptable.

The Agency must ensure that an appraisal is obtained unless the owner releases them from such obligation, except as provided in code. Donations are subject to all guidelines on parcel valuation, including sales studies. They are subject to the \$1,000 value limit for determining whether it is necessary to file a Relocation Order (RE1708). Before accepting a donation, the LPA or its consultant must contact the LPREPM or LPREM to ensure they explained the owner's rights and they followed all policies and procedures.

Before accepting any donation, all adverse environmental considerations (hazardous materials) must be addressed. Refer to Section 1.12.2 Relocation Order.

NOTE: The owner has a right to appeal the amount of compensation; therefore, Wisconsin law requires that the amount be shown on the conveyance document. Consult your agency's legal counsel for guidance when determining the value that should be written on the conveyance (i.e., one dollar and other valuable considerations, mutual benefits, etc.). Contact the LPREPM for instruction on documenting the donation.



Caution! Before the formal initiation of negotiations, LPA cannot discuss compensation or value with property owner.

3.6 SUBSEQUENT CHANGES TO OFFERING PRICE

References

**REPM Chp 2 – Waiver of
Appraisal Negotiations
REPM Chp 3 – Changes to
Original Offering
Wis Stats 32.05 (2a) & (2)(b)
49 CFR 24.102(g) & (i)**

When local funding is used to acquire the ROW, any change in the original offering price is approved by the LPA. When state/federal funds are used to acquire the ROW, WisDOT must approve any change to the offering price.

Caution! Although the LPA may approve any administrative revision that it considers reasonable, prudent and in the public interest, there is no guarantee that the FHWA or WisDOT will reimburse the LPA if there is a disagreement with any of the justifications used for the increase.

Therefore, it is important to seek advice from the LPREPM when significant administrative revision amounts are being considered.

3.6.1 Nominal Offers

Once the nominal offer is presented to the property owner, any change in price agreed upon between the agent and owner should be made with an ink pen on the Nominal Payment Parcel - Waiver of Appraisal Recommendation and Approval (RE1897). Both the owner and the negotiator must initial it.

The LPA must approve these changes when there are no state/federal funds in the ROW.

The LPREPM/WISDOT Real Estate Supervisor and the LPA must approve these changes when there are state/federal funds in the ROW.



Caution! Nominal process is to be used for non-complex acquisitions with damages of less than \$25,000. No exceptions!

3.6.2 Appraisal Offers

Once the appraisal offer is presented to the property owner, any change in price agreed upon between the agent and owner must be documented on the Administrative Revision (RE1592). It must contain:

- a comparison of damages,
- a brief description of the acquisition,
- a justification for the offer increase.
- a written analysis of each appraisal's "before and after" values,
- an allocation of damages,
- a recommended revised value.

The LPA must approve these changes when there are no state/federal funds in the ROW.

The LPREPM/WISDOT Real Estate Supervisor and the LPA must approve these changes when there are state/federal funds in the ROW. The LPA/agent must submit the rationale for the increase in writing on the Administrative Revision (RE1592).

NOTE: The LPA is responsible for maintaining project consistency. Therefore, changes to the land value should only be made when they are well supported by recent sales data and are well documented in the Sales Study or Administrative Revision.

3.7 PROHIBITED CONDUCT DURING NEGOTIATIONS

References

Wis Stats 32.29
Wis Stats 32.26(6)
23 CFR 710.105
49 CFR 24.102 (h)

The LPA may not use any technique or take any action, other than the condemnation process itself, which in any way coerces a property owner into selling or donating the property or property interests needed to build the project. FHWA and WisDOT are charged with the duty of monitoring LPA activities to ensure against coercive actions.

The following actions are considered prohibited coercive actions:

- Requesting affected property owners waive their appeal rights;
- Requesting affected property owners waive their relocation benefits;
- Advancing of the time of condemnation; and,
- Deferring negotiations, condemnation, or depositing of funds with the court;



Caution! Any coercive actions or false statements made by an employee or representative of the LPA, directly or indirectly intimidating, threatening, or coercing any person to reach an agreement on the price to be paid for the property may result in the loss of state or federal funds for the project. This may result in other serious legal consequences, including fines or imprisonment.

3.8 CONDEMNATION

References

**REPM Chp 3 –
Condemnation / Legal
Assistance**
Wis Stats 32.05 (3) & (4)
Wis Stats 32.11
23 CFR 710.305
49 CFR 24.102

When any required lands or interests cannot be purchased expeditiously for ROW purposes, for a price deemed reasonable, agencies may acquire the same by condemnation.

- County - Chapter 32, and s. 84.09(3)(a), Wis. Stats.
- Municipal - Chapter 32, and s. 84.09(3m), Wis. Stats., in the name of the State.
- State - Chapter 32, and s. 84.09(2), Wis. Stats.

Caution! Payment **MUST** be made to the owner prior to possession of the property.

3.8.1 Condemnation Limitations

References

Wis Stats 32.015

Wis Statute 32.015 incorporates limitations to condemnation authority:

“Property may not be acquired by condemnation to establish or extend a recreational trail; recreational trail; a bicycle way, as defined in s. 340.01 (5s); a bicycle lane, as defined in s. 340.01 (5e); or a pedestrian way, as defined in s. 346.02 (8) (a).”

It is also referenced in the treatment of sections 23.09 (2) (d) (intro.), 27.01 (2) (a), 27.019 (10), 27.05 (3), 27.065 (1) (a), 27.08 (2) (b) and (c), 32.015, 32.51 (1) (intro.), 59.52 (6) (a) (as it relates to condemnation for recreational trails, bicycle ways, bicycle lanes, and pedestrian ways), 60.782 (2) (d), 61.34 (3) (b), 62.22 (1) (b), 62.23 (17) (a) (intro.) and (am), 85.09 (2) (a), and 990.01 (2) of the statutes.

WisDOT’s interpretation is that condemnation CAN be used for sidewalk projects (new and replacement) and for replacement of existing bike paths (lanes and trails). Condemnation cannot be used for any NEW pedestrian way or NEW bike paths (lanes and trails), including EXTENDING of new trails, and bike or pedestrian ways.

NOTE: This is WisDOT’s current interpretation. It is subject to change. LPAs' legal staff should review this law to determine how it affects its transportation project. Consideration of how this law may affect the project is paramount. Address any questions or concerns early in the project preferably during design. DO NOT WAIT until acquisition is underway to troubleshoot.

A statement explaining that condemnation will not be used must be included in the introduction letter where eminent domain is prohibited. The eminent domain brochure DOES NOT need to be sent out in this instance. Most policies, procedures, and documentation are required; however, some may not be. The LPA should work with the LPREPM to ensure proper procedures are followed and documentation obtained.

3.9 PROPERTY OWNER APPRAISALS

References

**REPM Chp. 2 –
Property Owner
Appraisals
Wis Stats 32.05 (2)(b)
Wis Stats 32.05 (2a)
49 CFR 102 (f)**

State statute allows a property owner to obtain an independent appraisal of the damages caused by the project. The owner's appraisal expenses will be paid for if:

- the owner's appraiser is qualified;
- the appraisal report is received within 60 days of delivery of the Agency's appraisal report;
- the report adheres to the Appraisal Guidelines & Agreement (RE1003); and
- the fee charged for the owner's appraisal is reasonable.



Caution! The owner's appraisal must be received within 60 days of the presentation of the offer and the agency's appraisal to be considered for reimbursement. No exceptions!

3.9.1 Reimbursement of Owner Appraisal Costs

For the LPA to be eligible for state or federal reimbursement of property owner appraisal fees, they must certify that it meets certain minimum standards. Use FHWA Reimbursement - Owner's Appraisal Fee (LPA1001). To be eligible for state or federal reimbursement, each owner appraisal expense must be accompanied by one completed certification.

3.10 STATEMENT TO THE CONSTRUCTION ENGINEER

References

23 CFR 710.201 (e-f)

The Statement to the Construction Engineer (RE1528) is required. This form ensures that the owner, construction engineer, design engineer, and the LPA all receive a copy of any commitments made to a property owner by the negotiator in

the field. The LPA must keep documentation in the parcel file of any commitments made to the owner.

When state/federal funds are in ROW, the commitments must be submitted and approved to the WisDOT LPPM and the LPA.

The negotiation agent is required to provide the Statement to the Construction Engineer (STCE) to the LPA, the construction engineer and the LPPM. The STCEs should be packaged in numerical order and sent electronically to all parties.

3.11 REIMBURSEMENT FOR INCIDENTAL EXPENSES

References

**Wis Stats 32.195
49 CFR 24.106**

Property owners shall be reimbursed for all reasonable expenses incurred for:

- Recording fees,
- Net rental loss,
- Realignment of personal property,
- Charges for mortgage releases,
- Costs of re-fencing,
- Plans rendered unusable
- Similar expenses incidental to conveying property to the agency

- Penalty costs and other charges for prepayment of any pre-existing recorded mortgage encumbering the real property.
- Prorated real estate taxes attributable to the period after the agency obtains ownership of the parcel. Refer to Disposition of Real Estate Taxes (RE1616) for guidance in computing the prorated share of taxes.

3.12 IRS REQUIREMENTS

References

**REPM Chp. 3 – IRS Forms
General Provisions
26 CFR 1.6045-4**

For certain real estate transactions, the LPA may be required to file Internal Revenue Service (IRS) Form 1099-S, Proceeds from Real Estate Transactions. This form will often be accompanied by IRS Form W-9, Request for Taxpayer Identification Number and Certification. When appropriate, the agent must tell the property owner that Internal Revenue Service regulations require that the transaction be reported to the IRS using IRS Form 1099-S, Proceeds from Real Estate Transactions. The agent must also tell the property owner that for the LPA to comply with IRS regulations, they must complete IRS Form W-9, Request for Taxpayer Identification Number and Certification, and inform the owner of the obligation to fulfill these IRS requirements. The property owner faces potential civil and criminal penalties for failing to comply with this requirement. The agent should attempt to have Form W-9 completed at the first negotiation meeting. If negotiations are by mail, appropriate written notification must be made.

If a property owner refuses to provide the required W-9 information, the acquisition agent (negotiator) must document the attempt and the property owner's refusal in the official parcel file. Refer to REPM Chapter 5.0.4 for relocation Payments Not Considered Income pursuant to s.32.19 or s.32.195, Wis. Stats., except for reasonable net rental losses under s.32.195(6), Wis. Stats.

3.13 TEMPORARY RIGHT OF ENTRY EASEMENT

References

**REPM Chp. 3 –
Temporary Right of
Entry Easement
49 CFR 24.101 (c)**

WisDOT DOES NOT accept temporary rights of entry to clear ROW for certification. Any exceptions must be pre approved by FHWA. This should be the exception, not the rule! A Temporary Right of Entry Easement (RE1561) is a temporary permit to enter lands for construction purposes. This is used only when negotiations to acquire a permanent right are already underway.

A Temporary Right of Entry Easement acquires only the right to enter upon the land for construction. Therefore, the required interest must still be acquired as quickly as possible by conveyance or Award of Damage.

The LPA must explain, as a part of its right of way certification, the exceptional circumstances surrounding the need to use a Temporary Right of Entry Easement and commit to the date by which the acquisition will be completed.

3.14 CONSTRUCTION PERMIT

References

REPM Chp 3 – Construction Permit Recommendation and Approval
FDM Chapter 12
Wis Stats 62.22 (1m)
Wis Stats 61.34 (3)(m)
Wis Stats 83.07 (1)
49 CFR 24.101 (c)(2)

A Construction Permit Recommendation and Approval (RE1732) is not appropriate in most cases. It is not an interest in land. It can only be used if the temporary need to use the land is not required for the project, and instead, is for the benefit of the owner.

It may only be used to facilitate a request from the property owner to temporarily enter upon their property to perform certain construction activities that help make the property compatible to the roadway such as:

- Blending back-slopes behind curb and gutter
 - Completing work requested by the owner
 - Matching lawns to sidewalks or slopes
- Providing a temporary work area
 - Re-installation of a driveway entrance
 - Replacement of driveway surfacing
 - Temporary staging of construction materials or equipment



Caution! Construction Permits identified during the design or acquisition stages must be shown on right of way certification.

3.15 CLOSING PROCEDURES

References

REPM Chp 3 – Parcel Closing Procedures
Wis Stats 32.05 (2a)
Wis Stats 32.07 (7)
23 CFR 710.305
49 CFR 24.102 (j)
49 CFR 24.106

For the LPA to secure the permanent property interests necessary to certify a clear right of way, they must adhere to the procedures found in the REPM.

LPAs must use only approved current forms, including conveyance documents. The official forms and documents are found in READS (some Local Program specific forms or letters are only on the LPA real estate website). The forms are subject to change without notice and, therefore, should always be downloaded from READS. Any modifications to the authorized and approved forms or use of non-WisDOT forms requires advanced approval by the LPREPM. Failure

to comply with this requirement carries the risk of a loss of state/federal funding.

3.16 FEDERAL LAND TRANSFER

References

REPM Chp 3 – Federal Land Transfers
23 CFR 710.601

When acquiring lands held by any federal agency, contact the LPREPM.

3.17 CERTIFICATION

References

FDM 19-1-1
23 CFR 635.309

All rights of way and/or interests for a construction contract letting must be fully acquired before the PS&E submittal. When certifying to WisDOT and FHWA that the property interests have been acquired, the LPA must use the Certification of Local Public Agency Right of Way Acquisition (RE3028). This form documents

that all the following have been properly acquired:

- Deeds and easements.
- Construction permits.
- Utilities for project.
- Encroachments removed or accounted for.
- Relocation completed.

The following (signed and executed) must be uploaded to the READS log to the LPREPM 28 days before PS&E Submittal:

- Certification of Local Public Agency Right of Way Acquisition (RE3028)
- Deeds and easements
- Construction permits
- Utilities for project
- Encroachments removed or accounted for
- Relocation completed.

Project Documentation:

- State/Municipal Project Agreement(s)
- Relocation plan
- Design Study Report approval letter
- ROW plat and/or construction plan sheets
- Relocation Order (RE1708)
- Acquisition Capability Statement
- Sales Study or Expanded Sales Study, or comparable sale information
- Nominal Payment Parcel Report (RE1889)
- Certification of LPA Right of Way Acquisition (RE3028)
- Cost estimate (if state/federal funding in ROW)
- Appraisal Scoping Spreadsheet
- Consultant contracts, invoices and copies of checks used for payment (if applicable)
- Partial release project risk assessment (if applicable)

Parcel Documentation:

- Appraisal(s), Nominal Payment Parcel - Waiver of Appraisal Recommendation and Approval (RE1897) or Donation - Waiver of Appraisal Recommendation and Approval (RE1896)
- Appraisal Review Report (RE2128)
- Offering Price Report and Submittal (RE1894)
- Offering Price Letter (dated)
- Negotiation Diary (RE2058)
- Alternate Offers to Purchase Offering Price for Required Acquisition (RE1975), if applicable
- Administrative Revision (RE1592) with supporting justification and approval
- Statement to Construction Engineer (RE1528), including commitments made to property owners

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- Check copies and/or evidence of payment (w/letter and notes made in Negotiation Diary)
- Recorded conveyances and mortgage releases or Risk Assessments with property owner acknowledgement documents (unnumbered – paper from LP RE website)
- Condemnation documents - Jurisdictional Offer (RE1786), Notice of Lis Pendens (RE1547), Award of Damages (RE1584)
- Relocation related documents

Note: If state/federal funds are used in ROW, all project and parcel file contents must be uploaded to READS and READS must be used in its full capacity. If only local funds are used in ROW, the acquisition/relocation agent must upload the above documents (final version w/ signatures) into one log entry per parcel into the PROJECT log of READS. The log entry should be titled "Parcel ## docs". The LPREPM will not review documents for certification if not packaged.

Note: The official documentation must remain with the LPA per its record keeping practices.

CHAPTER 4.0 – LITIGATION

References

**REPM Chp 3 – Condemnation
/ Legal Assistance**
REPM Chp 4 – Litigation
Wis Stats 32.05 (9-12)
Wis Stats 32.10

Direct litigation questions to the regional LPREPM and the LPA's general counsel.

Regional Real Estate management has the authority to review and approve litigation settlements for local projects with state/federal funds in the ROW.

4.1 STATE/FEDERAL FUNDING IN LOCAL PUBLIC AGENCY (LPA) PROJECTS

References

49 CFR 24.107

When federal funding is in ROW, federal rule about compensability must be considered. Contact the BTS-RE litigation facilitator to determine if any part of the settlement is non-participating under federal regulations. They will discuss the

settlement with FHWA. This is particularly important when reviewing LPA settlements of significant dollar increases. The LPA must understand that FHWA may not participate in part or all of the settlement.

CHAPTER 5.0 - RELOCATION

References

REPM Chp 5
Wis Stats 32.19
49 CFR 24
Uniform Act

WisDOT relocation oversight is required when there is state/federal funding anywhere in a project. WisDOT relocation oversight will be charged to the project number. The amount of oversight time required is dependent on the quality of documentation submitted and the relocation complexity. Detailed relocation policy, process, and procedures are found in REPM Chapter 5. **It must be followed in its entirety for all**

relocation activities. WisDOT must approve the Acquisition Stage Relocation Plan, computations and claims on a project. Reminder, this LPA Manual is a sub-section of the larger Real Estate Program Manual (REPM).

5.1 BROCHURE REQUIREMENT

References

Wis Stats 32.19 (2m)
49 CFR 24.203(a)

Give the displaced persons (residential and nonresidential) the brochure entitled, *Wisconsin Relocation Rights Residential or Wisconsin Relocation Rights for Business, Farm and Nonprofit Organizations* when relocation assistance is involved. It is provided online by the Wisconsin Department of Administration. Contact the LPREPM for more information.

5.2 RELOCATION PROCEDURES

References

REPM Chp 5 - Residential Move Payments, Incidental Expenses and Increased Interest Payments
REPM Ch. 5 – Residential Relocation
REPM Chp 5 - Nonresidential Relocations - Business, Farm and Non-Profits
REPM Chp 5 – Business Replacement Payment
REPM Chp 5 - Business Move Expenses
Wis Stats 32.05 (8)
Wis Stats 32.19
49 CFR 24.201-503

Negotiators and relocation specialists must coordinate their efforts and initiate negotiations and provide relocation eligibility information during the same landowner meeting. When not possible, the relocation specialist must provide relocation eligibility as soon as possible, but must be within seven to ten calendar days from the initiation of negotiations.

To address specific relocation needs and timely approve computations and claims, the relocation specialist, LPA and WisDOT must completely collaborate. This avoids confusion and expedites the time frame.

5.2.1 READS

READS must be used as the official relocation file by the relocation specialist, LPA and WisDOT. The relocation specialist must enter all critical dates in the appropriate fields in the Relocation tab. All Relocation tabs must be used. All Relocation specific documents must be uploaded to the Relocation Log. Diary entries must be made in the Relocation Diary tab.

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Upload the following documents to the Relocation Log:

- copy of the Relocation Assistance Package
- all letters provided to the displaced person(s) or business
- signed copies of all original notices
- any revised notices for changes to the date of vacancy
- signed lease agreements
- signed vacancy inspections

Document the following in the relocation diary tab and the physical file:

- All necessary letters
- Necessary notices
- Required forms
- copy of the signed diary

The relocation specialist completes the READS Relocation Parcel Checklist (unnumbered). It certifies that everything has been appropriately uploaded to the relocation log. A signed copy is then uploaded to the relocation log and the original is kept in the physical relocation case file.

CHAPTER 6.0 - PROPERTY MANAGEMENT

References

REPM Chp 6 – Property Management
23 CFR 710 Part D

Surplus property, including buildings, cannot be sold without state and/or federal approval. Then state/federal funds are in the ROW. Revenue generated from the sale of surplus property will be divided in the same ratio as was contributed by the FHWA or the state at the time when the property was acquired. For ease of liquidation, it is strongly advised that the LPA apply only local

funds to the acquisition of any remnant parcels.

6.1 SALES OF SURPLUS PROPERTY

References

REPM Chp. 6
HMM Chp 7
Wis Stats 84.09 (b)
23 CFR 620
23 CFR 710.401
23 CFR 710.403
23 CFR 710.409

When only local funding is used to acquire ROW, LPAs should use their own procedures for selling the surplus property. If state/federal funds are used in any part of the ROW acquisition, the LPA must follow REPM Chapter 6.

Caution! Any property acquired with the use of state and/or federal money sold as surplus requires reimbursement at the current fair market value and at the rate of participation at which it was acquired.

6.2 RAZING & REMOVAL

References

REPM Chp 6 – Site Clearance
Wis Stats 84
Wis Stats 16
49 CFR 18.36

Razing costs are reimbursable when using state / federal funds. When the LPA is completing the razing, or under separate razing contract, and is requesting reimbursement through the real estate process: reimbursement is calculated at the same rate of participation as the real estate costs. When the razing is in the construction costs or if reimbursement is applied to construction costs: the SMA should address it in the construction portion. Proceeds from the sale of improvements are applied toward project costs when calculating reimbursement.

NOTE: WisDOT demolition contract forms are recommended but not required if no state or federal funds are used within the ROW.

CHAPTER 7.0 - FINANCE

7.1 GENERAL PROCEDURES FOR OBTAINING REIMBURSEMENT

References

Wis Stats. 32.19
Wis Stats 32.195
23 CFR Part 140
23 CFR 710.201
23 CFR 710.203

The SMA defines the percent of participation for reimbursement. It also defines the type as either direct reimbursement or work credits. Either requires approval by the LPREPM. Submit all reimbursement requests on the Right of Way Detailed Statement of Expenditures (Ipa1959). Supporting materials must be submitted as part of the LPA's packet for reimbursement. Organize the materials so each enclosed document is labeled/numbered and corresponds with the associated line item. Attach them in the same sequential order as entered on

the Right of Way Detailed Statement of Expenditures form. Reimbursement requests must be accompanied by the applicable documentation identified below and must follow this procedure.

The procedure to request eligible state or federal reimbursement is:

1. Prepare an original Right of Way Detailed Statement of Expenditures (Ipa1959) signed by the LPA's authorized official.
2. Submit the completed signed original Right of Way Detailed Statement of Expenditures to the LPREPM for review. Upload the Supporting documentation (listed below) to READS. All project and parcel file contents must be uploaded to READS and READS must be used in its full capacity. Upon uploading into READS, the LPA/consultant should notify the LPREPM that documentation is ready for review. LPA/consultant should use the LPA Reimbursement Checklist (Ipa1002) to ensure that all supporting documentation is complete as required.
3. Upload the following project documentation, titled "Reimbursement Project Docs", to READS project log:
 - All documentation required for certification (Refer to 3.15)
 - Cost Estimate
4. Upload the following parcel documentation, titled "Reimbursement Parcel # Docs", to READS parcel log:
 - All documentation required for certification (Refer to 3.15)
 - Owner appraisal expenses with certification and approval. FHWA Reimbursement - Owner's Appraisal Fee (Ipa1001) is required if federal funds are used in ROW.
 - Disposition of Real Estate Taxes (RE1616).
 - Signed Real Estate Transactions Closing Statement (RE1617)
 - Legal counsel's Litigation Report and Case Summary (RE1651) of condemnation commission hearings and trial in circuit court
 - Written rationale by LPA's legal counsel for any settlements made during the litigation process.
 - Relocation computations and claims, signed and approved, and including the following where applicable:
 - Net rental loss.
 - Costs of re-installing existing fencing.
 - Realignment of personal property.
 - Plans rendered unusable.

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NOTE: Business replacement payments under Wisconsin law, pursuant to s. 32.19 (4m), Wis. Stats., are not eligible for federal reimbursement under federal regulations. Contact the LPREPM for assistance in determining business replacement payment reimbursement eligibility.

- Invoices for incidental payments, pursuant s. 32.195, Wis. Stats., including (but not limited to):
 - Recording fees.
 - Utility bills.
 - Charges for mortgage releases.
 - Penalties or costs of mortgage prepayment penalties.
 - Checks with supporting documentation for any payments made for which the LPA is seeking reimbursement.
 - Documentation for municipality delivery time, and miscellaneous costs.
 - Rent receipts, bills of sale for salvage items, or any other incomes received to be applied as credits toward the reimbursement total.
5. The LPREPM certifies that all required documents with approvals, as needed, are in the WisDOT regional file. LPAs must keep copies of all materials in their files as well. The LPREPM approves final amount for reimbursement. WisDOT BTS-RE/Finance (Bureau of Technical Services-Real Estate [central office]) approves reimbursement amounts.

The LPREPM is the LPA's resource to ensure financial participation and compliance with state and federal law. For questions about the general procedures for obtaining reimbursement, contact the LPREPM.

7.2 REIMBURSEMENT FOR LITIGATION EXPENSES

References

Wis Stats 32.05 (9-12)
49 CFR 24.107

In certain cases, the LPA must reimburse expenses incurred by the owner. These expenses include reasonable "disbursements and expenses," reasonable attorney, appraisal and engineering fees incurred by the owner because of a condemnation proceeding, where:

- Condemnation commission award or jury verdict exceeds the Jurisdictional Offer or highest written offer before the Jurisdictional Offer by at least \$700 and at least 15 percent.
- LPA abandons the condemnation proceeding.
- Court having jurisdiction rules in favor of owner in an inverse condemnation proceeding, or LPA effects a settlement of such proceeding.
- Final judgment of the court is that agency cannot acquire the real property by condemnation.

Only costs eligible for state and/or federal participation may be claimed. For help in determining eligibility for reimbursement, contact the LPREPM. The LPREPM is the LPA's resource for guidance and expertise to ensure financial participation and compliance with state and federal law. For any legal settlement to qualify for reimbursement, including condemnation commission awards and awards of the circuit court, the Litigation Report and Case Summary (RE1651) must receive written approval from WisDOT management through the LPREPM.

CHAPTER 8.0 – QUALITY ASSURANCE REVIEW

References

REPM Chp. 8
23 CFR 710.201

WisDOT and FHWA have the right to conduct a review of the LPA's files at any time to ensure compliance with state and federal policy and procedures.

NOTE: Before a project is closed, the project file and each individual parcel folder should be reviewed for completeness by the negotiator/LPA.

CHAPTER 9.0 - CONTAMINATION

References

REPM Chp. 9
CERCLA 1980
23 CFR 771 NEPA
WEPA

Investigations for the presence of hazardous waste within the project limits are executed as part of the design process. Since cleanup of these sites can be extremely costly, the first defense is to avoid contaminated sites if possible. Situations will arise where the purchase of a contaminated site cannot be avoided. Contact the LPPM for specific instructions.

When a property is contaminated, additional considerations must be taken.

CHAPTER 10.0 - OUTDOOR ADVERTISING

References

REPM Chp 10 – Outdoor Advertising Signs
Wis Stats 32.19-32.195
Wis Admin Code Chp. 92 Trans 201
Wis Stats 84.30
23 USC 131
23 CFR Part 750

Off-premise outdoor advertising signs are regulated in Wisconsin under a variety of statutes, regulations, and case law at the federal, state and local levels. In addition, provisions of a lease, easement or contract related to a sign site may affect how to proceed.

The state of Wisconsin has a procedure for relocation of signs. This process must be managed on a case-by-case basis. For information, contact the LPREPM. In general, the procedure is outlined below:

- Show and list all signs on plat.
- List sign owner's name.
- If sign needs to be relocated, enclose Relocation Rights brochure.
- Negotiate a settlement.

CONCLUSION

This manual is intended to assist LPAs in planning, funding, and executing right of way projects on local roads. It is a compilation of information from many sources and is not intended to be a comprehensive document. It is impractical, if not impossible, to address or anticipate all situations.

Frequent references are made to the Wisconsin Statutes, the Real Estate Program Manual (REPM), and the Facilities Development Manual (FDM).

LPAs must follow the procedures outlined in the REPM and this manual to secure the approvals needed to proceed with ROW acquisition on state or federal aid projects. It is the responsibility of the LPA to ensure that all state and federal procedures and laws are followed. The applicable state and federal law will govern any conflicts found with the language of this manual.

The official version of this manual is the electronic publication and may reflect updated policies. WisDOT is not responsible to provide notice to users when modifications are made. Access to this manual is through WisDOT's website. WisDOT invites any questions or comments. Contact the Division of Transportation System Development (DTSD) LPREM.