

**Office of Real Estate Services - Project Development Guide
Chapter 16**

Coordination With Other Agencies

**23 U.S.C. 107(d)
23 U.S.C. 317
49 CFR Part 24, Subpart G
49 CFR 24.4
49 CFR 24.6**

REFERENCES

Early and continued coordination with other agencies cannot be stressed enough in smoothing the process of completing projects in a timely and efficient manner. This chapter of the Project Development Guide (PDG) looks at coordination needs with Federal and state agencies, as well as other local public agencies. Suggestions on simplifying this process are presented, but the need for positive and continuing contacts and good common sense cannot be overstated!

16.1. COORDINATION WITH FEDERAL AGENCIES

There are times during the development of a project that an acquiring agency will have to coordinate its project development activity with other Federal agencies besides the Federal Highway Administration (FHWA). This coordination may require direct involvement, such as the acquisition of real property or a joint-use project, or an indirect involvement. The acquiring agency should coordinate its efforts so that the transportation project development process is not hindered. Several Federal agencies are able to transfer real property using their own authority. See Chapter 14 for information on Federal land transfers. The U.S. Fish and Wildlife Service often requests both remuneration and replacement land for affected property. If the needed property is a wildlife refuge, the Fish and Wildlife Service normally completes a compatibility finding in order to complete the transfer and acceptance process. The National Park Service is often involved in properties, typically through a state agency, and may require replacement land of equivalent or greater value to replace land acquired or developed using Land and Water Conservation Funds. The General Services Administration (GSA) manages large holdings of Federal properties. The U.S. Army Corps of Engineers (USACE) could have a role, directly or indirectly, in parks in urban areas or recreational areas which are flood control projects. The USACE often requires replacement of wetland acreage and trees before approving the use of property they acquired and allow a city to utilize as a recreational area. The Federal Emergency Management Agency (FEMA) places stringent use restrictions on property it acquires for flood control. All Federal agencies have mission related requirements that require early and extensive coordination.

Direct involvement such as acquisition involving property of another Federal agency can be handled through the Federal land transfer process discussed in Chapter 14.6. If property cannot be obtained directly from a Federal agency using its statutory authority, then Sections 107(d) or 317 of Title 23 U.S.C. can be used to accomplish the transfer.

Coordination with other agencies is important to the project development process. Agencies may be able to assist during the relocation process. Others may require lengthy coordination to accommodate compliance with a myriad of regulations.

SUMMARY

A few of the Federal agencies which request a land transfer be conducted under its statutory authority include:

- U.S. Army
- U.S. Air Force
- U.S. Navy
- Department of Veterans Affairs
- Bureau of Indian Affairs

Other Federal agencies may prefer that acquisition be coordinated directly, as well. The Federal agency's regulation governing the disposition of property may require the payment of compensation. Where transfer without compensation is not possible, the acquiring agency will have to acquire these Federal lands through the normal acquisition process.

Other direct involvement with Federal agencies may include joint-use or multi-use projects. Such projects may include a highway and mass transit facility, a highway and recreation facility, a highway and land restoration, or mitigation projects. Such projects require coordination with the Federal agency funding or participating in the joint project.

Acquiring agencies can become indirectly involved with another Federal agency by assisting them with their acquisition program. These Federal agencies will often contract with the state Department of Transportation (DOT), a local agency, or another Federal agency, because of its expertise in administering acquisitions under the **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, (Uniform Act)** at the state or local level. Many Federal agencies do not have local offices to administer such acquisition programs. Federal agencies, such as the Federal Aviation Administration (FAA) and U.S. Coast Guard (USCG), routinely contract with state and local agencies for land acquisition and relocation. Under such circumstance, the acquiring agency should utilize its own procedure for coordinating with those Federal agencies.

16.2. COORDINATION WITH STATE AGENCIES

Following the passage of the Uniform Act, each state legislature passed legislation certifying that the state can comply with the provisions of the Uniform Act. These laws are referred to as **state consent or implementing legislation**.

A state agency acquiring property and relocating people for a Federal-aid program should be aware of its responsibility under the Uniform Act, and the role of the lead agency in each state. In most states, the state DOT is the lead agency. This results in good communication and cooperation between local agencies and the state DOT. Coordination of effort can result in the uniform treatment of persons affected by a project, smoother public acquisition processes, and savings of public funds.

Many state DOTs have the expertise to assist other state agencies in the acquisition of property and the relocation of persons and businesses. They have a long history of assisting other state and Federal agencies in a variety of public benefit projects. Regular coordination between agencies is often a goal, and improvement in communication can be of mutual benefit.

An important element of coordination relates to flexibility afforded by 49 CFR Part 24, Subpart G, which allows a state agency to apply for certification of its program in lieu of providing assurances required by 49 CFR 24.4.

This certification concept permits the state agency to fulfill its responsibilities under the Uniform Act by certifying that it will operate in accordance with approved state laws and regulations which will accomplish the purpose and effect of the Uniform Act. This certification program has certain benefits in that Federal program oversight is reduced.

- The state agency certifies, in lieu of providing assurances.
- The state agency certifies that it will operate according to approved state law and regulations.
- The benefits include a reduced Federal oversight and streamlined operations.

UNIFORM ACT CERTIFICATION

49 CFR PART 24 SUBPART G

- Use when two or more agencies need to use a portion or all of the same property.
- Cost is prorated based on the appraised value or historical acquisition cost.

JOINT ACQUISITIONS

Another area of coordination exists relative to other projects that involve joint acquisitions with other Federal or federally assisted programs. Usually if acquisitions for two or more programs are needed from the same property, it makes good sense to have one agency acquire the whole property or the part needed by both and then, pursuant to a prior agreement, receive reimbursement from the other agency for the part it needs.

16.3. COORDINATION WITH LOCAL PUBLIC AGENCIES

In the Federal regulations, **agency** is considered to be any governmental agency which acquires property. Individual states have developed a series of laws governing public acquisitions under their jurisdiction. In addition, state agencies have promulgated regulations to facilitate their own

acquisition and relocation programs. **The state DOT is ultimately responsible for the acquisition activities of local acquiring agencies (LPAs) on Federal-aid projects, unless the local agency has received approval under the certification procedures.** It is advisable, therefore, that the state DOT and the LPAs work closely together during the entire acquisition process to expedite the acquisitions and to assure that all Federal and state requirements are met.

There should be free and open lines of communication at all levels. Normally, the state DOTs have the larger, more experienced staff which can serve as a resource for the LPA. Acquisition activities should be coordinated with other aspects of the project to assure that the appraisal, negotiation, relocation, property management, and utility related work efforts are accomplished in a professional and timely manner.

Under Title 23 U.S.C., the state DOT is responsible for all Federal-aid highway projects under the Federal/state relationship, including those projects administered at the county or city level. The DOT is responsible for establishing appraisal, acquisition and relocation program requirements and procedures for Federal-aid transportation projects.

The city or county has the option of accepting the state DOT regulation and procedures, or may submit its own to the state DOT for approval, if they wish to deviate from the state's FHWA approved procedures.

APPROVED PROCEDURES

Many state DOTs have programs for providing assistance and guidance to LPAs. This coordination is designed to assist LPAs in complying with Federal and state requirements. Some of the methods used include:

- Designating an **LPA coordinator** within the state DOT organization to provide information and coordinate with state DOT staff.
- Providing **training** for LPA personnel, especially in the acquisition and relocation.
- **Monitoring** LPA activity on a regular and ongoing basis.
- Providing **technical service** to LPAs that require such assistance.
- Providing **advisory service, brochures, forms, and sample letters** developed to meet Federal and state requirements.

STATE DOT ASSISTANCE TO LPAS

It is important that program managers are aware of the length of time necessary to accomplish the acquisition program function. **Sufficient time is required to perform the statutory requirements of the Uniform Act.** When other project activities such as environmental studies and/or design functions encroach on the necessary right-of-way (ROW) time, the construction letting date may be impacted. Obviously, the time required varies depending upon the number and complexity of the parcels to be acquired for a specific project. For a more detailed discussion of lead time, see Chapter 2.6.

LEAD TIME

16.4. END NOTE – SIMPLIFYING THE PROCESS

There are few shortcuts in a quality acquisition program, but there are ways to simplify and streamline the acquisition process. Simplifying the ROW process can save the agency money (the cost of ROW program delivery), time, and provide convenience to the property owner. Although simplified methods are explored in greater depth in previous PDG chapters, some are worth repeating. These include:

- Selecting the appropriate appraisal format.
- Use of a roster of qualified appraisers.
- Use of a single appraiser/negotiator.
- Use of a notice of intent to acquire.
- Use of a minimum payment provision.
- Use of accelerated negotiations procedures.
- Use of administrative settlements.
- Use of a brochure to explain the acquisition process.
- Use of a brochure to explain the relocation process.

16.5. REMINDER - SEPARATION OF FUNCTIONS

Those charged with managing and implementing acquisition programs have a responsibility to both the governmental body and the public to ensure that acquisition programs are professionally and fairly carried out.

To this end, **it is imperative that certain functions in the acquisition process be kept separate**

and distinct:

- It is the **appraiser's function** to estimate the FMV of the property or property interest to be acquired.
- It is the **review appraiser's responsibility** to examine the appraisal report to assure that it meets the acquiring agency's appraisal standards and to seek correction or revision, when necessary.
- It is the **reviewer's responsibility** to recommend or approve a monetary offer amount for the property or property interest to be acquired. Per 49 CFR 24.102(n)(1), the appraiser, the review appraiser, and the negotiator **shall not** have any interest, direct or indirect, in the property being acquired.

Per 24.102(n)(3), no appraiser, review appraiser, or waiver valuation preparer will act as negotiator for any real property for which that person made an appraisal, a review or waiver valuation, except that the acquiring agency may permit the same person to determine the value and negotiate an acquisition where the value of the acquisition is \$10,000 or less. **It is important that the acquiring agency assure that there is no conflict of interest in the acquisition process. All aspects of the acquisition program should be achieved with discretion and confidentiality.**